



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **15 DAY OF MARCH, 2006** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Potter, Presiding; Commissioners Adams, Leonard, Saltzman and Sten, 5.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Harry Auerbach, Chief Deputy City Attorney; and Officer Larry Sparks, Sergeant at Arms.

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

COMMUNICATIONS		Disposition:
306	Request of Douglas Turner Sr. to address Council regarding homelessness (Communication)	PLACED ON FILE
307	Request of Bruce Broussard to address Council regarding school funding/budget resolution (Communication)	PLACED ON FILE
308	Request of Jim Evans to address Council regarding new priority for affordable housing (Communication)	PLACED ON FILE
309	Request of Richard L. Koenig to address Council regarding a criminal complaint (Communication)	PLACED ON FILE
310	Request of Teresa Teater to address Council regarding no cell phone tax/temporary city sales tax (Communication)	PLACED ON FILE
TIME CERTAINS		
311	TIME CERTAIN: 9:30 AM – Assess benefited properties for street improvements in the NW 13 th Avenue Phase II Local Improvement District (Hearing; Ordinance introduced by Commissioner Adams; C-10003)	PASSED TO SECOND READING MARCH 22, 2006 AT 9:30 AM
312	TIME CERTAIN: 10:00 AM – Authorize Memo of Understanding between the Office of Sustainable Development and the Portland Development Commission to foster sustainable business practices, promote sustainable development and expand the sustainable industries sector of the regional economy (Resolution introduced by Commissioner Saltzman) (Y-5)	36389

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<p>*313 TIME CERTAIN: 10:30 AM – Authorize contracts with five Neighborhood District Coalitions for Neighborhood Associations to perform Neighborhood Cleanup Events from FY 2005-06 through 2009-10 at a total cost of \$234,330 (Ordinance introduced by Commissioner Saltzman)</p> <p>(Y-5)</p>	<p align="center">179992</p>
<p align="center">CONSENT AGENDA – NO DISCUSSION</p> <p>314 Accept bid of Brant Construction, Inc. for the Groundwater Pump Station - Landscaping, Electrical and Security Improvements Project for \$747,000 (Purchasing Report - Bid No. 104928-Rebid)</p> <p>(Y-5)</p>	<p align="center">ACCEPTED PREPARE CONTRACT</p>
<p align="center">Mayor Tom Potter</p> <p>315 Reappoint Gary Holcomb to the Business License Appeals Board for term to expire December 31, 2007 (Report)</p> <p>(Y-5)</p>	<p align="center">CONFIRMED</p>
<p align="center">Office of Management and Finance – Human Resources</p> <p>316 Change the salary range and title of the Nonrepresented classification of Licensing Division Manager (Ordinance)</p>	<p align="center">PASSED TO SECOND READING MARCH 22, 2006 AT 9:30 AM</p>
<p align="center">Police Bureau</p> <p>317 Accept a \$6,000 grant from the U.S. Department of Agriculture Office of Inspector General to reimburse expenses incurred as participants in the Presidential Initiative Operation Talon (Ordinance)</p>	<p align="center">PASSED TO SECOND READING MARCH 22, 2006 AT 9:30 AM</p>
<p>318 Amend an Intergovernmental Agreement between the Oregon Liquor Control Commission and the Police Bureau to provide the Commission with access to the Crime Mapping Information Network (Second Reading Agenda 277; amend Contract No. 52487)</p> <p>(Y-5)</p>	<p align="center">179981</p>
<p align="center">Commissioner Sam Adams</p> <p align="center">Bureau of Environmental Services</p> <p>*319 Authorize contracts and provide for payment for the Woods Street Trunk Sewer Repair Project No. 8164 - Phase I (Ordinance)</p> <p>(Y-5)</p>	<p align="center">179982</p>
<p>320 Extend contract terms and increase not-to-exceed limits with three consulting engineering firms for modeling support services for the Combined Sewer Overflow Program and Facilities Program and provide for payment (Ordinance; amend Contract Nos. 35282, 35283 and 35284)</p>	<p align="center">PASSED TO SECOND READING MARCH 22, 2006 AT 9:30 AM</p>

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321	Authorize the execution of a Private Storm Sewer Maintenance Agreement with Freightliner Corporation for a private sewer line contained within the boundaries of real property currently owned by the City (Second Reading Agenda 278) (Y-5)	179983
322	Authorize an Intergovernmental Agreement with the Oregon Association of Clean Water Agencies for laboratory analytical services (Second Reading Agenda 279) (Y-5)	179984
323	Authorize grant application for wetland and riparian enhancement in the Lower Willamette River to the Lower Columbia River Estuary Partnership Foundation in the amount of \$78,485 (Second Reading Agenda 280) (Y-5)	179985
324	Authorize grant application to the Lower Columbia River Estuary Partnership Foundation in the amount of \$46,350 for fish habitat restoration at the Eastmoreland Golf Course in the Johnson Creek Watershed (Second Reading Agenda 281) (Y-5)	179986
325	Authorize grant application for restoration and enhancement work at the confluence of Johnson Creek and Errol Creek to the Oregon Watershed Enhancement Board in the amount of \$42,437 (Second Reading Agenda 282) (Y-5)	179987
326	Accept a grant of \$200,000 from the Oregon Watershed Enhancement Board to acquire 44 acres of land at the Big Four Corners in the Columbia Slough Watershed (Second Reading Agenda 283; amend Ordinance No. 179648) (Y-5)	179988
Office of Transportation		
*327	Authorize indemnification to the extent allowed under the Oregon Constitution and subject to the limits of Oregon Tort Claims Act for the NE 33rd Drive Bridge Replacement Project (Ordinance) (Y-5)	179989
328	Amend contract with Alta Planning + Design to provide technical support for the development and implementation of the national Safe Routes to School model in Portland (Ordinance; amend Contract No. 35788)	PASSED TO SECOND READING MARCH 22, 2006 AT 9:30 AM
329	Authorize an Intergovernmental Agreement with Metro to allow the City of Portland Senior Transportation Planner to work in Metro offices (Second Reading Agenda 284) (Y-5)	179990
Commissioner Erik Sten Bureau of Housing and Community Development		

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*330 Amend subrecipient contract with 211info by an additional \$26,426 for a contract total of \$101,426 and provide for payment (Ordinance; amend Contract No. 36062) (Y-5)	179991
REGULAR AGENDA	
331 Accept bid of R.B. & G. Construction, LLC for remodel of Fire Station 15, 24 and 43 for \$2,350,000 (Purchasing Report - Bid No. 104886) Motion to accept the Report: Moved by Commissioner Leonard and seconded by Commissioner Saltzman. (Y-5)	ACCEPTED PREPARE CONTRACT
332 Accept bid of Tri-State Construction, Inc. for the East Columbia to Lombard Connector Project from NE 82nd to Interstate 205 for \$14,839,988 (Purchasing Report - Bid No. 104191) Motion to accept the Report: Moved by Commissioner Leonard and seconded by Commissioner Saltzman. (Y-5)	ACCEPTED PREPARE CONTRACT
333 Authorize City Attorney to exercise City authority to subpoena documents to determine terms and conditions of PGE electric utility services within the municipal boundaries of the City pursuant to ORS 221.420(2)(c) (Resolution introduced by Mayor Potter and Commissioners Leonard and Sten) Motion to accept amendment to strike the words “whether to regulate the rates and” in the first paragraph: Moved by Commissioner Saltzman and seconded by Commissioner Leonard. (Y-5) (Y-5)	36390 AS AMENDED
334 Direct the City not to accept new applications for the New Multiple-Unit Housing Program until July 30, 2006 (Second Reading Agenda 289) (Y-5)	179993
Mayor Tom Potter	
Bureau of Planning	
335 Adopt the Living Smart Code Amendments (Second Reading Agenda 302; amend Title 33) (Y-5)	179994
City Attorney	
336 Form an Exclusion Zone Oversight Committee to review Drug-Free and Prostitution-Free Zones (Previous Agenda 292)	REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION

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<p>337 Decrease scope of exclusions and again designate drug-free zones (Second Reading Agenda 293; replace Code Chapter 14B.20)</p> <p>Motion to add the condition to 14B20.030(A) “convicted in the previous five years in the State of Oregon of one of the following offenses in a drug-free zone and is”: Moved by Commissioner Leonard and seconded by Commissioner Sten. (Y-2; N-3; Adams, Saltzman and Potter) Motion Failed.</p> <p>(Y-4; N-1, Leonard)</p>	<p align="center">179995</p>
<p>338 Decrease scope of exclusions and again designate prostitution-free zones (Second Reading Agenda 294; replace Code Chapter 14B.30)</p> <p>Motion to add the condition to 14B20.030(A) “convicted in the previous five years in the State of Oregon of one of the following offenses in a prostitution-free zone and is”: Moved by Commissioner Leonard and seconded by Commissioner Sten. (Y-2; N-3; Adams, Saltzman and Potter) Motion Failed.</p> <p>(Y-4; N-1, Leonard)</p>	<p align="center">179996 AS AMENDED</p>
<p align="center"><u>SUSPENSION OF RULES</u></p> <p>Motion to suspend the rules to consider Agenda Items 338-1 and 338-2: Moved by Commissioner Saltzman and seconded by Commissioner Adams. (Y-4)</p> <p>*338-1 Extend expiration of prostitution-free zone designations until April 15, 2006 (Ordinance; amend Code Section 14B.30.020)</p> <p>(Y-4, Leonard Absent)</p>	<p align="center">179997</p>
<p>*338-2 Extend expiration of drug-free zone designations until April 15, 2006 (Ordinance; amend Code Section 14B.20.020)</p> <p>(Y-4, Leonard Absent)</p>	<p align="center">179998</p>
<p align="center">Office of Management and Finance – Bureau of General Services</p> <p>339 Amend contract with MCA Architects, PC to provide additional architectural and engineering consulting services for the remodel of Fire Stations 15, 24 and 43 (Ordinance; amend Contract No. 35694)</p>	<p align="center">PASSED TO SECOND READING MARCH 22, 2006 AT 9:30 AM</p>
<p align="center">Office of Management and Finance – Bureau of Technology Services</p> <p>340 Adopt 16 new and 12 revised Technology Services Administrative Rules (Second Reading Agenda 295)</p> <p>(Y-4, Leonard Absent)</p>	<p align="center">179999</p>
<p>341 Authorize annual price agreements with Gateway Companies, Inc., Dell Marketing L.P., and Computer Technology Link Corp. for desktop and notebook computer systems and computer servers (Second Reading Agenda 298)</p> <p>(Y-4, Leonard Absent)</p>	<p align="center">180000</p>
<p align="center">Commissioner Sam Adams</p> <p align="center">Bureau of Environmental Services</p>	

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342 Authorize Intergovernmental Agreement with the State Department of Environmental Quality to address contaminated sediments in the Columbia Slough watershed through the Voluntary Cleanup Program (Ordinance)	CONTINUED TO MARCH 22, 2006 AT 9:30 AM
Office of Transportation	
*343 Amend agreement with Portland Streetcar, Inc. to continue to provide final design and other professional services for the Portland Streetcar Lowell Extension Project (Ordinance; amend Contract No. 31428) (Y-5)	180001
*344 Amend agreement with Portland Streetcar, Inc. to provide additional design review and inspection services related to the purchase of three additional streetcar vehicles (Ordinance; amend Contract No. 31428) (Y-5)	180002
Commissioner Randy Leonard	
Bureau of Development Services	
345 Approve the Living Smart/Permit Ready House Designs (Previous Agenda 303) (Y-5)	36391
City Auditor Gary Blackmer	
346 Assess property for sidewalk repair by the Bureau of Maintenance (Second Reading Agenda 299; Y1057) (Y-5)	180003

At 12:54 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS **15TH DAY OF MARCH, 2006** AT 6:00 P.M.

THOSE PRESENT WERE: Mayor Potter, Presiding; Commissioners Adams, Leonard,
Saltzman and Sten, 5.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Linly Rees,
Deputy City Attorney; and Officer Larry Sparks, Sergeant at Arms.

	Disposition:
347 TIME CERTAIN: 6:00 PM – Adopt and implement the Linnton Hillside Recommended Plan (Ordinance introduced by Mayor Potter; amend Comprehensive Plan and Zoning Map; amend Title 33) Motion to accept substitute Exhibit A and change the date in the ordinance directives section “b.” to April 6, 2006: Moved by Commissioner Leonard and seconded by Commissioner Adams. (Y-5)	CONTINUED TO APRIL 20, 2006 AT 3:00 PM TIME CERTAIN AS AMENDED

At 7:30 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

MARCH 15, 2006 9:30 AM

Potter: Before we begin our usual city council meeting, we want to do a couple of things. First I would like to invite mayor heather fargo from sacramento, california. Please come up to our table with the police chief and ray kerridge.

***** Hello there.

Potter: How are you today?

***** I'm fine.

Fargo: Thank you for giving me a few moments. I'm traveling here with one of your former employee and now our city manager, ray kerridge. I want to come up and personally thank you all for all the good triple aking you gave him and all the good advice and ideas you gave him. He's using them very well in the city of sacramento. We just made his interim position permanent, and we're very pleased to have him on our staff, and i'm also here with our police chief, and we're here to look at some projects in your city to get some ideas, but I also wanted to invite you to come to sacramento, because I think we've done enough interesting things there, it's time for you to visit our city and get some ideas from us.

Potter: Very good. As a matter of fact, commissioner Adams will be in your fair city on saturday, did you say?

Adams: Yes.

Fargo: Good. We welcome that.

Adams: What's a good place to eat?

Fargo: What kind of food would you like?

Leonard: He likes all food.

Adams: Italian, how about italian?

Fargo: I would probably go to luka's or beba's. Beba's is probably considered the best. Thank you.

Leonard: I have to tell our story, mayor fargo. I don't know how long ago it was, two --

***** I think it's been about 2½ or three years.

Leonard: I had ray kerridge, he was the new director of the bureau of development service, I was proud to have appointed him to that spot, and we had made some really dramatic changes in the permitting system and the culture of the bureau, and as a result had some really good things happening in the community. And mayor fargo and other members of the council and sacramento --

***** And our chamber of commerce.

Leonard: -- came up for a conference and wanted me to talk about these changes. So I called ray the morning I was going and said, I know this isn't on your schedule, but i'd like you to come to this conference with me to talk to the mayor of sacramento and others about all our changes. And he resisted saying, I have a busy day, and I said, I really need you to come. So he came, and mayor fargo was so impressed with him she hired him away. I learned a lesson from that.

Fargo: So did we.

Leonard: And our loss has been your benefit. Ray was just an outstanding director of the bureau of development services. I'm not the least bit surprised he went down there in a similar position and

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was quickly recognized for the talent he has, and now is the city manager of sacramento. It absolutely does not surprise me. I'm very proud to have had some small role in that. It makes us sister cities in a way.

Leonard: It does.

Fargo: We'll continue hopefully to learn from each other and hopefully you won't be stealing any of our good employees away any time soon. But you have a wonderful city here, it's always a pleasure to visit. I know you have a busy agenda, so i'll go ahead and leave you to your business. Thank you for giving me a few moments, and again, thank you for ray.

Potter: We look forward to coming to your city. We've heard so much about what you've been doing there.

Fargo: Great. We'd love to show it to you.

Potter: Thank you. [applause] next thing on our agenda, before we begin city council, we ask the question, how are the children? The reason we ask that question is that we know that when children are well, when children are educated, when children have a roof over their homes, when they're healthy, the community is healthy. And so what we do each week, we invite experts in to talk to us about children in our community, children and youth. And today we have two young men that will invite up to please come up to the front. These young men are from the new lights program through the urban league of Portland. Would you like to come up with them, howard? Howard marias is the program coordinator and will be sitting with them. I understand la toya was not able to be here.

*****: No.

Potter: If you would like to start, howard --

Howard Marias, New Lights: Thank you very much for inviting us here this morning. I am new to Portland, I have been here a year and I have been working with the urban league. The program is geared towards academic support for youth, youth leadership and mentoring. One -- the youth that are here this morning are youth that meet at the urban league building. We also have a program, we don't have any youth from that program, that we just started this year is at roosevelt high school. We're still pulling together that group that we're working with. But it's been a wonderful experience, and it's also a challenge, but we're seeing the success through the work we're doing with the youth.

Potter: Good. Maybe you could just say your name and then tell us a little bit about yourself and anything you'd like our city council to know.

*****: My name is udi, i'm a sophomore at benson high school. What was the question?

Potter: Just a little bit about yourself. I understand you're in the automotive and construction program.

*****: At benson high school. And I play baseball at benson. And our school is great. We have great class sizes, but with don't have enough african-american teachers to educate the african-american students, because some of the other race teachers probably don't understand how we do things, african-american way. But besides, that our school is great, our community is good, we have places for kids to go and hang out, and we have enough stores and place where we can buy stuff if they need it. And that's about it. Pyrotechnic thank you.

*****: I'm a senior at grant high school. I'm involved in two sports, football and I run track. And as far as our african-american community at grant, I think we're about 30%, or 40% of grant high school. They're all below classes, they're not up to the standards of the school, and I agree with my brother about, I think we have like two black teachers in our school. And so the kids, I mean, they just -- our school is great, we're an achieving school, but the african-americans are not contributing to the achievement of the school very much.

Potter: I notice you're a senior at grant. What are you going to do when you get out of high school?

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*******:** I plan on going to college. I've been applying to four colleges. Mt. Hood community college, western Oregon, and concordia college, i've got track offers to run track at concordia and mt. Hood, and a football scholarship at western Oregon.

Potter: When you get to college, what do you want to study?

*******:** Business.

Potter: What do you want to do with that degree?

*******:** I'm lucky enough my dad bought a franchise, so i'm going to take business and hopefully take over his company.

Potter: Good.

Leonard: We need football players at p.s.u. We need good strong football players in that program. What's belong with Portland state? [laughter]

*******:** You tell me. I don't pay much attention to Portland state that much. I couldn't tell you.

Leonard: The big sky conference.

Potter: Could you tell us a little bit about the new lights program?

*******:** Our program is -- I just got started like a year ago.

Potter: Do you want some help from howard?

Marias: One of the things we do, we meet biweekly at the league, and it's a combination of career exploration and life skills development. At the same time we're trying to teach the youth what are the transferable skills, the skills you're going to learn in life are transferable to the workplace, the skills you learn in high school you're going to be using down the road. We want you to know these skills you learn today are going to be there for you down the road. Such as communication, we're talking about how do you -- communication, we're talking about how do you do job search, one of the things, we're always working with youth to get employment, but we never do anything around the realm of how do you maintain that employment once you've got it. So kind of really working around these facets. And also looking at building the leadership skills, helping them get a voice of who they are so they can voice what concerns they have. Not now as youth, but also being engaged in the whole political process as they get older so they know there is a reason for you to vote, and you need to know what that reason is to you as an individual to determine that. So those are some of the things. And try to really connect them with african-american youth, african-american professionals, and professionals in general so that they can see there's life beyond what they see on television. It's great to use sports to accomplish a particular task as far as education, but then the percentage of youth that actually make it in professional sports or make it in entertainment is small, so look at business, look at becoming a doctor, a lawyer, look at alternatives that are essentially the real jobs that majority of the population has kind of a thing.

Potter: Very good. Good luck to you young men. In a few years come back and tell us how you're doing, ok?

Marias: If I could say one thing, thank you very much for your support, mayor, with regards to the education. I think that's critical for the youth in Portland. [gavel pounded]

Potter: City council will come to order. Please call the roll. [roll call]

Potter: Please read communication item 306.

Item 306.

Moore: I don't think he's here.

Item 307.

Bruce Broussard: Mayor, city council, it's good to be with my colleagues this morning. I'm somewhat excited about the paper this morning, "the Oregonian," it seemed as though we balanced the budget for Portland public schools. It looked like they picked up some \$23.5 million in the grant from the federal government. And again, these dollars are dedicated to reading, and when you think about reading, in fact, if you can't read, you can't comprehend. It is the basics for learning. So I think this is exciting, because some of the points that were made, I would hope the city council

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and the mayor would get involved in this particular grant and maybe track those dollars, some of the concerns that citizens have had has been basically the administrative side of funds, and here's a good example that cites the fact maybe two or three more administrators will be i.e. hired on as new staffers for these dollars. So this is something that hopefully we could -- here's an opportunity to really track those dollars to see whether or not they are going to do what they're saying they're going to do. The other thing I noticed in the article, it sort of undermined the teachers, they've got to be articulate in terms of communication. As far as typers are concerned. So rather than hiring these outside sources, why don't we make sure maybe we can add more teachers to the staff, if not that, again, as i've said before, and i'll continue to say, we should make sure that we communicate to the students, to all the kids throughout Portland that in fact they're going to have a full school year, they're going to have a full school year, and the teachers, that they have a teacher doing that particular process. It's unfortunate the media has played so much politics on that. If I had my way, articulating and communicating to "the Oregonian," I would say please take that part out of it and reinforce the fact these kids are going to have a full school year. And I think that's very, very, very important. By the way, if you're looking for outside sources to maybe consider chairing a committee to track these particular monies, I would be more than glad to participate. I just happen to know a couple of accountants that wouldn't cost the city anything, we would be more than glad to track and it get back to you with ongoing reports, because I know you're a very busy group and you've got many things to do, and you've always said you've got a compassion for kids, I too have a compassion for kids. I've got two kids, two grandkids at chapman high school, great school, and the system, so i'm very much concerned. I've not left you yet, so with those comments I appreciate -- and the other quickie thing would be, again, I still say the custodial issue should be a factor in the budget resolution aspect of it. I noticed the former mayor katz and carol turner and even norma paulus and the business community are trying to repeal, if you will, that -- the results of the supreme court. So anyway, thank you very much. I hope you have a good day. Take care, thank you.

Potter: Thank you. Please read the next item.

Item 308.

Jim Evans: Good morning, jim evans. I spoke briefly with the mayor this morning. I'd like to address community policing. It was very nice to see mayor Potter out in Multnomah village on saturday morning. It was -- it's just a small kind of picture of this city and what makes this city so vibrant. Just in good morning pleasantries, the mayor related that's where he had started his patrol duties as a young police officer 40 years ago, and I was there to give a 10-minute -- an interaction with the mayor for 10 minutes. But unfortunately it was so popular, I wasn't able to get in and do that. Though I did leave some comments, and I really appreciate the mayor's office for getting an email back to me in responding to those comments. And then of course actually leaving o'connor's, that was the place where it was being held at, had a chance to bump into the mayor again and mention my concern about community policing. I think that's a very good proposal, and a policy. In the email he referenced his assistant referenced with want to promote police officers who participate in the community policing. I do have one policy proposal, and that is that -- to allow the police officers to get out of their cars and be in the community, because they have to know their territory. They're kind of a paramilitary organization, and a little softer than that, you need to know your territory, you need to know your people in that territory, and the -- you need to get the trust of those people so they can give you information about what's going on in that community. And they can feel like they're coming up. And I would say that in terms of that, getting the police officers out of their car, you might want to soften the quotas. I know there's not a real quota, but the pressure to write tickets. Because that's where police officers write most of their tickets, is out of their cars. If they're being pressured to write tickets they're not going to want to get out of their cars in that regard. The mayor asked this morning about the children. And I think that's always an appropriate

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question to ask. Community policing is a critical component of our children. Because I know from my experiences of being a 91 person in my neighborhood the relationships I had with the police officers, the fact I had trust for them, this police officer actually gave out lollipops, tootsie pops to build that trust. And that's what we need in this community with our police, and I think community policing is the strongest policy we can do that. I've seen that in my own experiences through my own professional background. It's a good policy and I encourage the mayor to go forward with that. Thank you.

