



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **14<sup>TH</sup> DAY OF JANUARY, 2015** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz, Novick and Saltzman, 5.

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

Item Nos. 68 and 69 were pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

<b>COMMUNICATIONS</b>		<b>Disposition:</b>
<b>48</b>	Request of Barry Joe Stull to address Council regarding ganja (Communication)	<b>PLACED ON FILE</b>
<b>49</b>	Request of Elizabeth Anne McDonnell to address Council regarding minimum wage (Communication)	<b>PLACED ON FILE</b>
<b>50</b>	Request of Charles Johnson to address Council regarding Yes on 92, Starbucks, new Chief of Police, the 99% and Health Care (Communication)	<b>PLACED ON FILE</b>
<b>51</b>	Request of Randy Henry aka Taz to address Council regarding Right 2 Dream Too rest areas (Communication)	<b>PLACED ON FILE</b>
<b>52</b>	Request of Nathaniel M. Williams to address Council regarding Americans with Disabilities Act complaint with county building (Communication)	<b>PLACED ON FILE</b>
<b>TIMES CERTAIN</b>		

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53	<p><b>TIME CERTAIN: 9:30 AM</b> – Accept report from Portland Public School District on Disproportionate Discipline (Report introduced by Mayor Hales) 45 minutes requested</p> <p><b>Motion to accept the report:</b> Moved by Fish and seconded by Saltzman. (Y-5)</p>	<b>ACCEPTED</b>
54	<p><b>TIME CERTAIN: 10:30 AM</b> – Amend accessory short-term rentals regulations to allow multi-dwelling structures, multi-dwelling development, triplexes, attached duplexes, manufactured dwellings and houseboats; establish fee for accessory short-term rental permits in multi-dwelling structures (Second Reading Agenda 1333; Ordinance introduced by Mayor Hales; amend Title 33)</p> <p>15 minutes requested for items 54 and 55 (Y-4; N-1 Fish)</p>	<b>186976</b> AS AMENDED
55	<p>Amend Transient Lodgings Tax to add definitions and clarify duties for operators for short-term rental locations (Second Reading 1334; Ordinance introduced by Mayor Hales; amend Code Chapter 6.04)</p> <p><b>Motion to amend proposed Code 6.04.040(C) to delete “but not limited to” regarding contact information:</b> Moved by Fish and seconded by Fritz. (Y-5)</p>	<b>PASSED TO SECOND READING AS AMENDED JANUARY 21, 2015 AT 9:30 AM</b>
<b>CONSENT AGENDA – NO DISCUSSION</b>		
<b>Mayor Charlie Hales</b>		
56	<p>Appoint and reappoint members to the Arts Oversight Committee for terms to expire December 19, 2016 (Report) (Y-5)</p>	<b>CONFIRMED</b>
57	<p>Reappoint Gary Holcomb to the Business License Appeals Board for a term to expire December 31, 2016 (Report) (Y-5)</p>	<b>CONFIRMED</b>
<b>Bureau of Planning &amp; Sustainability</b>		
*58	<p>Adopt a Waste Reduction Plan and accept and authorize an Intergovernmental Agreement with Metro to receive Metro Waste Reduction Challenge Funds of \$275,975 and \$320,140 for the Recycle at Work Program in FY 14-15 (Ordinance) (Y-5)</p>	<b>186968</b>
<b>Office of Management and Finance</b>		
*59	<p>Pay claim of Cricket Debt Counseling in the sum of \$6,200 involving the Bureau of Transportation (Ordinance) (Y-5)</p>	<b>186969</b>
*60	<p>Pay claim of Design Space Modular Buildings in the sum of \$14,278 involving the Bureau of Transportation (Ordinance) (Y-5)</p>	<b>186970</b>
*61	<p>Pay claim of Portland General Electric in the sum of \$7,435 involving Portland Bureau of Transportation (Ordinance) (Y-5)</p>	<b>186971</b>