Potter: Thank you, jim. Please read the next item.

Item 309.

Richard Koenig: Good morning, richard koenig. Happy 15th of march, city of Portland. To make sure we're all on the same page, i'm extending an opportunity to you, the members of city council, to propose amendments or objections to all of the proposals on the table at the time of our last get-together. Which basically was about process and timing, notification. Hearing none, it's agreed. For the benefit of those who have just tuned in, we're embarking on a process of resolving a claim against the Portland police bureau, particular members who assaulted me without cause to the effect of denying the right of the people to compel witnesses by subpoena. Since the police bureau's mission statement includes to protect the rights of the people, the officers in question not only violated their oath of office to support the constitution, but the bureau ease own mission statement. Notwithstanding the conduct of the several officers, the claim is to be regarded as addressing a problem with Portland's hiring and training proper. Ignorance of the rights belonging to Portland citizens appears to be so widespread that this process of resolution can apparently only be done in front of you folks, the members of city council. I'm requesting that police commissioner tom Potter make a preliminary good faith demonstration. The pretext for my arrest was a criminal charge of trespass. The individual who solicited the police officers initiated a false police report and the -- and in the process gave the officers sufficient cause to know that the charge wasn't even plausible. In other words, the report was false on its face. Initiating a false police report is a crime. In this case i'm one of the victims. The police have offered no apology for violating my constitutionally protected rights and arresting me on this false police report. Today i'm asking that tom Potter forward a formal criminal complaint against the individual who made the false police report to appropriate police bureau personnel for investigation. And referral to the district attorney's office for prosecution. My complaint is in the package that you've already received, it's backed up by the statements of three public attorneys, darrien stanford and fred lindhsor of the district attorney's office and Portland's own chief deputy city attorney, harry auerbach. Also included is a reference to the attorney general staff person. I expect this complaint will be forwarded in a timely manner this very day, if it hasn't been already. I has been three weeks since we were last together and you've had it in your hands for a while. If there are no objections to what i've just proposed, i'll assume we have agreement. Thank you, mayor. Commissioner Potter.

Potter: Please read the next item.

Item 310.

Potter: Please state your name when you testify. You have three minutes.

Teresa Teater: Good morning. Teresa teeter -- teater. I was in nebraska recently and I get the update mailed to me examplely, and they're lowering the property tax down to \$1 starting 2007 per every \$200 of valuation of your house in nebraska. And I notice on the head of the clackamas review yesterday in front of the clackamas county courthouse they're only doing \$1 for every \$2,000 worth of value of home in clackamas county. I don't know what the value is in this community ever county, so i'll let you figure that third part out. My concern is that mr. Leonard always wants to do the cell phone tax to fund the jails, to fund the schools and do this and do that, and I finally had mine shut off two months ago. They're such a giant tax list at the end of my phone bill, just to even touch my phone is three cents every time I touch it. So my -- I wanted to mention

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this isn't brainstorm northwest, this edition about the -- this is in brainstorm northwest. Ballot measure one, a major lawsuit is getting ready to be filed. Quality education model, quality goals, defining them, etc., and that we passed -- the legislative -- the legislative assembly was supposed to appropriate in each biennium a sum of money sufficient to ensure the state system of public education meets quality goals established by law. And according to this system right now, they're \$2 billion short for funding the current k-12 allocation. By the time the lawsuit is over that will go up another \$4 billion, and that's going to be more stress on your tax dollars, etc. And so I wanted to just bring this to your attention and this is a major, major lawsuit, and it's also tied in to politics, who's going to be running the state at the end of the year, so thank you very much for your time, and I really don't want to see a cell phone tax. Oh. The city sales tax, or a two or three cent per bottle of alcohol in this city, I guess, I don't know if you have to do it through the state. I have still offered to write letters, and did I start contacting law enforcement to write the letters, and they're going, what did mr. Potter do? And i'm like, i'm still waiting for him to talk to the glover. Gut I still believe in the alcohol tax. Maybe a temporary one-year city sales tax, one year, because of all your commerce coming through from Washington, etc. Thank you.

Potter: Thank you. Please read the next item.

Moore: That's all the communications.

Potter: Ok. Move to the consent agenda. Any of the commissioners wish to pull any item off the consent agenda? Does any member of the public wish to pull a member off the consent agenda? Please call the roll.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded] move to the 9:30 time certain. Please read item 311.

Item 311.

Adams: I'll let folks from Portland office of transportation present and should be pretty short today.

Andrew Aebi, Local Improvement District Administrator: Good morning, council, andrew aebi, l.i.d. administrator. With me is katherine levine with the Portland office of transportation. I am pleased to announce no objection to final assessment were received by the filing deadline. This project is significantly below budget, 34%, to be exact, and we're pleased to pass along those savings to the property owners. One of the benefiting entities along northwest 13th avenue is a valuable nonprofit cultural resource, the pacific northwest college of art. The Portland development commission helped fund this project, and without whose support this l.i.d. would not have moved forward. I might add that northwest 13th avenue is in one of the oldest parts of the city, which was founded in 1851, and 155 years later this dirt and gravel street has finally been improved. As noted by "the Oregonian" on june 7 of last year, the last unimproved street in Portland's urban core will soon be one of the most important thoroughfares in the pearl. This is already happening. The return on investment by property owners and p.d.c. and transportation infrastructure is already evident. From october of 2003 the month before l.i.d. formation, to january of this year, two months before final assessment, Multnomah county data showed a 45% cumulative increase in property value for an average annualized rate of increase of 18% per year, and that doesn't even include new development on the books such as the proposed safeway store at northwest 13th and lovejoy. We received only two remonstrances, I just wanted to briefly look at one of them in particular. One of the two property owners -- properties for which a remonstrance was received was at northwest 13th and lovejoy. This property was sold even before the l.i.d. formation ordinance was approved by council. Just using this property as an example, the \$1.02 million value has been updated to \$5.9 million, versus a proposed final assessment of \$25,014.23, which is less than 1% of the increased in the property value. For all properties within the l.i.d., the average increase in property value of 28.7 times the amount of the l.i.d. assessment and this is probably conservative in that it's based on Multnomah county data. Finally, in closing this, project is yet

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another example of the tangible benefit that is realized by investing in transportation infrastructure.

In proving northwest -- improving northwest 13th has resulted in a win-win-win by the city, by the Portland development commission, by the neighborhood, and by the property owners. With that, I will turn this over to Katherine Levine for a brief presentation. Thank you.

Kathryn Levine, Department of Transportation: Good morning. We have just a few power point slides to show you the project area. Our favorite part of any presentation are the before and after pictures. The project area is northwest Johnson to northwest Raleigh. It's a special street in Portland in the mid 1990's, transportation, the city, the property owners, worked together in the area south of Johnson and developed a unique street design that took into account the industrial history of the area. It's essentially was originally a lot of warehouse development, rail service, and roding docks. So this -- loading docks. This design allows for those loading docks. It is a concrete street, it does not have standard curb and sidewalks. It has a very unique identity in the Pearl, something that was very important to the Pearl District Neighborhood Association. The first slide is from Johnson Street looking north, Pacific Northwest College of Art is on the right, and it was a dry day, so you can just get an idea of the amount of gravel, rail spurs, and the like that made passage along this street pretty treacherous, not only for pedestrians and bikes, but also motor vehicles. This is a photo that was taken earlier this month on a slightly wet day, just to give you an idea. Pacific Northwest College of Art is again on the right. I do have to say before the project was even completed, Michael Hall, the dean of students, was working with city staff to increase the bike parking around the building. They have a great number of students who use bikes for transportation, and they were sure to include that as a mode that they could serve. This is a picture from Marshall looking north. Again, Bridgeport Brewery is on the left. It was a great shot, I had it on my p.c. For a number of months when I was trying to remember, ok, what am I here to do? I'm here to change this. The rail lines and the potholes are pretty evident, and also the Virginia Creeper, which is a wonderful landmark on the Bridgeport, is there too. As most of you know, the Bridgeport reopened last month after a major remodel, and reopened their restaurant operations there. Is construction going on directly across the street from them, the mixed use development. It's my understanding that the developer has committed to restoring the sky trestle so the Virginia Creeper, which was a visual landmark, will once again have a place to grow.

Saltzman: The Virginia what?

Levine: Creeper. Some people say it's ivy, some people say it's hops, but people who know have told me it's Virginia Creeper, the wonderful climbing vine.

Saltzman: Lucky for it it's not ivy. [laughter]

Levine: Right. In closing, I just wanted to express our appreciation. This project moved forward because of the collaboration of the property owners, the Portland development commission, all of whom invested in this project financially. The Portland Terminal Railroad Company, which honored its responsibility to pay the cost for the rail removal, which helped decrease the overall project cost.

The Pearl District Neighborhood Association, which supported the design of this street and saw it through. And the many businesses, including many small businesses at Lovejoy Square, at River Tech, who had to deal with us during construction. It is a fact of life, but as you know, during construction we affect people's access, we affect their business, and people were very patient and collaborative, and with that cooperation we were able to finish construction under budget and in a manner I think that satisfied their needs as well as the city's needs for improving the street. Thank you.

Potter: Thank you. Any questions from the commissioners? Anybody else to testify, commissioner?

Adams: Yes.

*******:** Good morning.

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Potter: Thank you for being here. When you speak, please state your name for the record. You have three minutes.

Paula Madden: I'm paula madden, I represent northrup investments. I'm a property owner and participant in the l.i.d. phase ii. Good morning, mayor and commissioners. On behalf of property owners who participated in the northwest 13th avenue phase ii l.i.d. project from northwest johnson to raleigh streets, I wish to congratulate everyone involved on a job very well done. The cooperative venture between the city, property owners, and the Portland development commission to make a significant public improvement has been highly successful. We are grateful to the chief petitioner, mr. Al solheim, for his visit and initiative. A complex undertaking became possible with the legal mechanism, management of the design in its construction, and the availability of attractive financing. The example was set in 1993 by mr. John tess, mr. Roger shields, and ms. Vicky diede who spearheaded phase i. Phase ii continued the design to encompass 14 blocks. Under the capable direction of the city's team, mr. Andrew aebe, ms. Katherine levine and ms. Holly berry, and with construction by coffman excavation. With the project coming in on time and under projected estimates. The Portland development commission committed a fixed amount of funding and without their participation we -- I would not be present today. Mr. Bruce allen and the commission are to be essentially thanked. 13th avenue is unique. It celebrates and retains the district's historic feeling and present the it's main feature, loading docks. There's an absence of trees. The street is no longer the s.u.v. testing ground for countless potholes. The pacific northwest college of art and adjacent businesses have all benefited, and recent new ventures are being launched. Lovejoy square shopping center has become a vibrant addition, with retail tenants, including office max and a rooftop sports bar and restaurant. Bridgeport brewery and pub completed its renovation shortly following the street renovation. North of lovejoy is finally getting the attention it deserves there. Is creative energy and soon there will be the safeway --

Potter: What was the name again?

Madden: No love.

Potter: You're sure want to use that?

Madden: Blocks of additional housing and retail development. The city is to be complimented and thanked for a job well done, on schedule, and under budget. And we are grateful. Thank you for your kind attention.

Potter: Thank you for coming in.

Moore: That's all who signed up.

Potter: Does anybody else want to testify on this matter? This is a nonemergency, it moves to a second reading. Please read the 10:00 a.m. Time certain.

Item 312.

Saltzman: Thank you, mr. Mayor, members of the council. Investment in commissioner development is a top priority as government and industry look for new strategies to increase work force competitiveness, invest in local communities, and to ensure future economic health and prosperity of our region. A history of environmental stewardship and innovative community development positioned Portland to grow and attract companies and provide sustainable technologies, products, and services. The business case for sustainable industry is real, and growing. And Portland is establishing itself as a leader. The Portland development commission and the office of sustainable development have identified more than 500 local companies working on some aspects of sustainable industry. The city of Portland is actively pursuing green businesses to develop to stay here and to locate here as well. To be effective in this pursuit, it's imperative we ensure the resources are there to support the activities outlined in this memorandum of understanding between the Portland development commission and the sustainable development office. I will work through our budget process to guarantee these activities are met with the appropriate level of financial and staff support. You'll hear now from the office of sustainable

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development, the Portland development commission, and the sustainable development commission starting with Susan Anderson. She will tell you how the office of sustainable development and p.d.c. will continue to work to recruit, retain, and expand Portland businesses, responding to the growing market for new sustainable products, technologies, and services.

Susan Anderson, Director, Office of Sustainable Development: Thank you, Dan. Susan Anderson, director of the office of sustainable development. It's great to be here with p.d.c. side by side to promote sustainable industries. Since o.s.d. was started five years ago by the work of both Edward Morris and Erik Sten -- Dan Saltzman and Erik Sten, you have focused on using resources wisely, looking at a healthy environment and healthy kids, and pretty soon we recognized all these things are interconnected. It's stuff we've done really since the 1970's when we started to focus on cleaning up the air and water and looking at conservation, but what we've learned lately is that by doing these things to clean up the air and water, to focus on energy and such, we may have found one of our best economic development strategies ever. A couple of quick examples. First, Portland's green building policy. The policy requires that all city facilities meet the lead gold standard, and any products at p.d.c. receive the silver standard. The result is that we have more than 60 lead buildings in Portland underway or certified. That's more than any other city in the United States. And this has spawned a new street within our -- industry within our development community. Firms that specialize in green building, design and construction are able to sell their expertise not just in Portland, but all over United States and the world. Another example is the green investment fund. It's a five-year, \$2.5 million investment fund for promoting cutting-edge green building technologies. It's cofunded by Water, B.E.S., o.s.d., and the Energy Trust of Oregon, and it gives Oregon companies a chance to showcase and build demand for new products and technologies. Another example is renewable energy like wind and biodiesel. Biodiesel and other oil substitutes are going to be in high demand all over the world. Peak oil has come and gone, and we need to find new choices. We should identify how to quickly build demand for turn five fuels here in Oregon, and then how to serve that demand with Oregon-grown fuel. Helping companies to get started, supporting state legislation, financial incentives, helping them to find venture capital and providing technical help. We're already starting down that path for other energy alternatives. We're doing our part with wind power. We're currently negotiating with a local company to provide \$13 million worth of electricity to provide annually to the city to serve all of our buildings and facilities. So this will be 100% renewable power. We'll generally be substituting wind for oil, natural gas, and coal. And we'll be saving money in the long run. I've used an example here at council to -- before, we can focus on energy efficiency. It's not as cool as wind to talk about, not as cool as biodiesel, but it works, and it saves money, and it creates jobs. For example, the past decade, more than 40,000 apartment units in and around the city of Portland have been weatherized as a result of a partnership with the Energy Trust of Oregon, our local utilities, and the office of sustainable development. This was originally thought of as an energy program and as sort of a social program to reduce bills for lower and middle income families in apartments. It saves hundreds of dollars each year for each family, it has leveraged more than \$35 million in investment in some of our poorest housing in Portland, and it cuts energy use. But what we didn't realize was its impact on the economy. For every dollar that we spend on energy, most of it leaves the economy right away. To buy natural gas, oil, and coal. Yes, even here in Portland when we think we have hydropower, half to two-thirds of our power is generated by fossil fuels. For every dollar we spend on energy conservation, most of that stays here for local labor and materials. So our investments in energy efficiency are substituting local labor for imported fuels. We need to find more ways to do this. So energy efficiency, wind power, biodiesel, ethanol, solar, geothermal, a lot of other things, they're all here in Oregon, and they're things we could be producing and things we could be selling. So what else is in Oregon? Or could be? We need to figure out what materials are going into our green buildings and see if we can make them here. We need to identify ways to

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cut the linkages and substitute local labor and products. So wrap up, there's lots of opportunities to promote sustainable industries, the agreement with p.d.c. lays out several dozen different ways we're going to do that. We'll be finding ways to work with existing businesses. We'll find ways to identify growth opportunities and seek sustainable industries to set up their manufacturing and their offices here. We'll also provide personalized services to local firms to help them cut cost and be more sustainable. And we will identify gaps in green technologies, products, and service, one that Portland companies could fill and sell not only to other Portland firms, but to the rest of the worlds.

I know commissioner Leonard would like to see a whole section on biodiesel and we'll be working on that and hopefully have that to you very soon. My friends who have similar jobs in other cities, austin, chicago, san francisco, denver, and other places, they all have plans to be the sustainable city. They're putting a lot of money into it. Portland still has the lead, we already are sort of the sustain all city in their minds, but others are leaping forward and I think this agreement will help us to sort of stay out in front. Thanks. Saying thanks, susan. Now we'll hear from lori, the executive officer of Portland development commission.

Lori Sundstrom, Portland Development Commission: I'm happy to be here today. I should point out that i'm new to the commission, been there about four months, and upon my arifle executive director bruce warner assigned the sustainability portfolio to me, and I worked with susan a little bit in learning what her office does and what our agency does, and i'm really excited about the tremendous amount of good things that are going on between the two of us. This agreement I think moves those efforts forward in a much more focused way, and I want to point out to you that the activities contained in the agreement really focus right now on our economic development department. Our intent is to eventually bring the entire commission's activities under the umbrella of this m.o.u., and so in the future we'll be adding our housing department and our economic -- our development department activities to it as well. So today is -- what's in front of you is the first chapter of three chapters, if you will, that will eventually flush out this m.o.u. There are a couple of things I want to point out to you that were particularly pleased with. The proposed business resource conservation center, for example, I think will enable both of us to target our limited and precious resources to help businesses who are both here and who want to come here to be successful in this arena. And this is a new effort, and I think it's going to be a very worthy and successful effort. Second, the sustainable leadership campaign, which is a promotion of our city's leadership role in supporting sustainable development and sustainable industries, susan mentioned that at the moment where at the top of the list, but we have other cities willing and trying to take that position from us. So I think this is an area of activity that will help us not only stay at the top, but continue to lead in a meaningful way. We do collaborate on a lot of things, and the agreement does go into a great deal of detail about different activities between our two agencies. And I think i'll close there and let chip close it. I just want to close with saying that we're very excited to have a more formal relationship with the office of sustainable development and really looking forward to doing some really good work.

Saltzman: Chip is the chair of the sustainable development commission.

Chip Lazenby: Good morning. This is an important investment in the sustainable industry, and the coordination of p.d.c. As you all know, they're an important interface between the public sector and the private sector on a lot of different fronts. Economic development, housing development, things of that nature. With this investment that is encompassed in this agreement, it will help Portland continue to attract the interest of the experienced green building and design professionals, most leed professionals exist in Portland, they're product manufacturers, clean -- food processors, and retailers all who are cooperating and competing and catering to a growing market of green consumers. And I think most importantly there's a lot of serious money to be made in promoting broad-based sustainable development practices. There's a \$6 billion national green building products and services market, there's a \$20 billion organic food sector that is growing, and Portland

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certainly can be a part of being identified with that through efforts we're doing like the public market and supporting our local farmers markets. We can go beyond that to become a beacon for the country. And there's an \$82 billion clean energy industry that's out there, many of the key components of which are getting their start here in and around Portland. So in a nutshell, the companies that today are capitalizing, seizing on sustainability as a business opportunity will shape the future of our community and our economy, but not just here in Oregon, all up and down the west coast. As Susan mentioned, we're not alone in our quest to become the green business capital of the world. There are many cities that are getting on us and putting sustainable resources into effect. In Chicago the mayor has a very ambitious commitment to become the most environmentally friendly city in America. I don't know what Chicago he's looking at, but by moving to a more renewable energy and planting a green roof on city hall as part of an urban heat island effect study and hiring a city sustainability director, that's catch-up in terms of what we're doing in Portland, but there's a serious commitment there to do that. In Seattle there's a mayor-led cry mat protection agreement, and with Microsoft helping to bolster the economy, the city is a major candidate to be a leading city in clean technology development and implementation. In San Francisco, which is already a leader in solar energy, coupled with a voter supported \$100 million solar bond, coupled with the statewide clean and green energy initiative spearheaded by Colorado's -- California's governor, California, Northern California are making steps. And in New York City, even in New York City, not traditionally associated with -- as a sustainable city, investing in green buildings and renewable energy technology throughout the five boroughs and -- the ecos consulting is beginning to take old -- hold. But we still have an ability in Portland to really become a beacon and to be a leader and stay ahead of all these other developments. I'm flying tomorrow to Sacramento. My firm, the Bullivant firm, is cosponsoring a sustainability event for office managers and commercial building tenants to talk about sustainability. But the people planning that program are coming at this from a completely different way. They're still asking questions we answered a long time ago of, why should you may more to be in a green building, what are the long-term economic benefits of that. Part of my participation is to bring the Portland message down to California about how those questions really are almost moot. So we're ahead of the curve, but this combination of the development commission, the office of sustainability and p.d.c. is an important alliance that will keep us out on the front of that edge, and I thank you for your commitment to that.

Potter: Thank you. Questions from the commissioners?

Saltzman: We have Kent Snyder on the sustainable development commission.

Kent Snyder: Kent Snyder. Think they bring me in as the old historian of this. This is an effort that started back with the sustainable Portland commission some six years ago, and an effort by that commission and the sustainable development commission, really to somehow bring into alignment the economic development activity as a p.d.c. With what you heard as our national reputation for sustainability. It is a great move. This agreement is a good step at putting meat on the bones and providing some coordination of those efforts. I guess it's time to cash in on our cache. There are a lot of other places that are doing things. For example, Phoenix, Arizona State University, they've recently put \$15 million in Arizona State into development to become the leading institution in the United States in sustainability. And they're raising another \$150 million, the Wrigley Foundation is spearheading that. We have delegations frequently coming here from the China -- from China as part of the China-U.S. Center for sustainable development, programs with Portland State, and Arizona State. We have this great reputation and it's time to bring our alignment with our economic development activities in to cash in on that reputation. So the economic development subcommittee of the commission is very enthusiastic about working together with p.d.c. and bringing this about. Thank you.

Saltzman: That concludes the invited testimony.

Potter: Do we have anybody signed up?

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Moore: No one has signed up.

Potter: Ok. This -- any further questions from the commissions? Let's call the roll.

Adams: Excellent work. Keep it up. Aye.