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<b>*62</b>	Authorize a contract with Applexus Technologies, LLC for SAP module implementation assistance services in an amount not to exceed \$386,100 (Ordinance) (Y-5)	<b>186972</b>
<b>*63</b>	Authorize a contract with ROC Americas, Inc. for implementation of existing SAP Human Capital Management functionality in an amount not to exceed \$361,000 (Ordinance) (Y-5)	<b>186973</b>
<b>Commissioner Nick Fish</b> <b>Position No. 2</b> <b>Bureau of Environmental Services</b>		
<b>64</b>	Authorize a contract with DHI Water and Environmental, Inc. for on-call stormwater system technical support for a not to exceed amount of \$410,000 over three years (Ordinance)	<b>PASSED TO SECOND READING JANUARY 21, 2015 AT 9:30 AM</b>
<b>65</b>	Authorize the Bureau of Environmental Services to acquire certain easements and other real property interests necessary for construction and long term operation/maintenance of the Bybee/Glenwood Culvert Replacement Project No. E10480 through the exercise of the City's Eminent Domain Authority (Ordinance)	<b>PASSED TO SECOND READING JANUARY 21, 2015 AT 9:30 AM</b>
<b>66</b>	Authorize an Intergovernmental Agreement with Portland Public Schools for installation of stormwater improvements at Laurelhurst School to protect nearby residences from basement sewer backups (Second Reading Agenda 23) (Y-5)	<b>186974</b>
<b>Commissioner Dan Saltzman</b> <b>Position No. 3</b> <b>Portland Fire &amp; Rescue</b>		
<b>67</b>	Ratify a Letter of Agreement between the City on behalf of Portland Fire & Rescue and the Portland Firefighters' Association Local 43 that expands the Alternative Destination and Transportation Pilot Program (Second Reading Agenda 26) (Y-5)	<b>186975</b>
<b>Portland Housing Bureau</b>		
<b>68</b>	Approve and terminate limited tax exemptions for properties under the Homebuyer Opportunity and Multiple-Unit Limited Tax Exemption Programs (Resolution) (Y-5)	<b>37104</b>
<b>Commissioner Steve Novick</b> <b>Position No. 4</b> <b>Bureau of Transportation</b>		

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<p>69 Amend contract with Innovative Growth Solutions, LLC in the amount of \$35,000 for additional Transportation Finance and Economic Analysis for the Portland Street Fund and authorize payment (Ordinance; amend Contract No. 30004131)</p>	<p><b>PASSED TO SECOND READING JANUARY 21, 2015 AT 9:30 AM</b></p>
<p style="text-align: center;"><b>REGULAR AGENDA</b></p>	
<p style="text-align: center;"><b>Mayor Charlie Hales</b></p>	
<p style="text-align: center;"><b>Office of Management and Finance</b></p>	
<p>70 Accept bid of Stettler Supply Company dba Stettler Supply &amp; Construction for the Well Sites Improvement Project for \$640,945 (Procurement Report - Bid No. 117396) <b>Motion to accept the report:</b> Moved by Fish and seconded by Fritz. (Y-5)</p>	<p><b>ACCEPTED PREPARE CONTRACT</b></p>
<p>*71 Approve Innovation Funding for twelve proposals for FY 2014-15 (Ordinance) 30 minutes requested (Y-5)</p>	<p><b>186977</b></p>
<p>*72 Pay claim of James Waters in the sum of \$47,500 involving the Portland Police Bureau (Ordinance) 15 minutes requested (Y-4; Novick absent)</p>	<p><b>186978</b></p>
<p style="text-align: center;"><b>Commissioner Amanda Fritz</b> <b>Position No. 1</b></p>	
<p style="text-align: center;"><b>Portland Parks &amp; Recreation</b></p>	
<p>*73 Authorize contracts as required with seven firms for Construction Management and Roof &amp; Building Envelope Investigation and Design services in support of Portland Parks &amp; Recreation projects (Ordinance) (Y-5)</p>	<p><b>186979</b></p>
<p style="text-align: center;"><b>Commissioner Nick Fish</b> <b>Position No. 2</b></p>	
<p style="text-align: center;"><b>Water Bureau</b></p>	
<p>74 Authorize a contract and provide payment for the construction of the Tabor Adjustments Project at an estimated cost of \$4,800,000 (Ordinance)</p>	<p><b>PASSED TO SECOND READING JANUARY 21, 2015 AT 9:30 AM</b></p>