Leonard: Commissioner Sten and I had quite a conversation not only yesterday about this when susan's budget was up, but last week when we discussed it p.d.c. Budget a this very topic, without really -- at least I didn't know this resolution was coming. So this is very timely. You're going to be seeing a recommendation of some kind from commissioner Sten and i, mayor Potter, and the rest of the council, that will change the office of sustainable development's submitted budget to include really a focused effort on hiring a person that would aggressively go out and make some of these initiatives occur. Appoint -- a point person, if you will, in the office of sustainability, or sustainable development that would be kind of the coordinator, of course one of the things i'm focused on is biodiesel because I think what it brings to us -- in addition to ethanol -- it brings us an opportunity to include eastern Oregon farmers as partners with us here in growing a crop they would get a lot of money for that we would then convert to use as fuel for vehicles, primarily first in the city, creating a market, and hopefully causing citizens to begin using that kind of fuel. So we're -- this is really good stuff, and i'm -- as we talked about yesterday, this is really commissioner Sten and my attempt to be proactive in getting us ahead of the curve, which we already are, but even further ahead of the curve to make Portland a place that is setting an example of how to reduce our dependence on foreign oil, how to convert to a sustainable source of fuel, and I think one of the benefits of higher gasoline price, it allows things like this to be possible. That's the bright light at having high petroleum prices. We can actually engage people to use these other sources of fuel that are better for our environment, better for the economy, including our rural partners, and better for Portlanders. So this is very timely, and i'm excited about where we're going. Aye.

Saltzman: I think the linking of arms of the Portland development commission and the sustainable development office to jointly pursue economic development activities around sustainability is an important step. And it's a break-through of sorts. I think there's been creative tension in the past, and I want to thank people in the p.d.c. who have worked very hard to get to us where we are today, which includes not only bruce warner and lori sundstrom, but trisha and ryan, and bob, several of them are in the audience today. And they need to be recognized. As much as an agreement -- a memorandum is words, it takes resources to make these words into reality. And these action noose reality. Part of the challenge on both of our agencies will be to adopt budgets that give the ability of both offices to pursue the activities outlined in this memorandum of understanding. And that is going to be an effort as we deal witness as a city council to find the resources, i'm heartened to hear of commissioner Sten and commissioner Leonard's commitment in that regard. But we also need to make sure the Portland development commission and their budget process also commits the resources necessary. And i'm heartened to know when I testified at p.d.c. That commissioner rosenbaum committed to spend 20% of the -- their general economic development appropriation on this -- these types of activities. Soy thought that was a good high mark, and we hope the commissioner's view prevails. We need to move beyond -- we're doing a good job, we've created lots of jobs in the professional service sector, architects, engineers, planners, landscaping architects. I think the next big breakthrough is to create living wage working class jobs putting together, building the stuff that goss into green buildings, building the stuff that go into renewable energy technologies, and I think we're on a good path to do that now. So i'm pleased to support this agreement. Aye.

Sten: I want to thank commissioner Saltzman for bringing this forward. The sustainability commission and the development commission as well. To be blunt, I think this is a few years too late. Not too get things going, but I think it's been obvious we should have an agreement like this, and i'm smiling at kent because he's been pushing at one for a while. It's certainly to the credit of the new administration at the development commission they've brought this forward at this point.

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Commissioner Leonard was getting at what i'm going to work with him during the budget, and I think were the support of the council, I think we need more than this agreement right now. Because as mr. Lazenby articulated, I liked kent's point of cashing in on our cache. We are in the front on a lot of environmental efforts and we're struggling to figure out what are the right economic development strategies that we can push, and you make progress on things that you have competitive advantage on. And the competitive van want we have right now will not last if we don't push harder. I think we need to take the framework of this agreement and get much more aggressive. Both commissioner Leonard and i, who happened to be reviewing this budget and the development commission's budget, have said, please come back to us with something that has more aggressiveness to it, more vigor and more of a thesis that says how we're going to do this, as opposed to that we're going to collaborate on it, and give us some choices on how we could invest in this strategy. So money is dear as always, but I think we'll create more money with a little better investment into this effort than we will just talking about it. Soy hope to follow commissioner Saltzman on this and bring some packages back to the council that will build on what I think could be a landmark agreement, but it needs more oomph in my opinion. Susan has promised us that in the next four or five days. Aye.

Potter: I want to congratulate office of sustainable development and p.d.c. I think this is a great move. I know competition is healthy, and it's great to have these other cities chasing us. I just want to make sure we stay ahead of the chase. And I think this is the kind of activity that helps promote sustainable industries in Portland, and attract them. And I know that success creates success, and this is one of those really important steps I believe in beginning to really pull all the different disparate pieces together. Thank you folks for doing this, thank you commissioner Saltzman, and I wish you well. [gavel pounded]

Item 313.

Saltzman: This is -- authorizes the office of sustainable development to continue to support the five neighborhood district coalitions in a very successful event every year, which is their annual neighborhood clean-up. And these have been very successful, they not only get neighbors out and working together, but they also remove a lot of clutter that gets to the maximum extent possible gets reused or recycled, and jill and some other people here are going to talk about this proposal.

Jill Kolek, Office of Sustainable Development: Good morning, mayor, commissioners. Jill kolek, i'm the training and education manager at the office of sustainable development. I'm bringing forth today council an approval for an ordinance of -- to authorize a 5-year contract with the neighborhood district coalitions for neighborhood associations to perform neighborhood clean-up events. And i'm here today with cindy carroll, who is representing richmond neighborhood, and mark cullington, who is representing -- as probably some of you know, a neighborhood clean-up event is a temporary depot set up where residents bring unwanted items for disposal and recycling, and typically events are held on the weekend during the spring and summer. O.s.d. has been funding these events since 1991, along with metro, and we provide the funding to the seven district coalitions. And they in turn pass that money to the associations. The associations use this money to fund the associations use this money to fund hard costs associated with the event, such as labor, equipment, promotions, marketing, and some supplies. And the neighborhood associations handle all aspects of the clean-up events, and they're held throughout the city. And of course neighborhood clean-up events rely strongly on partners, and besides the coalitions in the associations, they rely on metro, o.n.i., waste haulers, and a community of for-profit and nonprofit businesses that support them by collecting the materials that they collect and funding a -- finding a are use element for them or processing the materials into something new. And annually about 45 of the 90 neighborhood associations choose to hold clean-up events, and over the last three years there's been 142 clean-up events held throughout the city. Those events were made possible with the help of over 1,000 community volunteers. And through these events over 14,000 vehicles came and dropped off

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materials as well as 768 seniors and handicapped residents rid their home of unwanted waste through the aid of volume fires. Lots of material is collected. The lion's share was bulky waste, which is broken furniture, small appliances, as well as furniture -- toys, too, make up a lot of that. There's lots of scrap metal, yard debris, tires and computer monitors, what we've seen over the last I would say four years is an expansion in the types of materials that are collected. Some examples include electronics, packaging foam, nursery pots, and secure document shredding services being available this year too. So they provide a very valuable service. For us, the value of this relationship is very high, and we really cherish the fact the coalitions and the associations work so well to make these things happen. The clean-up events have proven to be very effective to build community and solve neighborhood nuisance issues as well as provide a service where residents can properly dispose of typically hard-to-get rid of items, such as bulky waste, and unusual waste, electronic waste. And they serve as a platform for solid waste outreach. We hope we have your support, and with that I'm going to pass it on to cindy.

Cindy Carrol: I'm cindy carrol, I'm a master recycler and I live in the richmond neighborhood. I help organize the recycling side of our event, which is usually every year in june. I'm also in charge of a unique aspect of our sale -- our program called the you price it sale. Basically we grab all the great stuff we see going into dumpsters, we make a big area and we run it like a reverse garage sale. So it's -- as the day goes on we have better and better stuff. And we sell it to people and raise money for the neighborhood. It's a real highlight of our program. One of the things I wanted to say is that this is a very local program, and it helps us in a lot of ways in our neighborhood not only clean things up, but help bring in reluctant recyclers. Our program is very, very easy. You are going to be through our line getting rid of your lucky waste and recycling in 10 minutes, whereas you'd have to spend probably an hour going to the dump and back. Because we reduce that travel time, we have increased participation. We also concentrate the reusable items that otherwise might just be quite easy to pitch into the garbage can, but because we'll grab them and take them down and separate them out, deliver the shoes to nike, deliver the books to a recycler, we bring in people who are reluctant recyclers. We strive to be friendly and creative. We're all volunteers. We tell them to pull everything out and put it in the you price it sale. What I want to talk about first was one of the values that we have in the richmond clean-up. And that is putting local reuse first. And as -- that's a twist that we started to work on when I began with the clean-up after completing my master recycler program. You price it sale pulls out a great amount of stuff. We have people that camp out there the whole morning and come out -- and grab it when it comes out. We pull out bikes for community cycling, we take items to the Oregon community warehouse and goodwill, we take tons and tons of materials over to the rebuilding center. Great doors, all sorts of heavy items. We send packing peanuts to a local mailing company. And then we charge people to recycle their monitors and we bring those down to free geeks. The next feature I wanted to talk about is how the variety of materials that we're using, whether we're bringing -- the variety of noncurb side recycling items we handle. This is an area that every year we bring in something new, and it's nice to hear about the document shredding. We've recycled in the past things like carpet padding, bikes, the foam, 91st are you pots, electronics, we do a lot with scrap metal. We started off with schnitzer and then moved to a real small local scrap guy, single shop, who can take everything we bring him because he'll go back to his place, take out the fuel of a lawn mower and safely take that apart. So we take every piece of metal we get, if we can't move it at the you price it sale, he recycles it for us. That's where our biggest part of the waste stream, I think we've had the biggest effect. But we also take tires to les schwab, and we grind up athletic shoes and put them into the courts program that nike runs. Since we have this focus on reuse and recycling we've doubled the amount we've kept out of the landfill. Just our program in the last eight years has kept 117 tons from going into the landfill. I want to talk about the local side. Why do 25 people who live in the neighborhood come out and have fun going through their neighbors' garbage for the morning? And it is because we're

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supporting recycling. We support the recycling in our community, we want to keep our community clean, every year we toss out about 20 old mattresses and couches, the kinds of things that haunt inner southeast. It keeps us in touch with our neighbors. It allows to us find great things that are other people's castoffs, and we're serving fantastic donated food. It's a fun, safe event. I wanted to say we have a strong sense of place in the richmond neighborhood, so making it local matters. And I don't know that we could do this kind of level of volunteer service if we had it -- it really needs to be a neighborhood-driven service. Thank you.

Mark Cullington: Good morning. For the record, my name is mark, and i'm a board member of the rose city park neighborhood association. I appreciate the opportunity to come to the council today and talk about the successes that our neighborhood association has had with the neighborhood clean-up. Rose city park has put on our clean-up for the past three years. We had a clean-up several years ago and then stopped having clean-ups, and for the past three years we've been seeing measurable successes, and increased successes over the years. I'll touch base on a couple of those successes. We've had measurable successes in the removal of waste recyclables primarily, and usable goods in our neighborhood. We've had measurable success in involving citizen volunteers and servicing hundreds of households. We've also had clearly illustrating partnerships through our clean-up process with cnn, o.n.i., metro, the office of sustainable development, many, many area businesses, small businesses we've serviced as well as providing these businesses have provided food, beverages, and actual contributions for volunteers. They send employees, etc., to our clean-up to help participate. These types of community events I feel in our -- and our neighborhood feel really contribute to the livability of our neighborhood, livability of Portland in the community. It also helps our community be more desirable to small businesses. And why -- I think that's a key element is because of the amount of participation we have by small businesses. And the willingness of small businesses to participate in our event. I'm going to provide with you just a few statistics from our 2005 clean-up, which was to date our most successful. We advertise quite a bit. We do advertising in our newsletter, at local businesses, we've delivered flyers through the community, we had a local business provide us yard signs, sort of like realtor signs, and we had many citizens willing to put those in our -- in their yards, which I think went a long way to our success. We also put up sandwich boards at the day of the event advertising the event. We had 20 community members help collect and dispose of over 30 tons of mixed waste recyclable yard debris, scrap metal, and tires from over 136 households last year. The vast majority of this material was recyclable or reusable goods. We only collected four drop boxes, the large 40-yard containers of mixed waste. We had six drop boxes of yard debris, which is all recycled, 22 tires, we had an entire drop box filled with recyclable metals. Clearly there's a demand for that. We recycled hundreds of plant containers in partnership with the Portland nursery at no cost to the neighborhood. We had 12 what I will categorize as extra large industrial bags of styrofoam. There's a huge demand for that. We worked with a local business called p.c. Plastics, located near the airport, to accept all of that styrofoam. And we recycled about 120 dollars worth of electronics at free geek. And free geek was extremely generous to the neighborhood by accepting even more than they typically allow. We worked with arc of Multnomah county. They provided a large truck during the clean-up to collect usable goods such as clothing, furniture, bedding, etc., for their charity which provide for mentally challenged adults and children of Multnomah county. We had to close our doors this last year, one -- about one hour ahead of time because we ran out of capacity to accept goods. We filled up our drop boxes and arc of Multnomah county was practically at capacity. Last year we had a 300% increase in revenue from the 2004 carl alsup, which went -- clean-up which went toward helping pay for clean-up and other volunteering efforts of our neighborhood conducts. I want to thank you for your support and I appreciate the opportunity to speak to you. Thank you.

Potter: Thank you folks very much.

Adams: Great work.

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Saltzman: Jill? One question. We noticed the funding goes to five coalitions, but there are seven coalition in the city. How do the other two get handled?

Kolek: We have an agreement with the office of neighborhood involvement for east and north Portland. So I can just move those through the budget. They'll all get the same funding and they're all working within the same parameters. We just have to do agreements with the contract for the other coalitions.

Potter: Thank you. Is there a sign-up sheet?

Moore: No one else signed up.

Potter: Please call the roll.

Adams: Aye.

Leonard: This is very consistent work with what we just talked about. I appreciate these efforts. They're excellent. Aye.

Saltzman: Very good work. I appreciate the presentation from richmond and rose city. Very excited to see what your neighbors you're doing, what you're doing to recycle and reuse materials. Thank you. Aye.

Sten: Great job. Aye.

Potter: I'm a convert, because five years ago I painted my house with metro recycled paint, and not only was it one sixth the price of regular paint, but it wears like iron and it still looks new. So I really appreciate it. It probably is iron. [laughter] I really appreciate it, and I appreciate what you folks do, because it certainly not only makes our neighborhoods look nicer, but we get a chance to recycle materials that can be used again in other ways. Thank you, and aye. [gavel pounded] move to our regular agenda. Please read item 331.

Item 331.

Jeff Baer, Director, Bureau of Purchases: Jeff baer, director of bureau of purchases. Before you is a recommendation to accept a bid from r.b.&g instruction in the amount of \$2,216,000 for constructing the fire stations 15, 24, and 43. I'm sorry, the remodel of those stations. And we have noted as part of the good faith effort process they indicated they would have 14.6% total minority women and emerging small business subcontract participation. Just like in other projects, we even though that might be the first part of it, we continue to work with them to identify if there are additional opportunities through the life of the project to do some additional outreach and good faith effort. With that I'll stop, and any questions -- I also have representative from bureau of general services in case there are specific project questions.

Adams: Jeff, as you know this kind of construction represents the single best opportunity for us to have participation of minority and women-owned construction firms, so i'm disappointed that the number, what the number is. Why is the participation so low? Did mw contracting firms bid and not get it, or did they not bid? What's going on?

Baer: The bid we received from rb&g is the prime -- is not a state certified firm, but we had identified 16 different divisions of work in the project. They did the good faith effort as required in the process. It depends on whether or in the they're going to self perform the work, in this case they're going to self-perform quite a bit of it, so for the part they are subcontracting out, that's the -- that was the result for the 14.6%. But we will continue to work with them once it's started.

Adams: But again, these are -- this is the kind of construction project that is most accessible to our women and minority-owned firms, so how do we improve upon this. This is three stations, right?

Baer: Correct.

Adams: It just seems like an incredible opportunity lost. Was there bidding -- can you give me a sense of the bidding on this? Did women and minority firms bid on this project?

Baer: I don't believe we received any prime bids from any certified firms, and that's really where we kick in the good faith effort process, because when we identify, for example, in this one, 16 different divisions of work, we actually provide the list of certified contractors that they are to

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contact for those subcontracting opportunities, so we provide that to them, they contact them, but it's really within their discretion if they want to determine they're going to self-perform with their own internal work force.

Adams: And there's nothing legally we can do about that?

Baer: No.

Adams: Thanks.

Potter: Other questions from the commissioners?

Thank you.

Potter: Do we have a sign-up list? I'd like to ask for a motion to accept the report.

Leonard: So moved.

Saltzman: Second.

Adams: Reluctantly aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded] please read the next.

Item 332.

Jeff Baer, Director, Bureau of Purchases: Jeff baer with the bureau of purchases. Again, here's another report for the recommended award for the east columbia to lombard connector project to tristate construction. Just to point out, they did have 3.9% out of their total bid submittal amount for minority women and emerging small business, and I suspect the same question will come up again, why so low on that one. And again, we did -- in this one, particular project, due to the technical complexity of it, we only had 10 different divisioning of work identified for which there were subcontracting opportunities. The contractor in this case did identify an additional area that they identified as a potential subcontracting portion, and going forward they are also looking at some additional mwsb subcontractor opportunities, for example in flagging and painting and seeding, we'll be working with them once the contract begins.

Potter: Questions from the commissioners? I notice the only category to receive any support were women contractors. What's the story on that? There were no minority, no emerging small businesses.

Baer: I'll have to look in the area which was -- let me find that here. I don't see it offhand on the division of work that's being performed by the women-owned business. But again, when we go through the good faith effort process, we provide the list for them to contact. I'll keep looking. It's in trucking, and it's with miller factors, a women business enterprise.

Potter: Other questions? Thank you, jeff.

*******:** Mr. Mayor?

Potter: Please come forward.

Roy Jay: Good morning. My name is roy jay, i'm not here to testify about this, but I couldn't help but hear the two motion that's came in front of you. I want you to understand as me being the president of the african-american chamber of commerce, the operative word is good faith efforts. A lot of time that falls on deaf ears. I want you to understand that a lot of the minority businesses out there are not dba certified. The state of Oregon is already overload order certification, only 22% of the ethnic minorities go through that process anymore. So I think the city needs to start thinking outside the box as to how they're going to really reach other qualified minorities that don't want to go through the state process. And I think that's part of the reason some of those contractors are only going from a certain list. And there are a lot of people outside that list that are not being contacted. So that's why you don't have a lot of minorities and certainly you'll have a lot of women, but I want you to keep that in mind. Not only when this particular issue comes up, but other departments that will tell you, well, we're trying to do our best faith effort, but going to meetings and having coffee and passing out notices in the newspaper is not my idea of good faith effort, because we deal with a lot of businesses that are not on the state list that are definitely qualified. So take that for what you want, but we live and breathe this every day.

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Potter: Does your chamber have a set of recommendations on how to increase minority businesses?

Jay: We are just starting to get into dealing with actually the city's purchasing department just became a member of the chamber in a very big way, and we're going to start sitting down with greg and some of the other folks to explore some other avenues of doing some real outreach and thinking outside the box instead of going through that very limited list of same folks you can't find a lot of times or they don't want -- they don't have the technical expertise. That's where this stuff falls off by the wayside. It makes the city and the contractors look bad because they're only going to the same number of folks that sometimes don't have the time to even bid on it, or they think it's not worth their time. So I want you to think -- if this city really wants to be progressive, let's start thinking beyond the mbwe, because they just don't want to go through the process.

Adams: We once had that system, and it was a disaster. So we need to figure out a way to get people certified quicker.

Jay: A lot of times -- the state doesn't have the resources --

Adams: Maybe we do certification --

Jay: You could do it within your own --

Adams: As an agent of the state. When I first got here we didn't have any certification, and it was a system of fronts and deception that was really awful.

Jay: At the same time you've got -- you need to look at some of their good faith efforts. I don't want to spend a lot of your time, I just thought i'd chime in real quick. You know me, I just take the opportunity, mayor.

Potter: Thank you. Is there anybody here who wishes to testify on this matter? This is a report, I need a motion to accept.

Leonard: So moved.

Saltzman: Second.

Potter: Call the roll.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Potter: Well, I appreciate your words, roy, and I think that we need to look at ways -- this is a sizable contract, and the small amount going to minority -- the zero amount on this to minority businesses is I think something we need to examine. There's something wrong with the system. I know lots of good folks out there need the work. So I reluctantly vote aye. [gavel pounded] please read the next item.

Item 333.

Potter: Commissioner Leonard.

Leonard: Thank you mr. mayor. It's unfortunate that we've had to come to this at the city in order to come to terms with what some of us think are rates that p.g.e. charges that may be based on some improper activities by p.g.e. But I want to assure the council that the step that we're taking now is to receive documents that we've asked for voluntarily that have not been turned over that now we're put in the position of having to subpoena to answer very serious questions that affect the businesses that operate in p.g.e.'s territory within the city, and certainly our citizens. Some of those question that's we're seeking to answer that had p.g.e. cooperative with us voluntarily we may have been able to answer are as follows -- did p.g.e. keep from \$64 million to \$88 million collected from customers which should have gone to cover income taxes? We don't know the answer to that until we get some of documents we've asked for. Second, did p.g.e. change the allocation of income from certain wholesale business transactions, the 2000 tax year in order to boost its Multnomah county business income tax liability, knowing that any taxes collected would not be paid to Multnomah county but rather would be kept by enron? We don't know the answer to that until we get the documents. Did p.g.e. fail to collect \$246 million owed to p.g.e. customers by enron? What was the effect of the sale of the coyote two springs permit that was a siting for a power plant that by the way landed some

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folks from enron in jail? Did p.g.e. violate its fiduciary responsibility to the ratepayers of Multnomah county by dispersing monies for Multnomah county income tax, it was an add-on to enron, rather than paying that money directly to Multnomah county? And in addition to not paying the Multnomah county business income tax, has p.g.e. been double charging the ratepayers for this tax once in its rates and again in the bill later? We won't know until we can actually see the documents. Did p.g.e. engage in unlawful or fraudulent trading activities that contributed to the inflated energy costs during the west coast energy crisis in 2000-2001? Did p.g.e. use the high cost of energy in the unstable market they helped create as a basis for a 41% residential rate increase in 2001? And finally, this issue is of deep concern because it will happen with the transfer of the stock of p.g.e. to its creditors, and that's this -- is p.g.e. now preparing to disperse \$106 million in deferred taxes and \$54 million in current taxes that were collected from ratepayers to enron that will not pay the taxes? These are questions that cannot be answered until p.g.e. either, one, cooperates, or two, we have the force of law that commands that these documents come here for our staff to analyze, and also will set a hearing for p.g.e. to respond that will again give them the opportunity to explain what appears to be unexplainable. Thank you, mr. Mayor.

Potter: Is anybody here you wish to have testify on this matter Commissioner Leonard?

Leonard: No.

Potter: Is there a sign-up list on this?

Moore: There was, and no one signed up.

Potter: Is anybody here who wishes to testify on this matter? Ok.

Saltzman: I guess I have a question.

Potter: Go ahead.

Saltzman: The -- I believe that we do have the power under our charter to subpoena documents from public utilities, and on that procedural ground alone I could support this. However, the wording in the first paragraph says "to exercise our authority to subpoena documents for the purpose of determining whether to regulate the rates." and I guess that is an area I am not there yet as to whether the city should or could regulate the rates, whether that would be a wise idea, even if we could. So i'm uncomfortable given that language in there. Otherwise, i'm perfectly comfortable with exercising our charter authority to subpoena documents.

Leonard: Maybe could I ask ben and linda to come forward. I don't know that we need that language in there. I mean, nobody, including myself, has made a decision to have a rate-setting process by any means. So i'm not sure we need the language.

Linda Meng, City Attorney: I don't believe -- Linda meng, city attorney's office. I don't believe we need the language. I don't - also don't believe that it commits the council to set rates, it says for determining whether you're going to set rates or not. So I don't believe you're committing yourself one way or the other, but the language is certainly not required in there.

Saltzman: Given the scrutiny on this issue and my uncomfortableness as I said that i'm not there with respect to regulating rates at this point, i'd prefer if we could --

Leonard: If you want to make a motion to exclude that, i'll second it.

Saltzman: Okay. I guess I would move to strike the words "whether -- purpose of determining whether to regulate the rates." so it would give the city authority to subpoena documents for the terms and conditions of p.g.e.'s electric utility services within the municipal boundaries of the city of Portland.

Meng: I think that works.

Leonard: Second.

Potter: Please call the vote.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

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Potter: Aye. [gavel pounded] other questions from the council? Did I ask if anybody here wishes to speak on this matter? Is there anybody here who wishes to speak on this matter? Ok. Please call the roll.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye.

Sten: I think commissioner Leonard laid things out quite well. I just want to say I regret that we're in this situation. I do believe that the public should have the right to see the documents by which utility rates are made, and this is an argument i've had for quite a while, that the rates are set based on public regulation and a monopoly is granted by the public, and I think the public ought to be able to see all of the documentation that decides how much taxes they're paid, particularly when the taxes aren't going to the government. And nobody disputes those taxes are not going to the government. The dispute is strictly whether or not there's anything that can be done about that. That's the entire argument. I was chastised by "the Oregonian" editorial board for raising the idea that even if its legal it may not be appropriate. The argument was legal is all that should matter. We're not 100% sure everything was legal. Some questions have been raised, the more that we looked at the books, but I will stand firmly by the side that appropriate is the right bar that you should have to get over. Whether or not it can be enforced remains to be seen, but it was not appropriate to keep these taxes. I'm not the assignment editor for "the new york times," but if I was I would have ordered the story that ran in the "new york times" this morning about this issue, and it was entitled "many utilities collect for taxes they never pay," and it was authored by david k. Johnston who is a Pulitzer prize winning journalist on tax issues. And we lead on a lot of things in Oregon, and were very proud of that. This is one that I don't think we should be so proud on leading. I'm going to read just a couple of paragraphs right from the heart of the article. Again, this is "the new york times" by Pulitzer prize winning author. "Enron was a pioneer in turning taxes into profit. Since 1997, the company now in bankruptcy has collected nearly \$900 million from customers of a utility it acquired, Portland general electric, to cover income taxes. But none of that money reached the federal government from enron, and only a quirk in the law forced Portland general electric to pay about \$800,000 in income taxes of which \$20 went to the state of Oregon. I'm looking at representative Shields out here. Enron could keep the tax money because it created 881 subsidiaries in the cayman islands, Bermuda and other tax havens, tax shelters that on paper generated losses for the parent. The tax benefits are one reason wall street these days likes electrical utilities, long seen as unexciting investments. Warren e. buffet, henry r. cravis and david bonderman are among investors drawn to utilities in recent years in hopes of earning returns through parent companies that can be several times those typically approved by state regulators for the utilities themselves" end of quote. Obviously this speaks for itself, but warren buffet is now one step away from owning pacificorp, and david bonderman was the leader of the plan to buy Portland general electric with texas pacific that the regulators turned down. We have no way of knowing at this point what will happen to p.g.e. It's essentially being turned over to the enron creditors who basically are the same crowd that this has been buying utilities. So it is imperative if we don't want too see what is now a national practice pioneered in Portland by enron, become the status quo that we get to the bottom of what was actually done, which is all that we really want to know with these documents. With that I of course vote yes for the subpoena.

Potter: Yes. [gavel pounded] please read the next item.

Item 334.

Potter: This is a second reading, vote only.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded] please read the next item.

Potter: Also please read item 335 and 345.

Item 335.

Potter: To the first, 335 is a second reading, and it's a vote-only. Please call the roll.

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Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded] 345 is a resolution. Do we have anybody here to speak to this? Does the council feel comfortable voting?

Item 345.

Sten: Mayor Potter, I would be most comfortable if -- it's certainly up to you -- to have -- I know there's going to be some amendments offered on the drug-free zone and other issues, if it would be possible to have the discussion of the entire package, then vote on the three elements.

Leonard: I think we're talking 345, which is the approving the living smart --

Sten: I'm sorry. Ok.

Potter: Ok.

Sten: In that case --

Leonard: You startled me. [laughter]

Potter: Please call the roll.

Adams: Aye. **Leonard:** Aye.

Saltzman: I just want to commend commissioner Leonard and the bureau of development services for doing a really great job on these looking smart zoning code amendments. I think it's going to improve the livability of our city and provide for both affordable housing product and tastefully designed housing product as well. Aye.

Sten: Aye.

Potter: Aye. [gavel pounded] we'll take the next three items together, 336, 337, and 338.

Items 336, 337 and 338.

Potter: Commissioner Sten, you wish to hold off on the vote on the first one until we've heard the others?

Sten: That would be my preference.

Potter: Ok.

Sten: I'm fine either way.

Potter: Items 37 and 38 are vote only, but I understand there's some suggestions coming from one or more of the commissioners.

Leonard: Via proposed amendment on 337 and 338.

Saltzman: I also had a question of either our police or our city attorney.

Potter: Commissioner Leonard, would you like to explain your amendment?

Leonard: Yes. Thank you. Both amendments incorporate additional language into the existing proposal that would say -- that would add the condition that a person convicted in the previous five years of one of the following offenses in the prostitution-free zone or the drug-free zone, and then is arrested. So it would add the requirement that a person would have had to have been convicted of one of the offenses listed in the criteria for the -- being excluded from a zone.

Potter: Are there other amendments to be proposed for these?

Leonard: Not by me.

Potter: Ok. Could the city attorney's office, the chief of police come forward?

Leonard: I suppose I probably, to be technical, if we're going to speak to the amendment, I have to -- i'm moving the amendment, I need a second so it's on the table for discussion.

Sten: second.

Potter: Commissioner Saltzman.

Saltzman: I asked last week for information about the lifting of the prostitution-free zone designation on lower sandy, I mean from 82nd west, like 12th. I apologize if you provided me with that, but I didn't see that information.

Dave Woboril, City Attorney's Office: We've provided the same map that we put into the power point presentation last week with the accumulation of the d.o.t.s. The Portland police bureau has been asked to provide you more particular and specific information on that.

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Saltzman: Ok. Are you prepared to --

Potter: Chief?

Derrick Foxworth, Police Chief: No. At this time we're not prepared to provide that additional information. I wasn't aware that was going to be brought up this morning, otherwise we would have, commissioner.

Leonard: Would you like me to speak to this amendment? To explain?

Potter: Yes.

Leonard: I've proposed this amendment because of the concern that I have that we follow as closely as possible the protections provided for citizens and the constitution, which is a balanced and time tested approach to protecting the civil liberties of all. I -- as I said last week, I support drug-free zones. I support giving our police every tool possible, including doing things outside of the city's traditional approach to law enforcement, up to and including adding jail beds in the last week i've thought about maybe we should discuss creating a municipal court, which I understand may require some change to state law, maybe we should think about funding district -- deputy district attorneys in the -- in the deputy d.a.'s office to focus on Portland issues. So I don't want to send the message i'm somehow unsympathetic or uncaring about the issues in neighborhoods. I think in many ways I have exhibited that I have really zero tolerance for that, and would go to great lengths to give the police the opportunity to have the ability to snatch someone and put them in jail. I believe in that, and i'll defend that. Having said that, I also think that the united states was created not to be an easy form of government. It is one of the most difficult, cumbersome forms of government there is in the history of the world. It is much easier to give to the executive through the police the ability to based on intuition or suspicions, arrest power over our citizens. That is the easiest kind of government there can be, and there are many government that's operate like that throughout the world, and have throughout the history of the world. Not many operate the way we do. Not many provide the kinds of protections, the checks and balances that the united states does. And there are some criticisms of it, and i'm not one that hasn't partook in some of those criticisms. It's cumbersome. It's unpredictable. It depends on us funding our judiciary. It depends on us funding our attorney general's offices and our district attorney's offices, it depends on us funding our police appropriately. But with all of those frustrations built in, it does afford a certain level of protection that no other government in the history of the world has yet been able to figure out how to protect. And it pains me no small amount to have to look at who I consider to be amongst my best friends and supporters, police officers, and tell them, I can't agree to give them authority that in my view sir couple vents at least the intent of the founding fathers. Fit passes judicial muster, that's one thing, but i'm also cognizant that there has been some concern in the judiciary over the program, though it's constitutional. I do believe that there is value for our government to have the judiciary involved in adjudicating and making decisions about the guilt or innocence about a person before any kind of punishment is rendered. A hearings officer isn't that for me. While I greatly appreciate the efforts of mayor Potter, and I think he's improved this quite a bit, I do -- this amendment i'm proposing does inject within it an involvement by the judiciary. And that is that a person had been convicted at one point. I think that's important, and it's something that i've wrestled with because I think this is a very popular approach in Portland. The approach that the -- that this ordinance takes. That doesn't make it right, and it doesn't make it legal, and there have been other instances in this country where things that were done that were popular that weren't right. And I regret that I can't support the ordinance as it's proposed.

Potter: Do you folks have a copy of what commissioner Leonard --

Leonard: I think I shared it with them yesterday, as I recall.

Potter: I would like -- there's two issues. One of the issue that commissioner Saltzman raised in regards to the stretch of sandy boulevard. As I remember, you said it was eliminated because the --

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basically the problem is no longer at a level that meets the standard for including within the prostitution-free zones.

Woboril: That's the city attorney's evaluation, yes, of the distribution of arrests in that area over the last few years.

Potter: The prostitution-free zone is based -- [cell ringing] based on crime statistics, primarily arrests.

Woboril: The code currently, and this is something I expect at the oversight group would look at, the code said that the boundaries must be determined by the frequency and location of arrests. That's the criteria by which the process works, by which the boundaries are established. There may be other ways to measure the impact on a community besides the arrests, and council can certainly change that. It could waive that requirement today if it wished and adopt findings that there's evidence that some other criteria tell us that there's a bad impact in a certain area. But currently that's how the code works. It's simply -- we generate maps and look at where the arrests are and draw the boundaries so that we exclude those areas that are not as significantly affected.

Saltzman: I think you said last week in order for it to be within the boundary it has to have a significantly higher frequency and incidence of arrest.

Woboril: Yes. And we try to draw the boundaries oh, if you imagine a graph of the -- three-dimensional graph, we try to draw the boundaries at the edge of the slope where the significant impact goes down into more typical impacts. It's not -- there's no algorithm here. It's sort of an eyeball process. We need to be able to defend it to a judge who again will not apply a formula, but will just look at it and try to see where that boundary is between the significant impact and the typical impact.

Saltzman: So the oversight committee can look at this issue of what other criteria under which we designate boundaries?

Woboril: Absolutely. I think in order to defend this in front of a court we have to be able to say there's evidence of significant impact. That evidence can be in many forms. The form currently chosen by council is the location of arrests.

Saltzman: Ok.

Potter: Likewise, I am to address some of the concerns if citizens if the oversight committee determines that an area is bouncing back with more -- higher rate of drug or prostitution than I assume it could be brought back to the council for a resolution.

Woboril: Yes. The boundaries you set are good for three years. If you don't touch them, you can change them at any point.

Potter: Going to commissioner Leonard's proposed amendment, what does that do then in terms of the process that we've set up as far as the quantity as well as just the dynamics of the process of implementing such an amendment?

Woboril: We would have to assure the officer on the street had access to conviction information. I expect that -- we haven't had a lot of time to think about it, but I think it would be the advice of my office that officers not exclude unless they knew at the time of exclusion, giving the exclusion notice, that in fact the person qualified under the new conviction requirement the conviction requirement will have to be established to the satisfaction of the code hearings officer, and I expect eventually for any court that heard a trespass case if the person was excluded, returned to the zone, the district attorney's office would have to establish that the exclusion was valid. I expect the courts would want to see some proof of the prior conviction. So we have to generate the right paper at the right time in the system and move it around at the right places.

Sten: It just seems to me that -- I get why you get that, but it's sort of missing a much easier approach. Why would the officer worry about that? It's getting sent to an automatic hearing at the hearings officer, so the paperwork has to go to the hearings officer. It cannot be that hard between

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the time the officer writes it up and the time it gets the hearings officer to attach a yes or no and have it dismissed. If there's a no, there's no record.

Woboril: Here's my worry about that. We have a very difficult time contacting many of the people who are excluded. We have difficulty getting good addresses, getting good way to contact them. I think it would be best not to create a lot of uncertain exclusions and notifications of exclusion out on the street. That we would have to later effectively meaning get hold of the person and tell them effectively rescind say a week late i, two weeks later, that would be messy. You could do it, but you run the pretty good risk of sending out a lot of exclusion notices to people who in the end are not.

Sten: What percentage of people who are excluded don't meet this criteria?

Woboril: I don't know.

Potter: I asked that same question.

Sten: I've been asking that question for 10 years. So i'm not that sympathetic to the fact we don't know the answer.

Potter: I've asked the city attorney to put information on the form itself as to the person's prior arrest record. And -- which would indicate conviction as well.

Sten: I mean -- i've been asking the d.a.'s office this for years and years, and I just -- what i'm always told is that the purpose of this drug-free zone is to get at repeat problem people. So if we have lots and lots of repeat problem people who we've never convicted, we've got a whole other problem.

Sten: Isn't that the purpose of this, to get at people who are chronic problems?

Woboril: That is one of its effects. I can't say looking back at the history of this that the council wanted to effect only -- affect only people who had come back and repeated crimes.

Sten: The policy -- when you commit a crime, most people believe you should serve time if it's a serious drug offense. That's generally the public's view, and I share it. The policy justification, we can thread needles, is that doesn't happen in our system, so people who are committing serious crimes do not ultimately get convicted. And I consider drug dealing a serious crime. So just a common sense reason that you're excluding people rather than putting them in jail, the issue is the person who we have no evidence, we have no proof of guilty, or has done this before. That's why I support commissioner Leonard's amendment. There's policy rationale for this, that we're not putting these folks in jail. The better idea would be to put them in jail.

Foxworth: Can we speak to some issues about that? I'm derrick foxworth, chief of police. With me commander dave benson. First of all, commissioner Leonard, no one questions your support of law enforcement or your commitment to community policing.

Leonard: I very much appreciate that.

Foxworth: We understand your position on. This but I believe the current proposed ordinance that the mayor has put forth addresses the issues many people have, which is due process, and an impartial overview -- oversight of the exclusion process by having the code hearings officer review these exclusions. There's two issues that I wanted to speak towards regarding if you tie to it a conviction. Certainly an officer out in the community who excludes someone can do a check and determine if the person has a prior conviction. For a person to have a prior conviction it has to be of a felony or misdemeanor. Many of these arrest that's take place are for small quantities or residue case that's often times the d.a.'s office will negotiate down to a violation. So those violations will not necessarily show up as a conviction. But many times that's what officers are dealing with in the community, these smaller residue cases or smaller possession case that's get negotiated down to plea bargain, to violations. Secondly as the length of time that it takes for a case to move to the criminal justice system, it's not a common -- uncommon for a person who are arrested for a drug offense in january of 2006 to not have their case heard until let's say september or even december of 2006. Nine months, 12 months later just because of the backlog of cases in the

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criminal justice system. That gives a 12-month window or nine-month window that person is still out there in the community with the possibility of reoffending and it impedes our ability to intervene with that person early on. I believe commander benson wants to talk to a third issue, about the triaging and getting services to these people.

Dave Benson, Commander of Central Precinct: Dave benson, commander of central precinct. I appreciate all the work first that council has done on this particular issue. But one of our goals is to get the first-time offenders early, and the control at least to some degree their behavior and remove them from the environment where they commit these offenses. And so when they go out there and they deal drugs or they buy drugs is to just simply get them out of that area and don't allow them to engage in those types of behaviors. And give them the opportunities to rehabilitate themselves and get into drugs treatment and rehabilitation programs. This amendment doesn't all will you that. It allows them to stay in that environment that is actually aiding in their addiction.

Potter: Are there questions to these folks?

Woboril: I might make a statement on the legal side of this in response to commissioner Sten's comments. Over the years many commissioners have had different motivations to support the drug and prostitution-free zones, the exclusion code. Consistent over the years, not union forges but consistent has been a desire to address not necessarily the individuals involved, in other words, be punitive toward the individual, but to address livability impacts and impacts on neighborhood quality of life. Council has said, and it has been important to the courts, that one of the purposes of the exclusion zones is to address those people who for the first time have an impact on the neighborhood and prevent them from having the second impact. And we have argued to courts that that is a significant motivator for the city in adopting the exclusion zones, and it has been important in the policy discussion with the courts. There are convenient -- there have been other motivations as well, but the courts need to see this in order to support it as constitutional, as not an effort to target particular individuals because of their histories, but rather to respond to any individuals' impact on the neighborhood. Regardless of whether the person's impacted the neighborhood previously or not. That may be a subtle point policywise, but it has been important for the courts.

Potter: Other questions?

Leonard: We have some folks that would like to testify on the amendment.

Potter: Ok. This is a vote-only, but we'll make an exception.

Leonard: Not on amendments. That's not an exception. The public always has the right when we amend --

Potter: Do we have a list?

Leonard: Yes. I had it somewhere. Roy left, but we have representative chip shields.
[inaudible]

Leonard: Just bring up who you have. We had chris o'connor. Are you going to testify, representative shields?

*****: No.

Leonard: Ok. And did we have ginny nelson? The restriction of course is they have to testify to the amendment.

Potter: Yes. And also the time limit.

Leonard: Absolutely.

Potter: Very good. Thank you folks for being here. When you speak, please state your name and you each have three minutes.

Xavier Allen: Xavier allen, i'll be testifying on behalf of roy jay. On behalf of roy jay as the founder of project clean slate, I am here to urge the council to adopt commissioner Leonard's amendment which would focus on the city's exclusion zone ordinance, those who have offended -- evidence of being involved in drug crimes, those who have been convicted before. At its february meeting the african-american chamber voted to oppose the city's exclusion zone unless they could

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be conviction-based. While we believe the mayor's proposal does not go forward enough to reach that goal, we would feel more comfortable with the mayor's renewal proposal if it contained commissioner Leonard's amendment. In project clean slate, we learn that many if not most who applied to have their slate cleaned, had criminal trespass charges that were the result of being in the city's exclusion zones. The african-american chamber believes it has a duty to weigh in on this issue. Because rather than making people jump through numerous hoops to clean their slates after they've been excluded, it would be a better use of the city and county resources to pinpoint our limited public safety dollars on the high-risk repeat offenders and not get people caught in the net that have no history of drug convictions. I say to you, mr. Mayor, commissioners, it is not reasonable to make police officers the judges, juries, and executioners without making sure they are excluding chronic offenders. Proponents have said the exclusion zone hit chronic offenders. I cannot see any reason why you would not want to codify that in law. Finally, in this country, you are innocent until proven guilty. Let's keep it that way by improving the exclusion zone ordinance to focus on the high-risk repeat offenders, not the first-time offenders. I urge you to vote yes on the amendment, and if the amendment fails, to vote no on the exclusion zone ordinance renewal.

Sister Cathie Boberman: My name is sister cathie, I work at rose haven community intervention center for women. Mr. Mayor, commissioners, good morning. I support the amendment number 337, and it is because at the current time the way the situation is, many, many people are getting exclusions that do not deserve them. And I would like to tell you a few stories. One morning I came to work, I get to work early, it was about 7:30, and this gentleman was walking around just looking very frightened, I said what's the matter. He had been -- he had received an exclusion, he come from seattle, he was down by max by the saturday market and he had gotten an exclusion, he said I don't know what I did, but i'm going to get put in jail if I get found in this jail, I don't know what this area is. And he was in a total panic. He's not the only one I ran into with that situation. One day a woman was coming home from the grocery store, she had a dog on a leash, two bags of groceries and was given an exclusion for soliciting. Another woman had just come in from katrina, she was standing by the entrance to chinatown by the lions, and an officer came up to her and said are you supposed to be in this area. And she said, officer, and he said are you supposed to be in this area, and she said, I don't know what you're saying. And he said don't act dumb, and went to get her an exclusion form. And he came back and said, where are you from? And she said, louisiana . And he went back and checked and was. True. But this kind of mistake making is very, very painful to people. Those who get these exclusions for the most part are not as maybe educated, often times people of color, most often homeless, they do not expect that their word is going to stand up against an officer's word. And I think in truth that's accurate. So they don't dare go and try to contest an exclusion. So I just think there's too much power right now in a police officer's decision about doing that when you get this on your record immediately, you can't get a home if you have a record. You can't get jobs if you have a prostitution or drug-free exclusion on your name. It promotes homelessness and joblessness. It's not helpful for our people. Thank you.

Chris O'Connor: Good morning. Chris o'connor, i'm a staff attorney at metropolitan public defender. I addressed you last week on the overall ordinance. I wanted to speak to commissioner Leonard's amendment. I think it is a very good step and a positive move toward the protection of civil will be advertise as regards this ordinance. By only excluding the repeat offenders, the council would meet what has been the stated goal in neighborhood meetings and presentations to the community and comments from the community. The goal of stopping the repeat or nuisance offenders. The officer testified about coming back on shift, at the end of the shift and seeing the same person out there. Committing new violations of prostitution or drug dealing. This would address those people. This would allow the police to use a tool against those people. Most importantly I think this would better -- this would make -- if the term is correct, more constitutional, this would do more to protect the constitutional validity of the ordinance by tying it to a previous

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judicial finding. If in the last five years a person has been convicted of a drug crime or prostitution crime, that raises the bar for the police officer and meets some of the concerns addressed by other people testifying here today to ensure that these are people who aren't just new out of town walking down the wrong street wearing the wrong clothes. It would tie -- and this also meets the condition of the -- that had been raised that this doesn't require a conviction for the exclusion, this just -- of the new offense, the new underlying offense doesn't have to result in a conviction. A person could still be excluded even if the district attorney has to later drop the charges. We're talking about something previous to the exclusion. And so I think that you're then properly identifying the people and bringing the repeat offenders to the attention of the officer. As to the practical effects, i'm always as commissioner Sten stated, everyone is curious about the numbers. In my experience i've represented hundreds of drug offenders over the last year -- my time at the metropolitan public defenders' office, and as a practical effect, the row pediatric offenders are going to be caught between. If there's someone with a previous conviction and -- if they have a serious drug addiction and they're out on the street purchasing drugs, they're going to be caught. Same with the dealers, same with the people engaged in prostitution activities. This amendment would protect those people who aren't involved, the first-time user and, or the person from out of town, or the person who is not a chronic offender in our city. So I would urge you to support this amendment and if this amendment is not part of it, I think you have a much weaker ordinance.