At 12:55 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **14<sup>TH</sup> DAY OF JANUARY, 2015** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz, Novick and Saltzman, 5. Commissioner Saltzman left at 3:42 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ben Walters, Chief Deputy City Attorney; and Greg Seamster, Sergeant at Arms.

The meeting recessed at 3:42 p.m. and reconvened at 4:15 p.m.

<p><b>75</b>      <b>TIME CERTAIN: 2:00 PM</b> – Appeal of David Vanadia against the noise variance granted to Andersen Construction for the Unico Overton Apartment project located at the block bounded by NW 12<sup>th</sup> Ave, NW Overton St, NW 13<sup>th</sup> Ave and NW Pettygrove St (Previous Agenda 1127; Hearing introduced by Auditor Hull Caballero) 30 minutes requested</p>	<p><b>Disposition:</b></p> <p><b>CONTINUED TO FEBRUARY 19, 2015 AT 2:00 PM TIME CERTAIN</b></p>
<p><b>76</b>      <b>TIME CERTAIN: 2:30 PM</b> – Accept report on Crowd Control and the Portland Police: A Policy Review Conducted by the Crowd Control Workgroup of the Citizen Review Committee (Report introduced by Auditor Hull Caballero) 1 hour requested <b>Motion to accept report:</b> Moved by Fritz and seconded by Novick. (Y-4; Saltzman absent)</p>	<p><b>ACCEPTED</b></p>

At 5:16 p.m., Council adjourned.

**MARY HULL CABALLERO**  
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 and should not be considered a verbatim transcript.

Key: \*\*\*\*\* means unidentified speaker.

**JANUARY 14, 2015**

**9:30 AM**

**Hales:** Good morning, everyone. Welcome to the January 14th meeting of the Portland City Council. Would you please call the roll, Karla?

**Fritz:** Here. **Fish:** Here. **Saltzman:** Here. **Novick:** Here. **Hales:** Here.

**Hales:** Before we begin our Council calendar, I think it's appropriate that we take a moment. There have been really tragic losses around the world in the last week in both France and Nigeria. A huge loss of life and of liberty, and I think that it needs to be noted with reverence and attention to our fellow citizens of the world.

We also have had a tragic loss here in our City family this week. We lost Annette Palmer, one of our OMF employees who died suddenly while at work at the Portland Building. She started with the City as an office support specialist in the Bureau of Purchases in 1998. She was promoted to be a compliance specialist in 2001, and worked to ensure that our contractors comply with City policy around minority and women contracting in our workforce initiatives. She has many friends within the City and is known for being a subject matter expert and providing excellent customer service. She is survived by her husband, Robin; three children, Derrick, Alyssa, and T.J. We want to honor her for her service and commitment at our City.

Christine Moody and her family from the bureau is here. I think it's appropriate that for Annette and for these other tragic losses that we take a moment of silence, please. [moment of silence] Thank you very much. Good morning. And Christine, please pass along to Robin and all of your teammates in purchases our condolences for the loss of a good friend and a good colleague. Thank you.

OK, we have some communications items up front. We'll take those first, and then we have time certain and the rest of the Council calendar. As usual, if you are here to speak on a Council calendar item, we typically allow three minutes unless it's a prearranged presentation. If you're here in support or opposition of an idea, and you hear the opposite viewpoint, please give them the respect that they deserve. So, we ask that we not have vocal demonstrations in the Council, but feel free to give a nonverbal signal if you agree with someone. If you are a lobbyist and representing an organization, please disclose that because the code requires that you do. With that, we will take the first of the communications items.