Ginny Nelson: My name is ginny nelson, I work for sisters of the road in old town chinatown. Good morning, mayor and commissioners. Thank you for the opportunity to give testimony. I have three things to say. First, I assure you that common citizens do not know their way around city ordinances like the five of you do. When I testified at the last renewal, I believed it was a forgone conclusion when commissioner francesconi spoke so resolutely about the need for a thorough evaluation at the end of three years. Certainly made sense to me. Imagine my surprise when I discovered this time around that because his speech was not a part of the resolution, it was meaningless. So I want to thank commissioner Adams for rectifying this with an additional resolution that I believe all of you do support, and that creates an oversight body that I hope will provide quantitative and qualitative information about enforcement, arrests, convictions, civil liberties, and prejudice. Second, sisters of the road supports an amendment to this ordinance that claire identifies the police can only exclude persons with prior drug and prostitution convictions. I think it's a beginning. And third, we need each other to ensure our laws are civil and just. Thank you.

Potter: Thank you, folks.

Leonard: We do have representative shields.

Potter: Representative shields -- is there anybody else here who wishes to testify on this matter?

Chip Shields, State Representative: Thank you, mr. Mayor, commissioners. Chip shields, i'm the state representative in north and northeast Portland which encompasses the north exclusion zone. I'm here in support of the amendment. I -- as the founder of better people, an organization that has helped hundreds and hundreds of recovering addicts and people who have been in trouble with the law, changed their lives and become productive citizens, i've put a lot of time and effort into the study of the literature. And one of the things the literature on recidivism and criminology shows is that if you focus on the highest risk repeat offenders, that's where you get the biggest bang for your public safety dollars. And so I think that this amendment will help us focus, pinpoint, our resources in the best way. I think it will increase public safety in a way that's fair. And as the state representative for north-northeast, I can tell you people are very concerned about this. There are some mixed issues, but -- views, but I find the more people who know about the zones and how they operate, the less they like it. And i'm concerned about how they are implemented and I think my constituents are very concerned that people can be excluded, people can be excluded without a

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conviction. I don't think most people know that that's the case, and I think most people would prefer that somebody would be convicted before they're excluded from an area. Thank you.

Potter: Thank you.

Leonard: Thank you, representative shields.

Helen Stoll: Is it ok if I talk?

Potter: Certainly.

Stoll: Thank you for this opportunity, honorable mayor and commissioners. I appreciate the opportunity. I try not to repeat myself, but I think if you are going to address the convicted people, that's all right, but I do feel that first-time offenders should be questioned. We're going to have a big sewer project on sandy boulevard coming up, and a beautification project. And that brings the workers with wallets and that brings the pimps bringing the girls where the workers are with the wallets. That's what happened on 82nd and sandy when they built the new condos where the sea lion hospital was. -- shrine hospital was where the girls were doing their tricks at 7:30 in the morning in the grotto. It proves that this is the situation that brings prostitution and drugs, the girls have to have the drugs in order to perform their duties. They have to either be on alcohol or drugs to do these duties. The girls have told me this. I've talked to quite a few of these young ladies who have been brought into this type of slavery. And slavery is unconstitutional in the united states. But prostitution is slavery. It is slavery. And I appreciate your amendment, and I think that's all right -- I think the neighborhood would accept the conviction issue. However, I still think the police have the right to question someone, because you know you've heard my stories about how it's impacted the neighborhood, and erik, you were the lifeguard at grant high school, and a young -- the way I got started involved in this was from a student at grant high school, a young lady came to me and said that she hated being harassed by drop-out students who were now pimps, recruiting girls for their stable in the halls of grant high school. We don't want that in our neighborhood. I don't like to see girls being recruited in the fast food places in hollywood. And I just don't like this picture and i'm doing my best to help -- and I think the pimps need help. They're into a lifestyle that is not socially acceptable. I don't think a member of the Multnomah athletic club would take a pimp there as his guest. Do you? I don't think so. Why not make -- get help for these people too so they can be accepted socially. Because those people need help. And they're not arrested. Once in a while a pimp gets arrested, but really, they don't get arrested as often as they should. And they need help too, because they're drug addicts and they have a social life of gambling, etc., that needs help. So I think the neighborhood will support your amendment and I hope that you will keep the zone on sandy boulevard with the coming project. They're going to be there all summer, on 39th and sandy they're going to be there all summer, and that's our corner, that's where people come to our business, and that's where people come and ask me and tell me they were approached. And I don't like to hear that from my clients who come from out of town into Portland and say, I didn't knee this was a crime ridden neighborhood. Thank you very much for your time and attention.

Leonard: Thank you.

Potter: Commissioner Adams, you had a question.

Adams: Yeah. For david. It might have been covered, and in the flurry of discussion I missed it. Can you talk about the issue of the record on exclusions, what goes on a person's record and how long it stays there?

Woboril: I'm not expert in this. I believe -- perhaps the police can give you all the detail you need. The exclusion shows up on the Portland police data system name record for a person. I don't know how long it stays there, how long -- whether it's persistent. I think it is related to a date of exclusion.

Foxworth: That's pretty accurate. After the exclusion is past the date, it's removed, as I recall. But most of the entries for arrests in any other contact a person has with the Portland police bureau, if a

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report is written, it will stay in the p.p.s. data system. So we can do back in the data system and go back 10 or 15 years and retrieve information on a contact that a police officer had on someone.

Adams: So just to follow up on the sisters' concerns, when an individual goes to apply for a job and they do a criminal background check, which is common for a lot of jobs, does an exclusion show up as an item on a criminal background check?

Foxworth: If they request a copy of the Portland police data system printout, it will show up that there was an exclusion issued to that person on a particular date, time, and location.

Potter: But most criminal background checks only go to convictions, don't they?

Foxworth: Most criminal background checks, people are looking only for convictions of misdemeanors and felonies, but it's up to the person interpreting that information to make the decision whether they want to extend housing or employment or any other benefits to that individual. We merely provide them with the printout.

Potter: Thank you. I have a question for commissioner Leonard. This isn't just about a conviction in the previous five years for a similar offense, if it's in a drug zone, a drug conviction, but it's also a conviction from the drug zone that they are in at the time they are being excluded.

Leonard: Representative shields, can you help me with this?

Potter: Just reading the wording here, it says, within a drug zone designated in code that if the person has been convicted in the previous five years of one of the following offenses in the drug zone. It's making reference to the previous statement. It sounds as if the conviction has to be in the drug zone that the person is stopped in. So it's very specific, it can't be -- if the drug dealer comes from the central area and goes out to north Portland to sell drugs, if the conviction was in the downtown area, it -- that's the only conviction that would count. If they were stopped in the north drug zone, only a conviction from that north drug zone --

Leonard: I don't think that's the intent.

Potter: That's what it reads like. I'm just asking the -- was that the intent of what you were doing?

Leonard: I worked with representative shields to draft this, and I don't believe --

Woboril: That wasn't the intent. If you don't -- if you don't link the prior history to the zone, you probably have a problem with identifying that person as some kind of particular danger to the neighborhood livability. If you, for instance, say there's a drug conviction anywhere in the country, it's going to be -- this is new to us -- I think it would be difficult for us to understand why the city is differentiating between someone who has a conviction in georgia --

Potter: I'm specifically saying a drug -- the other drug zone as we know, prostitutes and drug dealers move in various areas of Portland. The reading of this indicates that it can only be a conviction from the drug zone that they're stopped in or the prostitution --

Leonard: Wouldn't we just change "the" to "a" and solve that?

Sten: I know you're going to have no think about it, I don't know if it's going to pass, in terms of my policy intent, would I from a policy standpoint, not legal tightrope you're trying to work on, which I respect, I would be comfortable if it was a drug offense in the city. I'm just looking to show there's evidence that the person is a drug dealer as opposed to somebody who's an accused drug dealer, which is all you are if you've ever been convicted of anything. So for me, anywhere in the city would be fine. In terms of my concerns.

Potter: It's sounds --

Sten: I say the city, because of your georgia comment.

Potter: The reading sounds as if it's from the drug zone, because it refers to a drug zone, then talks about the drug zone referencing the previous statement.

Woboril: That's how it's written. That's probably the easiest for us to defend. I think you're understanding the trade-offs. As you move it away and become less specific about the location of the prior offense, it's a little more difficult for us to defend. I certainly can't say fatal and I don't think it would be fatal to move away.

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Potter: So you are saying it should be restricted to the drug zone where the exclusion is occurring that -- the previous conviction within the last five years should be only for that particular drug zone.

Woboril: Again, that would be easiest for us.

Potter: Even though we know they move back and forth. So it's a very narrow field that we're dealing with here, isn't it?

Woboril: That would be a narrow field. It would lengthen -- the prior behavior to your concern about neighborhood livability, link it directly. Again, we haven't had a lot of time to think about this, but I think you dock as you please and not create any fatal flaw in this provision. This is an additional constitutional protection, and I think any additional protection will help you -- cause this to be, again, more constitutional.

Potter: It's not constitutional from one area of town to another, it's only constitutional the point being made in terms of the protections being provided as far as due process.

Woboril: That's correct.

Potter: So what it's done, though, what this ordinance, or this amendment seems to have appeared to do is restricts it to a very narrow area so if someone is stopped down on west burnside and fourth, and the subject has a previous conviction within the last five years for drug dealing, in north Portland, they wouldn't be able to exclude them from central precinct area.

Woboril: That's correct.

Potter: That really I guess would narrow the amount of exclusions.

Woboril: Yes.

Potter: Do we have any estimates as to the ideas about that.

Leonard: I'm going to amend it, take the "the" out and put "a" in.

Sten: What about the citywide issue anything could you restate that? Commissioner Leonard was out.

Woboril: It would be easiest to defend if the conviction was described in a way that linked it to neighborhood livability problems in a more closely the -- that said, this is -- the idea all together, the prior conviction idea is an additional protection, a process protection which makes it more constitutional all together. It would be even stronger if you limit the conviction, link the conviction to the locale of the current event, but that's not necessary for it to be an additional protection. It's helpful anyway. You could have it city wide, you could have it nationwide.

Leonard: Is the consensus it would be more workable fit was citywide?

Potter: I don't support it, commissioner, so you'd have to ask someone else that question. I'll tell you why. We really haven't had a lot of community input into this particular issue. We had some today, but obviously tended to be one-sided. Secondly, i'm concerned about this issue, what it would do in terms of really being able to use this as a tool for the police when it's -- so tightly circumscribes who would be eligible for this in a very specific area knowing that drug dealers and prostitutes move freely around town, I think would it undermine the purpose of this. Thirdly, with the creation of an oversight committee, one of the things that I was asking before I found out what you folks were doing in terms of providing amendment is asking to have that -- the previous record, including arrest and convictions, listed so that we could begin to track that date so that the oversight committee could begin to determine what the problem and size of the scope of the program is so we could get a better handle so this is for one year, so when they come back to tell us their results, we could then make changes based on the data and determine whether that is something that would still provide a valuable tool to the police or not.

Sten: Can I ask a question, mayor? You are against any prior conviction, whether it's in the zone or citywide, as a criteria for being excluded?

Potter: Until we've had a chance to look at it through this process, yes.

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Sten: I guess -- as police commissioner I have to ask the city attorney, why is it so hard to find out - the question, why is it so hard to find out what percentage of people we're excluding meet this criteria? I believe it's going to be over 90%, just because I think that's going to be who's out there. And if i'm wrong, i'm wrong, but it would be meaningful to me, and this is -- this is your first discussion of it, but it's not even remotely a new topic. It's --

Potter: Well, i've asked them to do that. When I asked if they did it, they had not done it before. That's the simple answer. They will be doing it from this point forward with the new --

Sten: Will they just be asking the person if they have a past record --

Potter: No, running a check.

Sten: There's been testimony they can't do that --

Potter: The information would check up -- to be provided, and I would assume be given to the hearings officer as a point of reference. But also to be provided statistically not name by name, but statistically to the oversight committee so that they can come to some conclusions about that and make recommendations for changes to the ordinance in the future.

Sten: The hearings officer is going to get this information under your proposal, but I also heard testimony today that i'm very comfortable with allowing the officer to issue the exclusion based on the -- but then having it set aside if the person has never been convicted. And the only thing I heard against that was it would make it harder to defend, but I also heard anything that's an additional protection would make it easier to defend. This -- my proposal would be don't say to the officer it's your duty to know whether or not they have a conviction because I don't think that's reasonable. But I think if the person gets to the hearings officer where they're going to have an automatic hearing anyway, and where we've just said the new system will present that information to the hearings officer, that if in fact they're a first-time arrestee month who is not guilty under our law of anything, that it gets dismissed. That would meet my concerns entirely. I'm not going to be argumentative, but that would completely meet my concerns.

Leonard: Just so we're voting on what I actually intended us to vote on, i'm going to make an amendment, I don't know if one of the other two commissioners support it ultimately, but I would like to change it so it reflects what I think would be the best language for the police. So where I have convicted in the previous five years, between years and of I would insert the words "in any -- excuse me.

Potter: If you just change "the" to "a."

Leonard: I was going to say "the whole state of Oregon." I was -- I did change it, but I was going to include between years and of. And then change "the" to "a."

Potter: The previous conviction could apply anywhere in the state.

Leonard: If you were convicted in medford of prostitution, moved to Portland ended up in a drug free zone -- that would count as a conviction for purposes of exclusion.

Potter: You're eliminating the drug-free zones the only area to which the draw the conviction from.

Leonard: That's right.

Sten: I think it's sensible.

Leonard: And all it speaks to is the offenses that qualify one to be excluded from a drug-free zone, but if you were convicted in any of them in anywhere -- within the state of Oregon, that will qualify. That's my amendment.

Potter: Okay. I heard a second.

Sten: Second.

Potter: Please call the roll on the amendment.

Adams: This is the amendment to the amendment.

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Leonard: Which are we voting on? Actually why don't I do it this way. With the approval of my second I can withdraw my first amendment, and then propose what I just said as the amendment. So we're voting on one clean amendment.

Sten: Without objection.

Potter: The previous five years in the state of Oregon.

Leonard: Correct. If you're convicted of any of the offenses listed in the drug or prostitution-free zone as a criteria for exclusion anywhere within the state of Oregon, and then you're cited, that qualifies to be excluded.

Adams: That would be your original amendment.

Leonard: Yes

Potter: But I think that raises an issue then. Dave, you said earlier that it could be much easier defended if it had only the drug-free zone involved as a basis for having a previous conviction in that area along.

Woboril: It may interest you to know that a couple of lawyers in the room are already disagreeing on this.

Leonard: I'm just going to guess that if you're already have an ability to exclude somebody without a conviction and you have any level of a conviction as a condition, it's only got to improve the chances of defending it.

Woboril: The lawyer's agree on that. What we haven't sorted out, and this takes a long time and a lot of thinking to sort out, is what happens if a person is excluded for having a state of Oregon conviction claims an equal protection problem? It's just improperly.

Leonard: We do that all the time.

Woboril: And the courts review it all the time.

Leonard: But I mean we don't allow people who are convicted of crimes to have, be employees of the city. For an example.

Woboril: That's mr. Auerbach's position.

Leonard: Thank you.

Woboril: I worry about that argument. When I say it's easier to defend, the closer you get to the locale of the subsequent event, the less that equal protection argument has traction, I think. That's what I am saying.

Leonard: Mr. auerbach wants to weigh in here.

Harry Auerbach, Chief Deputy City Attorney: The district attorney has expressed this as a concern which I think bears remembering. This is not a criminal sanction. It is a civil sanction and it is designed to deal with a nuisance problem that the criminal system has been unable to resolve for us. The difficulty is the more you dress it up like a criminal sanction, the more you have to put into it in terms of protections. It raises -- if the courts determine that it is, in fact, a criminal sanction then you have to have proof beyond a reasonable doubt and you have to have the right to counsel and other things that will then make this tool for you as ineffective as the existing criminal sanctions.

Leonard: Is that different, for instance, for not being able to get a job as a police officer if you're convicted of a crime?

Auerbach: I am not telling you what the outcome is going to be. I am telling you --

Leonard: I'm asking you how that's different.

Auerbach: How that's different? It would be more likely to say you could be fired from your job if you were convicted of a crime. That would be more apt a proposal. And you may be right. We may be able to defend it and say, it's just a way of making the thing manageable but it is a concern that the district attorney has raised. My only point in bringing it forward to you is to try to remind the council of it, the essential civil focus of the thing and that it's designed to deal with a nuisance behavior as opposed to target specific individuals. But I think it's defensible. I think it's defensible

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with this thing in it, whether it's any conviction or conviction in the state of Oregon or conviction in the city of Portland, it's defensible. David has expressed some concerns what kind of challenges we might get and we probably will get them.

Leonard: It's not any conviction. It's restricted to those convictions for those offenses that qualify to be excluded from a drug free or prostitution free zone.

Potter: Can we have the district attorney up.

*****: That way mr. Auerbach doesn't have to speak for me.

Jim Hayden, District Attorney's Office: Jim hayden from the d.a.'s office. My concern is, the more that we make this like a criminal proceeding, the more the courts will view this as a punishment.

Leonard: How is it a criminal proceeding if, it's no different in my view than I am assuming a deputy d.a. cannot be a deputy d.a. if they were convicted of a crime or not hired as a deputy d.a. if they were convicted of a crime.

Hayden: The sanctions been analyzed by judge marcus in his mind getting very close to a criminal proceeding to the point where he would say now you must, the city must provide each excluded person when they were excluded with a lawyer, a right to jury trial and beyond a reasonable doubt finding of proof. He hasn't found that yet. The more that we target individuals and get away from, in my view, the purpose of this ordinance from the outset which commissioner Sten began to discuss, which was the whole broken win coast theory of let's take passenger to a community, and make the community better, we are now focusing more and more on, let's target individuals. The more we focus on targeting individuals which is the whole business I sent you about the way the courts view intent and whether we are targeting people and the intent they have when they are in the community. The more we close in on people and target individuals, the more --

Leonard: All the time in three strikes you are out. For example. I have been through dozens of dates in the legislature exponentially increased penalties for individuals convicted of a crime.

Hayden: Those are criminal proceedings, commissioner.

Leonard: Understood.

Hayden: But we have provided them with lawyers, jury trials.

Leonard: But this isn't a criminal proceeding.

Hayden: That's correct. And we are trying to keep it not to be a criminal proceeding. As soon as it becomes a criminal proceeding, we can't use it any longer.

Leonard: Being convicted of something makes it a criminal proceeding. I don't understand.

Hayden: When you are convicted of a crime beyond a reasonable doubt.

Leonard: You are convicted. That's on your record. You end up in a --

Hayden: You go to jail.

Leonard: And an officer checks, sees you have been convicted. You are excluded.

Hayden: Maybe I am missing your point. You were comparing three strikes and you are out to the drug free zone exclusion.

Leonard: You are talking about equal protection. You are talking about treating people the same.

Hayden: I am not.

Leonard: I heard that from dave.

Hayden: That's not what I am talking about.

Leonard: What I am saying is we do that kind of thing all the time and if this is just a threshold issue, under which we use to focus on individuals who we know have a pattern of conduct, I don't get --

Hayden: I am not talking about equal protection and maybe that's where we are missing each other. I am talking about double jeopardy. We have won own double jeopardy at the supreme court level. Without question this ordinance does not constitute punishment. It is a civil sanction. But judge marcus and the Oregon supreme court have looked at this and judge marcus in particular and

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said it dances close to being a criminal proceeding. In my view, and reasonable minds will differ about this, and yours may also, in my view, and I will be the one in court defending this ordinance, our office will be, in my view the closer we get to targeting individuals the more we get away from the point of the ordinance, which is restore, the community's health and the livability of the community and target individuals, the more mr. O'connor, for example, who was up here will find a way to challenge this ordinance and say it is now punishment again. And as soon as it becomes punishment to exclude someone, we then cannot prosecute that individual which means we will not choose to exclude them, we will choose only to prosecute them, and we will lose the ordinance. That's one possibility. The other possibility is a ruling by judge marcus that it is so like a criminal proceeding the city must provide each other than with a person lawyer and a jury trial which my guess is the city doesn't have the resources to do that. So I would urge you not to make convictions -- and I am not going into even the policy points, which is, most of these people that presently are excluded, for example, for possession in the drug free zones, they go to community court. They are funneled into treatment. They don't get convicted. They get a dismissal. So that's one bite of the apple for these folks. The second bite comes when they come back and then we may convict them so that's twice they have offended the community that we waited and now this would be arguably the third time that they have offended the community before we take action. That on the one hand to me gets away from the point of this ordinance and the other that scares me is making it more like a criminal proceeding. Thank you.

Potter: Thank you, folks. Are we ready to vote?

Leonard: Yes.

Potter: Karla, we are voting on the only amendment now on the table. Is that -- is it the same amendment, commissioner Leonard?

Leonard: It was the amendment replaced with the language that commissioner Sten agreed to.

Potter: The previous five years.

Leonard: State of Oregon.

Potter: Within the state of Oregon. A prostitution free zone.

Adams: Or both.

Leonard: Correct.

Potter: Please call the roll.

Adams: I appreciate the intention of the commissioner Leonard and his second. I have no question about that whatsoever. What I do, though, have a concern about, and that is the issues u.s. Just summarized by the assistant d.a. and having read all the background on this including the various statements from marcus on this issue, I think we are very close right now, and I think that this, my judgment is that this amendment would put us over the line and that the overall tool would be ruled unconstitutional. So that's my judgment and I vote no on the amendment.

Leonard: Well, obviously, I am sympathetic with the intent of the ordinance. I am also very concerned that we, as difficult as it is and it has never been an easy job in the history of this country to balance the rights of the individual with public safety, and where I have a doubt, I have had a history of giving the benefit of the doubt to the individual. And I think that's what makes this country different. And I think this amendment provides the balance between what the community wants and should get in terms of a drug free zone but still accords individuals some benefit of the doubt in which our judiciary and our entire system of government is founded upon. Aye.

Saltzman: Well, I appreciate the intent of the amendment, too, but I also believe that this does push us closer to making exclusions a criminal procedure and not a civil procedure and therefore I think I may be in disagreement with our attorneys I think it does jeopardize the present constitutional of our drug and prostitution free zone ordinances and it also gets away from the livability aspect in terms of its practical application of how it would actually work and how it would actually help

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neighbors who are living with the issues associated with drugs and prostitution. So I will also vote no on this amendment.

Sten: Well, this is a difficult issue. And I think it's been a very good debate on both sides. And frankly by far the best debate that I have seen and I appreciate mayor Potter very, very much for making this conversation happen. I mean, I remember first time I voted no on a drug free zone being bold I was soft on crime and all this stuff that commissioner Leonard was saying. I am startled commissioner Adams and Saltzman would say that's contrary to what our attorney says making it tight are makes it more legally defensible and no offense to mr. Hayden but we ought to rely on our city attorneys who are less vested. I think we would be as close to a consensus as you could get on anything this controversial and this important if we went with the conviction approach.

The testimony has been overwhelming for years and years and years from everything from the african-american chamber of commerce to the boise neighborhood association that making some -- some provision and we have talked through three or four different ways of doing it is achievable, it's almost straight forward under mayor Potter's approach it will go to the hearings officer anyway, we would bring the groups who agree with all of us on the need for neighborhood livability who agree that the criminal justice system needs this civil tool out there so that police officers can do something about people who aren't going to jail. We would bring the thoughtful opposition, which I have to say is most of the opposition to the table and we would have a community consensus on this. And so I think we have heard lots and lots of testimony, and I heard the stolls who are old friends and very thoughtful people sigh, they are testifying for this. They think the neighborhood association would be comfortable with a conviction-based approach. I am at a loss on the council's disregard of our city attorney's analysis even though I know it was quick, disregard on a clear place to bring the two sides together, and I would love to move forward on how to make this work, and set aside -- I mean the reality is the lawyers on the other side are going to continue to break this thing apart. You know, and push on it until we get to something we can build some consensus around. So I really want to thank representative shields for coming up with this middle ground and commissioner Leonard for pushing it forward and I would say the same thing I said as somebody who supports very much having drug free zones and prostitute free zones. I support this tool. I think we should have it. But I just always been hung up on the notion that you are not guilty of anything until you are convicted. I'm struggling to see why we wouldn't take this common sense approach to solve that obvious philosophical and practical hole that's divided our opportunity. Aye.

Potter: There's always this dynamic in society, and I think that this is one of those issues that always -- that test our communities. But for those who oppose the ordinance and I respect them, I think it's a matter of basic human right to move about freely and for those who support it, it's a basic right of being able to move around freely without being harassed or bothered by drug dealers or prostitutes. I think, and what I had said earlier, is that if this ordinance passes and we create the oversight committee, I would charge it to look at the arrest and convictions so that they can bring that information back to council, and we can make a decision. If we make that decision, we may want to consider then perhaps going to some other forum for it rather than having its existing form. But I am willing to have that committee look at that and bring the information back to us. I am also willing to make sure that that oversight committee looks at areas, previous areas such as lower sandy boulevard to see if there is a resurgence in activity such as prostitution and bring that information back to council so we can move on that as well. Having said that, I don't feel that I am comfortable with making this decision now but rather than allowing that process of the oversight, who would have citizens on it from all of the affected areas, provide us that information. So I vote no. [gavel pounded] in regards to the ordinances.

Saltzman: Before we vote on the ordinances.

Potter: Yes.

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Saltzman: Last week I offered an amendment that was adopted that extended the prostitution free zone from 112th to 122nd. I don't see that in the version in front of me.

Moore: That was an amendment to the exhibit. And that's -- you probably don't have it. We just got it. Would you like to see a copy of it?

Saltzman: A if it's in there I will trust you.

*******:** It's in there.

Saltzman: Ok. Thanks.

Potter: Were you going to say something?

Sten: On the first resolution, which is 336 on the exclusion zone oversight, I just want to clarify, as I look at the resolution, it does not actually put into language what the composition of the committee will be. Right?

Potter: I think, and I have to go, but I think it talked about talking with the city commissioners, getting names from them but also having, having -- and I don't know that that's in there but having -

Leonard: That's not what it says.

Potter: Having -- well, I am making that commitment here.

Leonard: Ok.

Potter: Is that we would --

Leonard: I for myself I would like to have more than we talk about it. I think there's some specific interests that need to be on the committee, and I need, if I am going to vote for this, I need to know that those, those are designated positions.

Saltzman: What are designated positions?

Leonard: The committee have you on it, for instance, a member of the aclu, a member of the african-american chamber of commerce, a state representative, those kinds of positions that there are no, there is absolutely no criteria or process by which in the ordinance I appreciate the mayor's telling us he will speak with us, but I would like to, for myself, I need to have some.

Sten: Can I make a suggestion? And i'm actually, this is really at your discretion, mayor, so if this is not something that makes sense to you, I am not set on this, but I just thought given, I don't want to try and figure out how the committee should be on the fly. Perhaps we could ask you to bring the committee back for a council ratification so you could, I would be very, I would leave it to your discretion but I would prefer when it came back to see that it had something more along the lines of what commissioner Leonard is saying. I am not ready to say it should be one of these and one of those.

Potter: Ok. Is that ok to the rest of you?

Leonard: I appreciate that.

Saltzman: I thought we saw in the power point last week a proposed representation that showed at least one person from each zone, the aclu --

Potter: It was in there but it's not in the resolution.

Sten: And I was going to consider making some amendments to the composition and then I noticed it wasn't in the resolution and maybe there was an desire not to be in the resolution.

Potter: Will draw that resolution and we will bring it back to the council. Ok?

Moore: Item 336.

Item 336.

Potter: Item 336, the oversight committee.

Moore: You want to return it back to your office then?

Sten: This is maybe doesn't matter. I thought we could actually pass it but ask you to bring back the actual committee to us with some sense of what the criteria.

Potter: The names of individuals?

Sten: Yeah.

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Leonard: I would soon wait to it have come back and have the composition in the resolution.

Potter: We will work on that and get it back.

Sten: Ok.

Potter: Thank you. Moving to item 337. The drug free zone ordinance, please call the vote.

Item 337 (roll)

Adams: I want to thank the mayor and his team for putting to the most thoughtful, one of the most thoughtful processes that I have seen in an outreach effort that I have seen in working this issue of renewal issue. The oversight committee is very important to me. I suggested it to the mayor. I am glad to see that it's moving forward. Next week or soon. It institutionalizes a level of accountability that I think is really important for this issue. I, too, have questions about who is, who is the target? Who is actually picked up, cited in drug free zones and it feels like, you know, commissioner Sten and others, every time this comes up, has asked really good, I think, common sense questions that somehow don't manage to get answered by the next time it comes up for renewal so I can appreciate his frustration and I think there's a lot of polishing that can be done and analysis and insight that can be gained with that oversight committee so I would not have supported to renew the drug free zones without the oversight committee so I think it's a really good part of your package, mayor. In terms of the ordinance considering, we are considering today, I think that given the fact that they have been ruled constitutional and I have reservations but I think that they are an important tool in the neighborhoods and the business districts in the city that I have seen firsthand on a number of occasions, are mightily impacted by prostitution and drugs, this is an important tool for us to have. It's not necessarily perfect in the a better world, we wouldn't need exclusion zones. We would have a public safety system that was, you know, funded and working properly enough that it would take care of these issues. But we don't live in that kind of a world. I do think the fact that the mayor is leading an effort with the county to better spend the \$430 million that the city and the county currently spend on public safety-related activities and look for ways to find savings in the current array of services and to use those savings to make a public safety system more robust, is some hope on the future but for now, there are too many neighborhoods and too many business districts in this city suffering through too much prostitution and too much drug sales. It's for that reason and the improvements that have been made in the oversight committee that I will support this. Aye.

Leonard: There is a dynamic that occurs that I respect where various interest groups push for their point of view. And I get that. I have been the subject of those views for a number of years now, from two sides of any given issue. I am not talking about criminal issues. It can be tax breaks or whatever. Everybody needs to promote their best argument and they do and I get why the police are making the argument they are and I get why the d.a. is making the argument that he is as well. I just think that on this issue, this is one of those few issues that really go to the core of the principles I believe in and one of them is the foundations of this country that people are innocent until proven guilty and that has never been a popular concept with the pop pew lass. That's not something new. It's probably more popular now than it has been in the history of this country but probably not still as popular as basically arrest the bones, they at the throe them in jail and throw away the key. That's a great campaign slogan that others have used that is effective with the community. And I get that. I don't think anybody here is saying that but I think we are succumbing to the pressure to try to circumvent a process that's cumbersome and slow and mechanical and fraught with pit falls and that's call would the judiciary. And I get why there's this effort to do that. But my approach, instead of saying, we shouldn't do anything, my approach, I think, would be rather this. And that is, if we are having a problem because of an overloaded judiciary in Multnomah county, I commit to the mayor, I will sit down, starting tomorrow, to come up with a plan to create a municipal court in Portland to help more people through. If we are having a problem because we can't come to an agreement with the chief judge of Multnomah county on who

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goes in our jail beds, let's sit down and talk about the original idea for that proposal, which was the city have its own jail beds and hire police officers as we used to do to lease a floor out of one of these vacant floors over at justice center and have our own jail. Let's do what it is that the law contemplates. That is if you do something wrong you get arrested, you get convicted. You go to jail. And we use our constitution as the basis for that. I get uneasy when I hear attorneys arguing, well, if we do that, commissioner Leonard, then, my goodness, it looks criminal so we need to do it this way so we avoid looking criminal. I know that's artful and I know that that's an approach. It makes me uneasy because I think it violates the spirit of what this country is founded on. And so very reluctantly and but for those reasons, I have to vote no.

Saltzman: Well, I want to thank mayor Potter for convening an extensive public process to review our drug free zone, prostitute free zone ordinances. I attended some. Meetings. They were very well attended. And it's seldom have I seen a mayor really tackle an issue that's not necessarily one. Cutting edge issues out there for your average citizen. It's certainly an important issue. But to tackle it with the dedication and del generals that he took on this issue, and I think he's threaded the needle right. I think we have something that reflects the competing interests. It is constitutional. And I think will continue to be constitutional but never the less we now have an oversight committee. We only have it in effect for a year so we have to come back and affirmatively renew it or change it in this intervening year. We will benefit from the input that we will get from this oversight committee. And we may change things but I think as I said, I think the needle has been threaded correctly and I am pleased to support this. Aye.

Sten: This is a good debate and this has always been a tough one. And I am pleased you made progress. I am going to support it today for two reasons. One is that I believe the package that mayor Potter has crafted is dramatically better than what's on the books now. And so I do see it as a forward movement on the issues that I am concerned about. And the second I think most importantly is that I think when we are working together in good faith and the mayor has lined out I think a clear process and improved process and made a very strong and clean commitment that we are going to look at this next year, somebody bring me some statistics next year on my issue. Or I will do hate takes to find a third vote on that issue alone because it's unbelievable that nobody can tell me what percentage of people are past offenders where this comes up over and over and over and over. So but the mayor has promised he will get that into the hearings officers's position. I continue to think that there's a path to not having this tiresome debate in the community over and over, which is to listen to the opponents who are for the overall goal of excluding people who are committing crimes and I think a conviction, some sort of check on conviction and, you know, the other idea it appears that really, as constant a refrain as innocent until proven guilty has been through this debate for 10 years now that our attorneys have not given serious thought and research to a unified position between the district attorney and the city attorneys as to what might work and not work. I am not a lawyer either but since we are being amateur lawyers today I find it absolutely hard to believe that if with a law has been deemed constitutional and you make it tighter, and harder to apply to people that it's more likely to be unconstitutional. That just does not hold up to common sense. So I am going to support this. W-an impassioned plea to take the mayor at his word and I will try and do the best of my ability to hold the council to its word next year, that we get this issue addressed in the year ahead but I do believe both the process and the substance that's led us to this today and the substance we are voting on today is a significant improvement over what we have and for that reason I am going to vote somewhat reluctant, pragmatic aye.

Potter: Well, I appreciate the opinions of everybody on in council. Everybody who's testified on this matter. And I have to tell you it's been a struggle for me as being a firm advocate of civil liberties, I did want to make sure that we did everything possible to protect the civil liberties of people who were stopped and cited and excluded. This is not a perfect tool. But it has passed constitutionality test in the past by local courts. The other half of that is about what's good public

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policy? And I think on that side, when I went out and listened to the communities and I heard what was going on in the communities and in terms of how they have to live with the consequences of drug dealing and prostitution in their neighborhoods, that really got to me. That, to me, made me believe that this was an essential tool. And I believe the reason it's an essential tool and it's what commissioner Leonard said, is that the criminal justice system, and that we as a society aren't able to respond appropriately to what's going on in our communities. Like commissioner Adams said, it's too bad that we have to have these kind of things. But the fact is that there's a lot of crime and disorder that directly impacts the lives of our citizens on a daily basis. I don't think we can ignore that. I don't think we can create a municipal court, first of all, that even hears felonies. I think it's only restricted to misdemeanors and the other category, violations. So that -- that would require not only a change of the state statutes but quite an effort in Salem. But I actually, we are talking about handling some of the lower level things in the municipal court that would be more appropriate for the authority that Portland could exercise in those things. But it gets back to the fact that, you know, I strongly support both sides on this. Is that it should be people's right to go where they please. It should be people's right in their neighborhoods to live free from crime. Which is stronger and which is more valuable? The constitution is designed to protect the vulnerable in our society and those that are not necessarily the majority. But I believe that it's a balancing act. I am talking about public policy at this point. It's a balancing act. And it's one that I am not enamored with but as necessary. What I think the oversight committee and I appreciate commissioner Adams recommending that -- will do for us is give us some hard data to look at. The information commissioner Sten has been asking for for 10 years. So we can begin to look at this not in terms of constitutionality but in terms of public policy and make a measured, thoughtful decision based on information and facts. And so as we proceed with this, I would ask our community to watch it closely. And as we develop a committee to look at this issue, I would ask that committee to be the same thoughtful people that the people at the council table are right now in terms of trying to weigh the issues of civil liberties and public safety. So I vote aye on this and I hope that we can move forward and work with all the parties to make sure that, in the next year, there is a real thorough investigation and evaluation on this effort. Dave, do -- one of our problems, because I knew that we would probably not have a unanimous vote on this, is that this ordinance is not an emergency. And that the current ordinance expires today and I would like to have it continued for the next 30 days until this new ordinance goes into effect. So I am asking for a suspension of the rules so that we can just continue the current ordinance in its current form until this one takes over in 30 days. This is an emergency vote.

Saltzman: We need a motion?

Potter: We need to look at -- yes.

Saltzman: I would move we suspend the rules so we can consider this 30-day extension.

Leonard: Does that require a unanimous respect? Out of respect to you I would do that.

Adams: Second.

Potter: This is on suspending the rules?

Saltzman: Yeah.

*****: So far you have only voted on the drug free zone.

Potter: Ok. You are right.

*****: You want to do the other one and then do the ordinances --

Potter: Yes. Let's do 338. Thank you very much, Harry, for pointing that out. We will hear the prostitution free ordinance, Karla, vote on it. And then proceed to the --

Item 338 (roll).

Adams: Aye. **Leonard:** No. **Saltzman:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded] what's the procedure, Mr. City attorney?

Auerbach: You want to suspend the rules to consider these two items that weren't on the agenda?

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Potter: Yes.

Saltzman: Move to suspend the rules to consider these two 30-day extensions in existing drug and prostitution free zone ordinances.

Adams: Second.

Potter: Call the roll.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded] does that mean we have also voted on --

Auerbach: Karla needs to read each one.

Leonard: You need a unanimous vote on this?

Auerbach: They are emergency so they need to be unanimous.

Potter: Please read the keeping in mind the drug free zone to extend for 30 days.

Item 338-1.

Moore: Extend expiration of prostitution free zone designations until april 15, 2006.

Leonard: You need unanimous or does it need four?

Auerbach: It needs the unanimous consent and there have to be at least four of you so having five of you here means it needs all five.

Leonard: I need to get some coffee.

Potter: I will wait until he closes the door before I call for the vote. Call for the vote on the expiration of the drug free zone extend to April 15.

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

Potter: Aye. [gavel pounded] next, extension is for the prostitution free zone until april 15, 2006. Please call the roll.

Item 338-2.

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

Potter: Aye. [gavel pounded] thank you, everybody who was here to testify. We appreciate it. Please read the next item.

Potter: Did you want to introduce any of this? 339.

Item 339.

Sten: I move it to second reading. There's no testimony you can probably move it to second reading.

Potter: Ok. Hearing no questions from the commissioners, it's not emergency. We will move to a second reading. Please read item 340.

Item 340.

Potter: Second reading vote only. Call the roll.

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

Potter: Aye. [gavel pounded] please read item 341.

Item 341.

Potter: Second reading vote only.

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

Potter: Aye. [gavel pounded] please read item 342.

Item 342.

Potter: Commissioner Adams.

Adams: It's a good thing.

Potter: Any questions? Do we have any presentation?

Adams: Oh. It's a good thing that we need to consider next week. So if I could get the city council's -- ok to continue it?

Moore: Yes.

Adams: Do I need a vote on this?

Potter: Moves to a second reading. Oh, continue it. Not to move it to the second reading?

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*******:** We want to make a presentation but they are not here this week. So if we could move to it next week to make the presentation.

Potter: Very good.

Adams: Took the words out of my mouth.

Sten: He could be our p-dot spokesman.

Potter: Please read item 343.

Item 343.

Potter: Commissioner Adams.

Adams: This is also a good thing and vicky diede is here to answer any questions we might have on this very good project. Any questions for ms. Diede, otherwise known as the streetcar czarina?

Potter: Tell us briefly.

Vicky Diede, Portland Office of Transportation: Of course. It is, for the record, I am vicki diede with the Portland office of transportation and the project manager for Portland streetcar. Basically this is a continue wigs of professional technical services around design and project management for the Portland streetcar lowell extension project. Our goal is to complete design and to gain council approval for the final capital and final operating plans by august of this year. And what that would let us do if we get the connect Oregon award that we have applied for we would be in a position to, you know, actually go ahead and construct the process. It's to keep that process moving.

Potter: This is tied to item 344 as well, the --

Diede: There are two amendments with Portland streetcar inc. On two different issues. 344 is related to the procuring of three additional cars. It's additional technical services that will need, as you recall those cars are not exactly the same as the ones that we are running right now. They are compatible but it's a different manufacturing location so that's required us to wait until we get the final component list so we can figure out what kind of design review was necessary, and what kind of testing was necessary. So it's --

Potter: Where are these cars manufactured?

Diede: They are being manufactured in the czech republic.

Potter: Are the same issues with the previous cars trying to get assistance on some of the federal tax waived?

Diede: No. Actually, the first cars that came in on the czech republic was not part of the eu so the duty was not a problem. The three cars that are coming we have, in the cleanup bill for trade and whatever the heck they call it, there is an exemption for three streetcars for the city of Portland coming from the czech republic. It passed the house yesterday. It's in the senate bill. They just haven't decided when they are going to vote on that.

Potter: Ok. Further questions regarding these issues? Let's take item 343 and call the roll.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded] read item 344.

Item 344.

Potter: Call the roll.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Potter: Aye. Can't wait to ride in them.

Diede: I know. Wait until you see the colors.

Potter: Good. We have already read 345 earlier. Item 346.

Item 346.

Potter: Second reading only vote. Please call the roll.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded] we are in recess until 6:00 p.m. Tonight.

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At 12:54 p.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

MARCH 15, 2006 6:00 PM

Potter: Good evening, everyone. This is city council. Karla, please call the roll. [roll call taken] [gavel pounded] please read the item.

Item 347.

Potter: Staff, please come forward.

Betsy Ames, Bureau of Planning: Good evening. I'm betsy ames. I'm the assistant director for the bureau of planning. With me is marguerite who is the planner leading the linnton hillside study for the city of Portland. The linnton hillside study is one of two studies that we're currently working on in the linnton neighborhood, the linnton village study is still under consideration by the planning commission, and will be coming to you later this year. The linnton hillside study is a subject of this evening's hearing, and i'll just turn it over to marguerite to give the presentation.

Marguerite Feuersanger, Bureau of Planning: Mayor Potter, members of city council, my name is marguerite feuersangerr with the bureau of planning, the lead staff person involved in the linnton hillside study. In my presentation to you today i'm going to talk about the background, what we did in conducting the study, as well as some public involvement. Our key findings and recommendations. Well, i'll go back as far as 2000. In 2000, the neighborhood -- linnton neighborhood came to the city and requested that we adopt their neighborhood plan. In 2002, the bureau of planning said that we would take up two of their central issues that are noted throughout the plan. And that's how to treat the village area, the land uses in the village area, east of the highway, between the river and the highway. And the residential densities on the hillside. That's the focus of our meeting tonight. The purpose of the study really was to examine the natural conditions and the public services in light of the zoned densities and the planned densities and determine what is appropriate. And the linnton neighborhood is interesting in many ways, and I think it's interesting that it stretches almost five miles along highway 30. Harborton and other towns are somewhat the focus of my study. Those are the core residential areas, really these enclaves that have a one-way in and one-way out, and located along the steep slopes of forest park. In addition to that, the linnton neighborhood also includes willbridge area, which is located to the south of the residential areas. Here's the saint johns bridge. Willbridge and fairmont area have patches of industrial sanctuary, industrial residential zoned interspersed. So this map shows the city's existing comprehensive plan. If you're familiar with that, it talks about planned densities. In the linnton area, this concentrated residential area that's our focus, the planned densities for this area are what we call high density single dwelling residential. And that is a recommendation of the linnton neighborhood plan. Their conclusion is that those densities are too high and should be reduced to the existing zoning. The dark pink area, I just want to call to your attention. These are the areas that we discovered through our study that have been purchased over the years by either metro or the city to be included in forest park. And currently they're zoned for residential. Part of our recommendation is to rezone those properties from residential to open space, which actually helps to reduce the potential density of the linnton hillside. So i'll just move really quickly through our findings with the natural conditions. Linnton is unique in that a lot of its streams are open. They're free-flowing. There's, I think, 10 in the study area. And also, out of the four hazard areas of the city, linnton is included in three of them -- the landslide, the wildfire hazard area, and that's

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because of its proximity to forest park, and as well as the earthquake hazard area. The slopes here, we did an analysis, and we found that even though this area shares its geology with the west hills, the slopes tend to be steeper here. In fact, 80% of the study area has about 25% or greater slope. And just for comparison, a street, for instance, the office of transportation doesn't want to see a street more than 15% of slope. And also the soils generally are shallow and they're poorly drained. In periods of wet weather, they tend to become unstable. And this is actually an example of previous landslide in the 1996 flood event. And this house is located along germantown road. It was destroyed. And now the lot belongs to the city. It's under the purview of the office of transportation. I'll show you on this map, the red asterisk indicate the 1996 landslides in the glen harbor area. This is the lot where the house stood. I'm assuming that the landslide began here and came across germantown road and destroyed the house. Regarding lots and development, building permits have been rather slow over the past seven years. We see about one or two a year. But I think that's mainly because these lots are very difficult and expensive to develop. The main exception to that is a development called cascade view condominiums, which is located at the base of germantown road. And that's the only multidwelling zone site on the hillside, and about 40 units were just developed there. In that concentrated area, those are the areas that have the greatest potential for new development. Again, I mentioned before that we did find these residential properties that are owned by the city and metro. The other more significant thing that we found was that the area, like other areas of Portland, have a substantial historical lot pattern. This map's hard to read with the lights, but the yellow lines indicate lot lines and right-of-way. And the red lines indicate historical lot patterns. And essentially these historical lot patterns were platted originally when the areas were platted. And they have the potential for building. And when we looked at this, and we looked at the existing lot pattern, we realized that at full build-out, perhaps that would never happen because of the services and the slopes, but at full build-out it would exceed existing zoning. And it was more than the existing services and the natural conditions could handle. This is just again showing another area of linnton. This is the original town of linnton. And this has the more traditional historical lot pattern of 2500-square-foot lots. And regarding public services, stormwater generally, there isn't a public pipe system, except for the town of linnton. In most areas, the stormwater from grooves and driveways run into either roadside ditches or streams. Significant issue that we saw was that some lots don't have direct access to either of these facilities. And in that case they have to go to an adjacent property owner and ask for an easement, which is not a good situation. An easement for their stormwater to traverse their neighbor's. Sanitary sewer system is not available in some areas. That's specifically in harbortown and linnton court. In those areas, areas have to have a private septic system and they're relatively land intensive, between 10,000 and 20,000 square feet is required. I think the main story here is the streets. They're narrow, often not paved. Usually 12 feet in width without the usual features of curbs, sidewalks, parking strips, and as a result fire and emergency access is severely constrained. And these maps, while difficult to read, they show the -- the asterisks are showing intersections that the fire bureau has indicated to me that they have a difficult team accessing with their vehicles. The solid lines indicate paved roads, and the tight dashed lines indicate gravel roads. Sorry about the confusion of this map, but this whole area is in forest park, and it's showing unimproved right-of-way. It's kind of interesting, because there's a lot of old plats of forest park abandoned and never built. Again, in waldemere, same situation with the tight turns that the fire bureau has difficulty accessing. Top photo shows an existing intersection in the town of linnton, and just showed that severe switchback. And the bottom photo is a photo of the street, a gravel street, in glen harbor area, probably 10 feet to 12 feet in width. It's difficult for two cars to pass. So in consideration of all these findings, we concur with the neighborhood plan, that the comprehensive plan designations should be reduced to equal the zoning. We also would like to see the metro and city rezoned to open space to become a formal part of forest park. Third issue, in trying to focus in on this, it's addressing the existing small lot --