**Item 48.**

**Hales:** Mr. Stull, come on up.

**Barry Joe Stull:** Good morning. My name is Barry Joe Stull. In about 1980, my friend Dan Haley and I were messing around down at Waterfront Park with our instruments. We wrote a song named Ganja. Dan and I both learned as musicians it doesn't hurt to be in the food service industry. We ended up working at a place up here at 10th and Salmon in 1978, and we found out that we were both musicians and did some song writing.

Once, I was visiting his house, and I saw a flyer for an event at Reed College in April of 1982. It was a conference on cannabis. They were kind of the house band for that event. I went there and got engaged in their initiative petition process to legalize cannabis. Ken Kesey, you might recall -- one of our Oregon authors -- spoke on industrial hemp in

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April of 1982. My friend, Todd [indistinguishable] who -- I stayed at his house since -- but first saw him give a presentation as a Reedy as a doctor who knew the value of cannabis therapeutics historically. I learned that more formally there in April of 1982.

I worked in 1984. A signature I gathered -- totally legitimate -- was counted invalid by Multnomah County Elections. I kind of took that personally, I took that as a front to our democracy. So, I made my first trip to the Library of Congress in 1985. By 1990, I had provided that research material to a number of publications, and it kind of circled the globe. And so here, we're coming in to legalize cannabis in Oregon. I'm a little miffed my Library of Congress research was destroyed by my nonprofit affordable housing landlord -- your partner, Commissioner Saltzman -- hauled to the dump, along with my registered medical marijuana garden.

It wasn't some quack doctor off the back page of Willamette Week. Dr. Robert Grimm, my neurologist, said medical marijuana was my best treatment option. And I've been telling you for years, that five-plex has been vacant. The affordable housing nonprofit landlord has been keeping the apartment that they destroyed my research illegally, and you are partnering with them, Mayor. How am I supposed to feel good about this? Well, I know that we can all go on the internet and type in Barry Joe Stull and Ganja and hear that song.

**Hales:** Thank you. Next, please.

**Item 49.**

**Hales:** Good morning.

**Elizabeth Anne McDonnell:** Good morning. My name is Anne McDonnell. I have been living in Portland for almost 10 years now, and I would like to speak with you a little bit about my experience as a low wage worker, because I think my experience is kind of common among my peer group.

I work at the Oregon Zoo. I've been there for eight years, and I'm still classified as a temporary worker. It started off as my college job. The temporary status wasn't a big issue when I was going to school, and the hours cap wasn't a big issue at the time. And even four years ago, they put us on a pay freeze, and that wasn't a huge problem because I was getting financial aid and going to school. I was like, when I graduate I'll get a better job.

Then I graduated, and it really opened up my eyes. I should have known better looking at the people around me and seeing that these other low-wage workers are adults who are paying rent, who have children oftentimes, who are paying student loans. I have a lot of friends who are low-wage worker friends, and hours is a huge issue, and availability of work, working multiple jobs. I live with a house full of adults who all have jobs and are trying to afford rent, and I know a lot of people who are in the exact same situation. There's not a lot of jobs to be had.

And as much as hours is an issue, I can find another part-time temporary seasonal job. Wages are a number one issue. This city really led the way in earned sick days. So, I'm a newly organized worker with Laborers 483, and this year for Zoo Lights, we got earned sick days and holiday pay and other things that we hadn't gotten in the past because of the union. And it's made things a lot better.

But when it comes down to it -- the earned sick days are fabulous and crucial, especially in the food service industry -- but when you can't afford rent basically from month to month, when, you know, it doesn't really matter how many hours you work -- I say it's feast or famine at the Zoo. And I talk about the Zoo because I think of it as a microcosm. Even when you're getting enough hours, it's still struggling to get by.