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the small lot pattern that I showed you in the maps previous. And we're proposing, or the planning commission has recommended, a set of development standards that would actually attempt to reduce the density on larger ownerships by establishing minimum lot sizes. And as an example, this is ownership in glen harbor. And it's identified here as ownership 28, which extends across this right-of-way here. It's six lots, platted lots, and under today's regulations they could potentially get six units. With the comprehensive plan designation, nine units, which is really overburdening the site. It's severely sloping. The recommendations with the development standards, they're effective -- most effective on these ownerships. We have many of them on landslide. For this particular ownership, because it's 45,000 square feet, we're establishing in this r-10 zone, one unit per 10,000 square feet, which would yield four units. This is an example of ownerships that are what we call stand alone ownerships. These four lots are all owned currently by separate owners. They're 5,000 square feet. They currently meet the minimum lot size in the r-7 zone. This is an r-7 zoning. We want to maintain -- even though they're less than the one unit per 7,000 in the r-7 zone, we want to maintain the building rights for these lots. They currently have building rights, and it's difficult to say to these folks, you can't build on your lot anymore. So the recommendations exempt these types of lots. And this is at issue with the neighborhood association. The linnton neighborhood association believes that lots should be developed at 7,000 square feet in the r-7 zone, 10,000 square feet in the r-10 zone. And generally the two significant issues that you'll likely hear in testimony are that property owners are concerned about potential loss of property of value as a result of the recommendation. And on the other hand, it's how to address the small lots. The development of them, especially since we have a lot of them, and in certain areas the services are not adequate. The recommended council actions tonight are to amend the comprehensive plan map and the zoning code map and map as shown in the linnton hillside recommended plan. Also to adopt linnton hillside recommended plan and its appendix, and to amend the development standards. This is the tricky part. Along with your recommended plan, I had submitted an exhibit a that was dated february 15 -- 16. And since that time we had a meeting with the neighborhood association representatives, which was actually very productive meeting, but unfortunately for us the neighbors uncovered a loophole in our code. So we went back and tried to fix that. The loophole essentially would have unintentionally allowed development of previously unbuildable lots. I know this gets a little complicated, but nevertheless the substitute, exhibit a, was in your package. I also have copies for the audience that were out here. And that's what I would like you to consider. That exhibit, the substitute exhibit a, has been reviewed by development review staff, the bureau of develop review staff, but it has not had community review and input. This is the first time that the community has seen it. So as a result of that, perhaps you would consider leaving the record open or perhaps continuing the hearing for further comment. I'd also like to say that the record's in the room for the linnton hillside study.

Potter: Ok.

Ames: We do have additional information if there's questions that we can speak to some of the specific lots and how the development standards apply to those if you have questions about that later on.

Potter: Ok. We need a motion to accept the substitute, which is exhibit a.

Leonard: So moved.

Adams: Second.

*******:** Mayor, excuse me, in addition to moving the exhibit a, there's a reference in the ordinance to that, and has the wrong date in directive c of the ordinance. So in combination, perhaps a combination with moving the exhibit substitute, you would also move a change to directive c that references the correct date of the new exhibit a. Are you following?

Leonard: So moved.

Potter: Did you get that? Please call the roll.

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Leonard: I think we need a second.

Adams: Second.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Potter: Aye. I asked the planning staff to hold the record open until the second reading so that people will be able to review this information, have time to submit their testimony. Thank you.

Moore-Love: The planning commission president is here if you'd like to hear from the planning commission.

Potter: Certainly. We're always pleased to hear from mr. Schlesinger.

Paul Schlesinger, Chair, Planning Commission: Paul schlesinger, president and chair of the planning commission of Portland. I have a few remarks and comments to say. Marguerite pretty much gave a full report and the document's in front of you, detailed in fairly comprehensive manner. My comments are twofold. Number one, the planning commission looked at both the hillside and the village, and early on we felt that it was important for both the village plan and the hillside plan to break them apart and look at them separately. Totally different issues are tied to both of them, though there are some similarities also between the two plans. Marguerite did detail that in her opening remarks, and you will find that in our letter of opening and/or our recommendation letter to you also. Hopefully in the near future both planning bureau and commission, though I might want the to delegate that to a fellow commissioner when the village comes forward to you, or we will draw lots to see who -- who attends that meeting. The bureau is working on that, along with the commission, and hope to have that in front of you. That's not the reason we're here today. That's for a near future discussion with you. My comments on the plan for the hillside -- and I strongly urge to you recommend, as you've done so, even with the changes that the neighborhood brought to us, and I do appreciate the neighborhood working up until the last minute on making and ensuring that this plan be the best for the hillside and for the total community. Some interesting things are brought up. And I think it does bear repeating. One of the key things that the commission found very early on was again the roads and egress, entering and exiting, specifically to emergency, fire, life, safety, that they are somewhat below standard in that regard, and looking at situations to the south in california, and as residential comes up against forestlands, what could happen with the forest fires, whatever, coming right down to 30 and the roads and access could present a real problem. Number two, and again, marguerite n the slides, in her presentation, showed the volatility of the land and the slopes of the land, making it hard, especially with the types of rains that we saw in 1996 and repeating to some degree this past winter.

Again, really the commission did look at this very seriously and was a part of our thought process. To close, in my comments, I want to again thank the bureau for a thorough job of -- for presenting it, not just to the commission, but to the neighborhood also. There's always talk about the city not being responsible to -- to the community, but I would say that in this situation, both the bureau and the commission, did open it up for public testimony. I would say the majority, if not all of the commission, did cite visits at least once or twice or even three times, and became quite familiar, not just by reading and looking, but also by being out there and seeing what this is all about. So in my closing comments to you, do feel very strongly about our recommendations, do feel very strongly about the report in front of you, and would hope that it does pass as presented. Thank you.

Potter: Thank you. Anybody else from the staff to testify on this matter? We're going to go to the public testimony. I want to remind people that today's discussion is limited to the linnton hillside study, and ask that you testify only to that particular issue. There will be a future opportunity to testify about the village study. So in order to conserve our time and use it wisely we will only be discussing the hillside study tonight. Karla, do you have a sign-up list?

Moore: I do. 13 people are signed up.

Potter: 13 people. Ok, please call them in order that they signed up.

Moore: Coming up three at a time.

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Potter: Sorry about that. Thank you folks for being here. When you speak, please state your name for the record. You each have three minutes.

Kerrigan Gray: Kerrigan gray, harbor boulevard, Portland, Oregon. Mayor Potter, commissioners, i'm representing the linnton neighborhood association land use committee. The linnton neighborhood association in a meeting with one of the largest turnouts in memory approved the linnton neighborhood plan with a vote that was unanimous, save one abstention. A key goal of the hillside portion of the plan is to address the serious safety in residential density. This is accomplished by removing the underlying comp designation and restoring r-10 to mean 10,000 square feet and so on. Areas which currently meet service infrastructure standards could be designated now for increased density. This is consistent with the neighborhood plan objective of "limited development in the hill area west of highway 32, those areas presently served by a full range of urban services." the proposed hillside recommendation before council this evening, with the changes requested by planning staff, if enacted, will not provide a minimum lot size requirement for historic lots in the linnton area. At this point I have to say that the handout was news to me tonight. I have not had a chance to evaluate it, the new changes you just adopted. I'm kind of clueless there. This lack of minimum lot size has allowed development in one example of a 1500-square-foot lot of record in an r-10 zone. The changes requested in the neighborhood plan are in line with the bureau of planning linnton hillside study significant findings, which sums up in this quote -- "given the substandard street system, inadequate for sewer, the risks are too great. Potential density should be reduced if possible, to minimize risks to life and property." the new regulations could require realignment of some holdings, such as meeting the minimum lot size requirement by building nine houses instead of 18. In other instances the property could be combined with a similar adjacent lot to meet the minimum size lot and then be developed. People have a right to develop, but not if it ignores the requirements of public health and safety. Avoidance of personal and property damage from allowing development too dense for the current urban services infrastructure and geology is also a requirement for the responsible development goals in the linnton plan. In conclusion, we recommend the adoption of the linnton hillside recommended plan, but not with the loophole. The linnton neighborhood association is as opposed to any plan that would result in no minimum lot size requirements for historic lots regardless of zoning. When the service infrastructure and geology will safely support increasing density, the requirements could be revisited and reevaluated and zoning adjusted accordingly. Thank you.

Elim Stahly: Hi. Elim staley. I've lived in linnton since 1959. And i'm here to support the plan. What's happening on the hill, from my perspective, is that the housing that has been developed on there is starting to cause the stormwater to run down the streets, deteriorating the streets, and then the stormwater's running off into the private yards. It's running off into mine now, and my yard is sinking because of all this runoff coming down this hill. We don't have the roads up there to support what we've got now. And it's very, very hard for the fire department to get up through, especially for us heart attack victims. So we don't want any more housing up there if we can possibly hold it back. Thank you.

Ross Folberg: My name is ross folberg, a resident of linnton, Portland. I have to say that with the exception of -- of this b dot five in the study, the neighborhood is entirely in support of this plan. Unfortunately, with that, and the amendments -- these last-minute amendments coming through, in a sense nullifies most of that plan. Those historic lots of records, they were all created around 100 years ago or more. Most of those lot sizes are 5,000 square feet or smaller. Our leaders that created the zoning, they were fully aware of this, yet still felt that the safety and the proper zoning would make that -- should make that area r-10. When they did that, r-10 meant r-10. In time, that amount has been adjusted down, simply five years ago it was 7,000. Today it's 6,000. I'm really bothered by that exemption, that basically allows, if you have an historic lot of record, you could have any size and still build, which in a sense makes it less rigorous than today's zoning and codes. The other

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thing that really bothers me about this, as marguerite was talking, that this was news to her in this meeting on march 1. This was not. As soon as this plan came out, myself personally, kerrigan gray, among others, came to her with this issue and talked to her about this. Yet it apparently it wasn't until the month of this hearing, and I just found about this latest thing when I walked in the door here, about these changes. She was fully aware of that.

Leonard: May I ask a question, isn't the language that was proposed here today to address your concern?

Folberg: It's still -- well, one, I haven't had time to thoroughly go over it.

Leonard: We left the record open so you can do that.

Folberg: Ok. I guess part of what bothers me is that, you know, she made it sound like this was a new thing that was brought to her -- you know, to her in march.

Leonard: What i've heard is they've heard the concern. Unless i'm missing something, they drew up language to address what you're raising. So i'm not getting your objection. Maybe you ought to read the language first, leave the record if there's a problem --

Folberg: When I looked over it, it still looked like there was exemptions and stuff.

Leonard: Ok.

Folberg: She's made it clear, that if you basically have these lots today, that you can still build on them. At least that's what I was hearing. So i'm somewhat bothered by -- by that attitude, when everything we have, you know, I mean she pointed out three out of four of, you know, the natural disaster things are in our neighborhood. Everything's pointing to this idea that it's not safe up there.

These roads, some of them as little as nine feet wide, with less than 40 foot of visual in front of you. That means if two cars are traveling toward each other at 20 miles an hour, that means that both cars would have to hit their brakes and stop within the time of the 65-mile-an-hour fastball, going from home, from pitch's mound to home plate. That's what is existing conditions up there. And as commissioner Leonard will -- has told me personally, that from his days as a firefighter, those roads are not easy to get around, especially with a large truck. So I think what we need to do is hold true to the ideals of this thing and not let these details make these major exemptions to allow these building permits, of things that are just not appropriate in that area.

Potter: Thank you, sir. Thank you very much. Thank you for being here, folks. When you speak, please state your name. You each have three minutes.

Doug Polk: My name is doug polk. I'm a resident of linnton. I've been a resident of linnton since 1972. And i've participated in the founding of the neighborhood association that would be able to legitimately bring a neighborhood plan to the city council. That was in 1995. I worked on the land use plan beginning in 1987, before we even had a neighborhood association that could appear before council. And my initial interest in working on the neighborhood plan had to do with inappropriate -- the possibility of inappropriate development on the hillsides of linnton, specifically in waldemere, which is the hill I live on, is a steep, narrow, essentially dead-end street. There's one way in. That's hogue street. And it -- there's no other way out, except up and down that street, with the -- there are two -- several points pointed out, where it's difficult for emergency vehicles to get in there. So I want to testify in support of the linnton neighborhood plan, because -- mainly because it is a purely citizen-evolved plan. We had technical assistance from the city, a couple of times, but we finished the bulk of the plan, finished without bureau of planning assistance because funds ran out in the 1990's, so we finished the plan and adopted it in the year 2000. Here we are in 2006, and I would like to testify to recommend that you stick to the plan as adopted by the linnton neighborhood association, that is against inappropriate development on those hillsides. Thank you very much.

Kyrian Gray: My name is kyrian gray, a 12-year resident of the linnton hillside. The recommended plan is good except for one flaw that would allow increased density without providing for the needed public services and infrastructure. A section should be removed until the

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infrastructure is in place to support the increased density. This is a public health and safety issue, not subject to measure 37. The recommended plan identified many areas, where there isn't adequate infrastructure. I'd like to emphasize two -- water and roads. Four neighborhoods have inadequate water supply and pressure. Two neighborhoods still have a two-inch water main. One neighborhood relies entirely on individual water pumps. There are fire flow deficiencies in the area adjacent to forest park. The roads are 12 feet wide or less with many hairpin curves, narrow with no curbs, signage or drainage. This allows for the passage of only one vehicle, plus pedestrians and bicyclists. The other weekend we had three vehicles jam up in front of our house. One vehicle went down the slope and had to be towed out. There is limited onstreet parking. If a house caught on fire, the fire engine might not get there in time to save my home. If my husband had a medical emergency, would an ambulance arrive in time to save him? What if he had a heart attack, it took the ambulance 20 minutes to arrive. As the density increases, so does the problem of people parking cars on narrow roads. Building permits are issued without the concern for the additional problems density is causing. This is a health and safety issue for us. Update grading the infrastructure would be expensive, there are steep slopes, greater than 20%, drainage is a problem with the many open and uniped streams, and landslide susceptibility. This is a health and safety issue. Density should be commensurate with the adequacy of the infrastructure. Finally, we own a lot that would become unbuildable, but public health and safety is more important than the money. Please pass the linnton hillside plan. And in response to your question, if it's wrong with exhibit a, it's subsection c where it still allows no minimum lot size to --

Darise Weller: My name is darise weller, northwest germantown in the linnton neighborhood. I'm speaking in support of maintaining the zoning that was decided on by the neighborhood association for my property, namely r-5. The city appears to have attempted to stay largely within the neighborhood's plan, however as this per to my property, the city's plan changed the neighborhood designation from r-5 to r-10. This change means that I cannot subdivide my land that was previously subdividable. My property totals 19,300 square feet, two adjoining separate texas lots are 7500 square feet. And the tax lots my house is located on are 11,800 square feet. The city -- city proposed -- proposal would require 20,000 square feet to divide. The limitation of my -- of my previously permitted use is exactly what the situation, measure 37, was designed to address. I feel my property should be r-5, because, one, the neighborhood association has already approved the r-5 designation for my property, so making it r-5 will not deviate from the neighborhood's desires. The property's not hampered by a lack of access to infrastructure amenities that other properties in our neighborhood would have. There's a new six-inch water main that runs along germantown road, creating ready access to major thoroughfares. Its access to germantown make fire and emergency access readily available. Sewer access is available through an alley on the north boundary line. In paragraph b5, the city proposes in its plan to allow lots to be developed if the lot's before the proposed changes are buildable prior to the effective date of the proposed code change. My two lots of 7500 square feet would have been buildable, but are not because they're abutting my 11,800-square-foot lot. So I would be penalized by only being able to build one house on the combined property of nearly close to 20,000 square feet, but not quite enough. My fourth reason is the property could serve as a buffer zone between r-2 and r-10, and the property could also be a part of the solution for urban growth. Thank you for your time.

Potter: Thank you folks. Good evening, folks.

*****: Hi.

Potter: Thank you for being here. When you speak, please state your name when you testify. You each have three minutes.

Pat Wagner: My name is pat wagner. I want to thank you and the bureau of planning and the planning commissioners for their time with linnton. The majority of people that live in linnton support urban density. It only makes sense. Linnton is old, many of the access roads to the linnton

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hills began as cow trails. Each hillside was considered individually when the linnton plan was made. Please don't allow development to occur where infrastructure is not in place to support. Please stick with the linnton plan. Please, can we -- the neighborhood of linnton request a continuation of the hearing and an opportunity for more oral testimony at some point. Thank you.

Lee Tracer: Good evening. I'm lee tracer. I'm a resident of glen harbor in linnton. I've been a resident since 1965. This is my family home. My house was the first house built on this hillside in 1909. You saw a video of a house coming off of its foundation from a slide that crossed germantown on to harbor. That house was almost directly above me. I lived the nightmare of this flood. Following that day, we woke up to two sinkholes in our yard. Shortly after the -- excuse me. I'm very emotional about this. The platform of our foundation started to crack with big fissures. We lived a nightmare for two years with the city evaluated the fate of our house and our family. We finally had resolution after -- annual after our house started to sink. We now were able to lift it back up. We've been living there, enjoying the life on glen harbor. I don't want anybody to ever go through this. It was a nightmare, not knowing if you were going to have a house the next day or not. We continue to have problems with drainage off of our hillside. Animals leave us with little holes like this after they burrow for how many months they do, and in these holes like this water from natural runoff shoots through like we opened a faucet on to our property. Year after year after year. We have massive drains on our property that we clean out every evening when we have weather like this to prevent ever having this problem again. Please, stick with this plan. We've worked very hard. We've spent hours on this plan. And I don't want anybody to go through this again. Thank you.

Sally Wooley: I'm sally woolly. I own a lot in linnton that I want to build on. It's up in the hillside. And yes, it's on a street, it's paved, it has sewer, storm drainage, it has, you know, all the services, the fire hydrant and everything. It is -- yes, it's sloped, yes -- has it got any environmental overlay. It's not something that I would take lightly that you just go out and build, although after the september planning meeting I felt just going out and build something before I got to this meeting and I might lose my property, might lose my thousands of dollars, but I feel very protective of this area. I went to the linnton meeting when they had a neighborhood meeting. I even read tonight's new memo. But I could read it all day, and I still don't understand what it means by what it says. I don't know what i'm here now to request. When I started out this evening, I knew that b-5 was a problem for my lot, for a different reason, which I think I might see in today's memo on the third page instead of the first -- instead of the middle one. It's under c-2, and I may be all wrong. This may be not the problem I think it is. But the lot doesn't meet the minimum standard, but it does not abut any lot or lot of record owned by the same family or business in the last 27 years. Now, my lot was owned -- oh, where's those little maps that marguerite had? There's lots like 5 through 11, and all those that were above us on the hill were all owned by one person since 1979. Now the city has fought part of that for forest -- bought part of that for forest park, and different people own these lots, but -- but I just -- it's hard for me to imagine that we wouldn't be able to use our property there on -- it's on mckay street, just because sometime in the 1970's or 1980's or 1990's it was owned by one family or one person.

Potter: You still have a half minute.

Wooley: Oh, that's a half minute. Oh, what do you want to hear?

Potter: Whatever you want to tell us.

Wooley: It is different from hearing all these people. Like I say, i've followed this carefully, i've read everything, we've gone to the meetings. I identify with the area. And I feel -- I feel like i'm a little bit cut in half here, saying I want my rights, I want my fairness, I want to be able to build on this place that I bought. I don't want to be out my thousands of dollars, but I hate to hurt anybody else, too, after hearing guys. Tough act to follow. Thank you.

Potter: Thank you very much, folks.

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*****: Thank you.

Potter: Thank you folks for being here this evening. When you speak, please state your name when you testify. You each have three minutes. We'll start with you, ma'am.

Jackie Kleinstub: I'm jackie kleinstub, southwest palatine street. I too have recently purchased a piece of property up on the hillside, again with the full knowledge of its problems, because I researched it very thoroughly and talked to the city on more than one occasion, and was assured at that time that it was a buildable lot and it had all the services available necessary. It is what we're hearing is a historic lot, because it was platted in like 1947. As a lot, it's maybe 250 square feet short of what would be the minimum lot, which is actually a secondary issue to what was happening before, because, again, it was part of that larger parcel at one time, and to exclude a lot because it was historic and at one time had been under one ownership seemed unfair to say that all of these owners since then and had no knowledge that it even had been part of those ownerships, that all of a sudden our lot would become unbuildable because it's a historic lot. I can understand that you wanting minimums for any lots, be it historic or not, and I think maybe as -- when I talked to the city, there was some suggestions that possibly some guidelines could be set with this area specifically in mind. Maybe not the same minimums that are in other areas, but -- but with this area in mind, and write those into, so that if someone wanted to go in for a little variance to either this historic area or a variance to the minimums, they'd have some guidelines to work with. The way it's written, variances to this -- these square footages are prohibited, which by the zoning code means there is no appeal. I mean, that's what it is. And I feel that there should be some means of evaluating each property on its own merit rather than placing a blanket over the whole area and not being -- as I say, our area has the facilities. Some don't. So we're now blocked in because we own a piece of property that was once owned by someone else and we have ones that are just slightly under minimum. So we'd like to see some means of being able to -- to go in and evaluate the lots on their own merit.

Potter: Thank you.

Art Wagner: Mayor Potter, commissioners, thank you. I was involved with the plan since its inception. I moved to the area in 1978. In the 1980's and 1990's, one of the key concerns of the whole community of Portland was density. And one of the key concerns that we addressed in our neighborhood association plan, the linnton neighborhood association plan, was density. And this downsizing of the density is not really a downsizing of the density at all, because what we are asking is that the -- the actual zoning be adhered to, not the overlays that were placed on it that would have reduced the size of the lots and increase density at that time. Our plan, in whole, increases the density for the whole area. The major issues for that area are the access and egress of the narrow windy roads that are not accessible, some of them at all, to emergency vehicles. We've addressed this with the fire bureau and the police bureau and the access -- the area of the danger to forest park from fires, the water runoff that is so prolific in the rainy seasons that come off that hill and off when property is developed on smaller-sized lot than is appropriate, then you have a whole lot more water running off those lots on to neighbors and other streets as well. I too have made investments that didn't work out. Thank you very much.

Marat Nizberg: Hello. I live on 11420 southwest lanewood in Portland. Between me, my wife, we own two lots on mckay, which were purchased last year and this year. Our hope was to build a dream house for ourselves and the other lot for our parents. And we feel like, before we purchased these lots, we checked with b.e.s., and we were told they're legal and buildable lots, the utilities are in the street, the sewers in the street, everything's there for us to go build, and in good faith we bought those lots. Now we've been told, if you reject the plan commission's standards, and reject the b-5, it would be an unbuildable lot, and everything that we worked for would go out the window. And I feel like it's unfair to make a law retroactive. When we bought this lot it was buildable and legal, so I feel that the city should hold those standards. The big thing that I hear here

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is lack of services, health and safety. Now, i've owned lots at other places that had similar cases, and fire trucks, I understand are big and difficult to get to, and the way it was handled at those areas, we were required to put sprinklers in every home. And I don't think anybody would object to that, but that would really alleviate the big problem of fire truck turnaround here. And, you know, ambulances are not that big. I understand that. But the big issue here is really, I don't think any of the neighbors that of the association that live in linnton would want the city to throw them out of their homes because they don't meet any standards. I know a lot of the homes in linnton don't meet the zoning, but they do have existing homes on them. And, you know, the city will never throw people out of their homes, but I feel like city, if they don't get past this b-5, then you'll be throwing me out of my home, because I don't have a house there, but I bought that lot for my dream home. And I feel very strongly against that. So, you know, if there's concern in linnton about fire, life, safety, then why don't people donate their homes to the -- to the community and make less density in the area. You know, why do it at other people's expenses? Thank you.

Potter: Thank you folks. Thank you for being here, sir. When you speak, please state your name and you have three minutes.

John Deppa: My name is john deppa. I live in the linnton area, down on creston road. I have have lived there about 20 years. I've got a wife and two kids, and i'm a licensed civil and structural engineer. So anyway, I own one of the lots on mckay street. And i'm really just shocked at this plan, saying that I can't build a house on there now. I'm kind of with the last guy here. I built the lot. It's buildable. It's got water, it's got sewer that the city paid to put in. It's got a paved road that the city paid for. It's got a 50-foot-wide right-of-way. You know, that's not a substandard road. You know, you see a 12-foot paved piece, but it's actually a 50-foot-wide road. And eventually, you know, it's a main access to forest park. It's going to get paved at 50 feet, because, you know, people are going to want to go into the park. So the city has spent all this money developing this -- you know, so you can build a house there, and I hear all these nonengineering people from the neighborhood throwing out engineering things at you, when they're not engineers, they're not really even qualified to speak on that. There's absolutely no reason -- you know, I do this every day, and there's no reason that some -- you know, people should be telling me I can't build on that property that I bought, you know. There's design codes within the city that protect us from exactly what these people are talking about. There's stormwater codes. You have to have it designed by an engineer, stamped by an engineer. You have a soil study done by an engineer so it won't slide down the hill. You know, that's where the protection is. It already exists within your own engineering regulations. That's what's going to protect all this disaster that you're hearing here, is the -- you know, the regulations that you already have in place. So it disturbs me that a plan -- you know, a neighborhood association has that much power to just take my property away from me, you know. I bought it, I want to build on it. You know, I do this every day. I've worked on much more difficult sites that are approved in the city every day. So that's what I want to say.

Potter: Thank you, sir. Is that it?

Moore: That's all.

Potter: Council wish to hear further information from the staff?

Leonard: Absolutely. I have a number of questions.

Adams: I'm confused.

Leonard: So I was hearing references to b-5, and I was hearing -- so I need to be guided a little bit about -- because I don't think we were as focused up here as some of the testifiers were to what the issues are.

Ames: And in trying to create a minimum lot size in an area that has substandard historical lots, it's an exercise that makes our code heads in the bureau very confused as well. So it's not surprising that you or anyone else needs that clarification. So we thought we would go through that first.

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Leonard: I don't know if that's helpful for me, maybe for the whole council. I have some specific questions about things that were said that are going to help me, but i'm going to leave it up to the rest of the council. I mean, i've heard a lot of explanations here that aren't helping me get to where I --

Ames: Ok. And we have some specific -- we have maps of some of the specific properties that were mentioned as well.

Leonard: The last two people that testified seemed to believe that if we adopt this plan that lots that they had purchased -- actually the last two people, and others that testified, they could not build on them. Is that accurate?

Feruersanger: I would say no, because there is a discussion of -- we did hear adopt the plan, and the neighbors are referring to the linnton proposed neighborhood plan. Then there's also the linnton hillside recommended plan, which I think is part of the confusion.

Leonard: So identify the difference between those documents for me.

Feruersanger: Yes.

Leonard: Exhibit b is the linnton hillside study.

Feruersanger: Correct.

Leonard: That's the recommended plan.

Feruersanger: That's the recommended plan.

Leonard: Ok.

Feruersanger: It contains code language, which is on page 69.

Leonard: Ok.

Feruersanger: And that's the source of these subsequent documents that have amended that plan.

Leonard: Got you. Ok. And this is the one that you're speaking from?

Feruersanger: Yes.

Leonard: The one the neighbors are talking about?

Feruersanger: There's a copy in the file, the proposed linnton neighborhood plan that the linnton neighborhood worked on, and from my reading of the plan, the main recommendation for the hillside is to reduce the comprehensive plan densities. It does not contain regulations that address the legal structure of the lots.

Leonard: So when we're getting testimony from people who are fearful that if we adopted a plan, it would cause them not to build on their lots, they were speaking to the neighborhood plan?

Feruersanger: I can't speak for those folks, but I think there may be concern, especially since -- you know, I don't blame them. We've amended our language twice already, but believe me when I tell you --

Leonard: Are you confused about it?

Feruersanger: Not the current --

Leonard: I'm hoping you say no.

Feruersanger: I said I had 2% confusion, but i'm confident that the language gets us to where we want to go, and specifically the linnton recommended plan as amended or with the recommended amendments, right, the intent of that, and I believe that that carries through in the language, is to maintain the buildable rights of lots that are stand alone, but don't meet those minimum lot standards. And this gets really confusing very quickly, because we now, in our code, have a tier of minimum lot sizes. If you're going to do a land division, in r-10, you have to meet the overall density of one unit per 10,000 square feet. You can have smaller lots, but have to have bigger lots. We do that so people can have flexibility in dealing with site conditions. It makes perfect sense.

Leonard: This does that.

Feruersanger: That's the land division code, and we're not changing that. In linnton, we have essentially a big land division that occurred over many, many years but wasn't built. So we're stuck with a legal structure, where people can buy and sell lots and under today's code perhaps they can

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build on them. We have, in our code, established building rights. And we do that because it's fair, because people created lots a while ago through our subdivision regulations, and we said, yeah, the services are ok here.

Leonard: What we're going to vote on, does it change that?

Feruersanger: No -- well --

Ames: We -- the amendments that you have in the substitute exhibit a are designed to preserve the building rights of lots that are currently buildable.

Leonard: Ok.

Ames: So that a situation where someone has a 65-square-foot lot that they -- 6500-square-foot lot intending to build on it, and don't any of the properties around them, that they would still be able to build that lot after these regulations are put in place. If someone owns more than 7,000 square feet in the r-7 zone, then they would need to meet that minimum lot area standard of 7,000 square feet, but if they own less than that, and that's all they owned when this code becomes effective, then we want to say, you can still build there. That's the situation of the woman who was sitting here, who mentioned that her lot is just under that minimum lot area standard.

Leonard: Ok.

Ames: And that's covered by the language that's on page three of substitute exhibit a.

Leonard: Ok. 33563220.

Ames: 220b.

Leonard: B, ok.

Ames: there are potentially some lots that are even smaller than would be allowed under our existing zoning code that have been standalone for -- since before 1979. The really small lots, if you're thinking small, medium and large, and there's currently a process where they can be buildable, and we're not taking that away either. And that's item c on page five.

Leonard: Of the --

Ames: Of the new substitute exhibit a.

Leonard: Ok. Lots or combination of lots?

Ames: Yeah. And the problem with the previous two iterations, the b-5, was that it was kind of trying to combine those two situations, and that created a problem, because we were saying that anything before the effective date wouldn't have any minimum lot size whereas some would.

Leonard: Again, just so I can understand what I was hearing, were the neighbors testifying, the people that live in existing houses, exemplified by the ones with the runoff problems in the 1909 house not then supportive of the linnton hillside recommended plan?

Feruersanger: Well, yeah, I think it's a measure of what their intentions were for the plan. And they may want to speak to this more, but I think that they believed when they were recommending reducing the comprehensive plan designations, but leaving the underlying zoning, that that zoning would really mean one unit per 10,000 in r-10 and --

Leonard: Ok.

Feruersanger: But they didn't understand or didn't realize that there was this other subset of regulations that allow existing lots to be developed.

Leonard: Ok.

Ames: And when they refer to not adopting b-5, I think the new language, that would mean not adopting subsections b and c.

Leonard: B and c in the handout.

Ames: In the handout.

Leonard: On page --

Ames: To say there should be a minimum lot standard for all lots regardless of whether they're buildable today, that the council should adopt something that would say that they're not buildable in the future.

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Leonard: I see, ok, ok.

Potter: This is the first time that the linnton community has seen this?

Ames: We shared a draft of this language without the commentary with kerrigan gray on monday. We did meet with the neighborhood association, on march 1, which is when we were trying to clarify the different positions, or different interpretations of the code, and that's when we found the loophole. So it's only been two weeks since that meeting that we've had to try to work through the code language. So this is the first time that many people -- or most people in this audience have seen this. So that's why we'd like to be able to allow for additional testimony to be received between now and your final decision.

Potter: How would you explain this to these folks in plain english?

Saltzman: Count me as one of those folks.

Sten: Start with us.

Potter: I'm saying it for myself, too. I'm trying to blame these folks for -- [laughter] please explain the exhibit a amendment in language that any person in this room would be able to understand. And if you can't, can you imagine how they must feel?

Feruersanger: Yeah. In my presentation, I tried to do this, and perhaps not very successfully, but the core of these development standards are not too address the individual ownerships of these lots. We felt that that was something that we couldn't touch.

Potter: Translate that into english what you just said.

Feruersanger: Those old lots that are -- they're owned individually. They're not part -- there are these ownerships that consist of many, many lots in the hillside, and that's essentially what the regulations are designed to do. They're designed to reduce the number of houses you can build on those bigger -- where there's multiples of 10,000, 10,000, 10,000.

Adams: So on those lots where there's one owner, one person owns one lot --

Feruersanger: And it's a substandard lot, substandard meaning it doesn't meet the minimum area requirements.

Adams: Just one owner and one lot, and it's substandard?

Feruersanger: Yes, generally speaking. And under today's code, it has buildable rights. Not to say, you have to go through thresholds when you apply for a building permit. You may not get approved because of inadequate services. You may have a condition put on you that you can't meet financially or even, you know, physically with the hillside, but we want to preserve that right, because it exists today.

Leonard: So adopting this plan does not change the rights that we've heard people testify to of lots they want to build on on the future?

Feruersanger: Correct. The standalone one that could today only have one house.

Leonard: Right.

*******:** I don't know if you can see the screen, but --

Leonard: I think we have -- I mean, we're looking for the simplest --

Ames: For those who own say five lots that are substandard, they might only be able to build three houses on it instead of five today.

Leonard: Understood, but the examples of the folks who say we built a lot to build our dream house on this, adoption of this proposal, along with this amendment, preserves the right for those individuals?

Feruersanger: Through those exceptions in the clauses b and c.

Adams: As long as it is truly one lot.

Leonard: Right.

Adams: Not three lots, right have.

Feruersanger: You could have three 50-square-foot lots and --

Adams: Ok, fair enough.

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Feruersanger: The lot pattern is pretty amazing up there. There's a --

Leonard: So what about the issue of the -- how does the plan deal with the concern of the runoff that causes the houses to be subject to impact from a landslide or to be part of a landslide? What does this plan do to assure the neighbors that that won't happen?

Feruersanger: Essentially it's pretty simple. It reduces the number of houses that potentially could be built there. So therefore reducing the amount of impervious surface.

Leonard: Ok. So it doesn't stop any more development, but it reduces the amount of property that can be developed under the current code -- or -- yes, reduces the amount of square feet --

Feruersanger: Reduces the number of units, but never to zero. Could reduce from 13 to two. From 10 to one. And there's a lot of -- there's a situation where there was a testifier who has a hard situation in where she's just shy of being allowed to develop two lots. And her potential density is reduced from three, as it exists today, to one.

Leonard: But always, if they own a lot, they have a right to build a house?

Feruersanger: Yes. That's what it's designed to do.

Leonard: Ok. Thank you.

Adams: But one house minimum.

Potter: Is this new information to folks from linnton? I'm wondering why we're having this hearing without having it come back out to the community, sounded like when they were testifying, they were testifying about one thing, and you were talking about another.

Feruersanger: I did not want to delay this. The community was very anxious to get this before you. In fact, they were asking for this hearing a lot earlier. We were on the same timeline as the village, and the village was complete, approved by the planning commission, but we held off and waited for the village to be complete, but when we saw that it was taking longer than we expected, we decided toking. You guys are tough to get a night meeting with.

Potter: It's actually those two guys over there.

Leonard: Yeah. Understood, but the mayor's point still makes sense to me, that I honestly -- I am not an expert at this stuff, but I can usually keep up with people are going, whether I agree or not. I was having a hard time keeping up, and I think the mayor's right on, that people are talking about one thing and we're doing something else, so --

Potter: I feel we got testimony on a completely different issue.

Leonard: Yeah.

Potter: So how do we correct this so that there -- you folks can have access to the information, it can be explained to you in language that you can understand, and that you can come back and then testify on what is before us tonight? Please come forward, sir.

Ross Folberg: My name is ross follberg again. I'm a linnton resident. I think that -- for one, I thought the meeting we had on march 1 was productive. I wish that would have occurred at an earlier stage than it did, two weeks before this hearing. So maybe more of that type of stuff. I mean, we are, as most of you aware, we're a fairly active community, and we do work very hard as this stuff. So -- and our intention is not to completely shut out people from -- from being able to build. What we don't want is that -- I mean, under the current plans, we feel that the infrastructure can be overbuilt beyond reasonable allowances, so we do feel there should be some -- there should be reductions in that. Historically we found that -- you know, that things tend to loosen up, not tighten up in general with exceptions and other clauses. We've been kind of going for a fairly tight thing, because, you know, we've yet to see a building permit denied in our area, we've yet --

Leonard: I'm sure you agree you don't want to unintentionally harm somebody by just not understanding what it is that we're discussing. So this doesn't make --

Folberg: Right. In fact, we're kind of feeling -- I mean, that was an issue. We've been discussing this issue -- you know, as soon as that plan came out we addressed that b-5. The result, on february 16, was an amendment to the plan, which actually made -- went the other direction, that allowed

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pretty much even a more free-for-all. We then met on march 1 and -- and quite frankly marguerite was corrected, in that she thought somehow the comprehensive plan still held and didn't realize, even though she wrote it, that the plan as written would override that. And so --

Adams: So the question I think --

Folberg: And then this was a result of --

Adams: The question posed by the mayor is a process one. I mean, do you -- this would naturally come back to council, what, in -- how long?

Linly Rees, Deputy City Attorney: Usually it would -- for a second reading would come back the second week, but on a legislative matter it can be continued as long as necessary.

Adams: Right. So the question is, do you want us to schedule -- do you want to us vote today -- we can't vote today. Do you want us to vote as-- owe how long do you need, how many weeks would you like, to have the discussions with the planning folks before coming -- before this comes back to us for a vote? That's really the question right now.

Folberg: I think for a minimum, I mean any -- I mean, obviously there's still some misunderstanding. I think at a minimum, any changes should have at least, you know, a couple of weeks for us to evaluate and to -- maybe even meet and talk over it. Like I said, I felt the march 1 with everyone was productive.

Adams: Would you like to comment on this? Pat's the president. Maybe she should --

Leonard: I don't think two weeks is enough.

Potter: 30 days sufficient?

Folberg: 30 days as long in the next couple of weeks we could arrange a similar meeting to the march 1 meeting, so there was at least several weeks in between.

Leonard: Make sure you have all, not just the people living there, but people that own the property there that have the issues that we heard tonight.

Folberg: We've always really tried to make every communication we have open and upfront to all. And -- yeah, I mean, I would like to see -- like I said, at least, if you're going to do 30 days, then at least in the next two weeks, I would like to see a meeting similar to march 1 with the same representatives of the city involved.

Adams: Thank you.

Potter: Does that meet your needs? There's a man with his hand up.

Kerrigan Gray: I'm a chairman of the land use committee and I would think 30 days would be reasonable. I'd also like a document talked about earlier with all the lots of historic pattern that points out the densities. I really strongly encourage you all to read it yourselves and not just have staff read it, because -- [inaudible]

Potter: Pat?

Pat Wagner: -- get together with us before we schedule, so we have time to ask questions.

Ames: Absolutely. And that hasn't been a problem. We've offered to meet with the neighborhood on several occasions since the planning commission recommendation was originally made. So that's not a problem.

Potter: Ok. One more.

Leonard: Are you going to give us more homework?

Gray: I want to reiterate in our testimony, one of the things we did say, was to address these individuals' concerns, that where the infrastructure is currently in place, and the sewer's there, and the water's there, the access is there, we don't have any problems. [inaudible]

Potter: Ok, we're not here to this conversation.

Leonard: See, these discussions are what you need to have together and come back with a unified plan. That's why you have the confusion here that we do, because this is not helpful. [inaudible]

Leonard: Ok, but you had 30 days to have a good workable plan.

*****: Thank you. [inaudible]

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Leonard: Contact the staff up here and they'll make sure you know.

Potter: Yes. Anybody who wishes to attend that meeting, could you folks give them a phone number and planning to contact so that they could do that?

Ames: And we will also get the sign-in from Karla so we have contact information.

*******:** And we'd happy to post it on the linnton website.

Potter: Folks, let's have one person at a time talking.

Sten: I guess, mayor, I think what I would request, is if anybody has got an individual lot, that they leave your name and address, if you'd like somebody from planning just to contact you and just make sure what the reality is on each lot, because, I mean, I think that -- I think commissioner Leonard did a terrific job of trying to explain, but there's enough complication here that I think for a large number of people, that your concern may not be a problem, and it could probably be resolved easier by just a quick consultation for planning. For those that do have a situation that is objectionable to them, I think -- I don't think -- my hunch is realistically that this community is not going to reach a consensus among everybody in this room at a meeting. That's what this council's job is to do, to resolve that, but at this point I can't get to which ones are real -- that the -- which ones are real that the property owner objects to and which --

Potter: If they had all the information, it would be better.

Sten: I'm just saying I don't think that's going to happen in a big meeting than it is tonight. I think we need to do a little bit of work with anybody that wants to make sure that their perception is right.

Potter: Yes, I would agree with that, commissioner.

Adams: So what date does that put us at, Karla?

Moore: We could do -- is april 13 too soon? It would be april 13 or april 20.

Leonard: I prefer april 20.

Potter: Do we have budget meetings during that time also?

Moore: I don't think any scheduled right now. I think the 20th would be a better date at 3:00, time certain.

*******:** Could we do an evening meeting?

Moore: The evening meeting is already taken next month.

Leonard: When's the next evening meeting?

Moore: June.

Potter: Well, that's too late. And I think -- I would volunteer to have an extra night meeting.

Leonard: Yeah, as long as it's after the 20th.

Potter: Would that be ok, so we can get to this issue?

Leonard: If it's the 20th or after.

Sten: That's fine with me. Those who run the ballot, are booked almost every night.

Potter: That's true, that's true.

Sten: That's two of us. Like on the 20th, for example, i'm just looking at my schedule, i'm at a debate in northwest where this might come up.

Saltzman: I guess i'm there, too.

Potter: Maybe we could hold the meeting there. No, I understand that, commissioner. So are you suggesting to --

Sten: I don't know. I'm just saying, it would take work to find a date, I think.

Potter: Ok. Our commitment is trying to work with you --

*******:** We appreciate that. We appreciate you trying to accommodate us.

Leonard: Notwithstanding some of commissioner Sten's valid concerns, speaking for myself, i'm going to be much more impressed if you have a consensus than if I have to make a choice.

*******:** Right, we understand.

Leonard: Ok.

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*******:** But as you can see, you were trying to get clear answers, and you can see it's not always an easy thing to get all this squared away.

Leonard: Better to walk in here with 100% asurety than --

Folberg: Just informed of this today, so --

Leonard: Understood.

*******:** Mayor, if we don't walk out with a -- I know it comes out of nowhere.

Potter: Oh, over there. [laughter]

Adams: The voice of god.

*******:** Always feels like the "wizard of oz." if we don't have a date and time certain that we determine today, then we'll have the expensive new notices being sent out. That's why we usually try to do it at this hearing. I realize that may not be possible, but thought I would throw that out.

Saltzman: Is the 20th at 3:00 unreasonable for anybody?

*******:** What day of the week is that?

Moore: That is a thursday.

Adams: Given the fact we have candidates, I would think you'd want the full council there. If you can make it at 3:00, i'd encourage you to do that.

Leonard: That works for me.

Potter: Sorry to impose those conditions, but it's also budget season and it's just a very busy time for everybody. So we apologize for that. What is the date? April 20th?

Moore: 20th at 3:00.

*******:** 3:00 p.m.

*******:** And the staff will work with us to -- and all the involved parties -- to try to arrange a meeting as soon as possible?

Potter: Yes, they will.

Adams: If staff could -- i'm sorry.

Potter: We want to give out the phone number that people can call. If anybody's got any questions about any dates or information, whatever, you'll have the number.

Folberg: We'll be posting that information as soon as we can to our website.

Adams: And if staff could make an effort at the lots that don't have residences on them to do some outreach, just do your best effort for notification, I think that would be great. Otherwise, I don't want to land back here on the 20th sort of having to start all over again.

*******:** Uh-huh.

Potter: Anything from planning that we left out? Joe, did you want to add anything? You kind of slipped up in the front there. I didn't know if you wanted to say something. Please come forward. Do we need for you a decision, joe?

*******:** No, no, no.

Adams: He has to catch a bus.

Joe Zehnder, Bureau of Planning: Yeah. I just wanted to point out that we're going to do this counsel station. There's still two divided positions about whether or not you develop small lots, and we've been bringing people along.

Potter: Ok.

Ames: So we might come back with the recommendation, as well as a neighborhood recommendation.

Leonard: That's fine.

*******:** Make sure that they're clear.

Leonard: That's my encouragement, my gentle nudge, for people -- and lawyers know this real well, because they always want to settle before they go before a judge, because they don't want to take a chance. That's sometimes good, to try to come to a consensus.

Potter: Ok. That's it.

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Ames: Thank you.

Potter: We're adjourned. [gavel pounded]

At 7:30 p.m., Council adjourned.