I want to appreciate all of you agreeing to the city hearing next month to talk about low wages. It's really an important issue, and I'm a big supporter of the number 15. I'm

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making under that now, and it's impossible. [beeping] So, yes, \$15 minimum wage would really help to lift a lot of people out of poverty. That's basically all I have to say.

**Hales:** Thank you.

**Fish:** Anne, quick question. So, your employer is Metro, right?

**McDonnell:** Correct.

**Fish:** And thank you for framing the issue. We are going to be taking it up, and we are going to be making some progress this year. I'm just curious -- we had some out of state friends and took them to Zoo Lights in the rain, actually. What was your role?

**McDonnell:** Most of my time at the Zoo, I've been working in food, but this last season I helped put up Zoo Lights, working on that crew. And during the Zoo Lights, I worked in the restaurants. Now that the event is over, I am back with the crew doing teardown. I'm going straight there after this.

**Fish:** Thanks for your good work, it was an amazing event.

**McDonnell:** Thank you. We are very, very proud of the Zoo and I love working there. The people there just really have a lot of pride. We want it to look good, we want our visitors to have a great experience, and it's kind of the same way -- I drive out of 26 on my way home and I look at the city, and I just love it. I never get tired of the view.

I love Portland because it's progressive, because I feel our leaders try to do a good job of serving our interests. And I know, Ms. Fritz, you came to the zoo before last summer, and we met for a bit. And your support of Parks workers is exemplary. And I know those guys are glad to have such a strong supporter in you. I can tell you that when we got the new contract with Metro, we did get a handful of permanent positions. Most of those positions did not go to Zoo workers who had been there for a long time, a lot of them went to people brought on new. And the rest of us who are union do have a lot of the benefits that come with organized labor are still struggling, struggling, even when we do get enough hours, just having a bit extra to put aside for when the hours are slow makes a huge difference. Thank you.

**Hales:** I appreciate you being here today, thanks for your advocacy. Thanks.

**Item 50.**

**Hales:** Good morning.

**Charles Johnson:** Good morning, Commissioners. As was noted for the record, my name is Charles Johnson. And I guess before we get to those topics that were just read, I do want to thank you, Mayor, and all of you who talked before so that we did not just say "je suis Charlie" but also remembered that 2000 Nigerians have been killed recently, and that didn't catch much of the mainstream media, so I'm glad it was mentioned here at Council.

And additional things -- usually we talk about what's not going right, but Saturday, the mayor went to Bethel AME Church and was receptive to a lot of words from the community about how we can improve policing or perhaps even just reduce the policing in Portland. I was glad that the mayor invested that time and that Daryl Turner, chairman of the Portland Police Association, also went and listened to a number of people express their ideas of how we can have a more just police department.

On the way in, I was talking to the representatives of a huge major media like the Portland Mercury, and we talk about the fact we are going to be settling a \$47,000 police claim, and that the mayor is taking an open records policy of not putting those items on the consent agenda. Because when we make mistakes, it's best to shed maximum light on them so that we can learn from those mistakes and improve the quality of our police. So, thank you for those things.

About six weeks ago, when I filled out the paperwork so that I could speak today, I was and still am concerned that the residents in our city need to look into whether our



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beloved not quite so local economic engine Starbucks is using profits from their beverages and snacks that we pay for to encourage Monsanto to sue the people of Vermont.

In Portland, we're kind of familiar with the situation of people being sued by various entities. The United States of America is suing the City of Portland. We're appealing a small part of that decision, that consent decree. But people need to know that with just the difference of some 800 votes statewide, and particularly here in Portland, people really wanted to have labeling on GMOs, or at least that's how they voted.

If they really want labelling on GMOs, they need to find out what Starbucks is doing to assist Monsanto in suing the people of Vermont for labeling GMOs. Sometimes, people aren't happy with the actions you up there on City Council take, and I think sometimes you're justified in doing whatever you want because we the people send you mixed messages.

So, I am really saying this mostly to encourage the people sitting behind me and listening on television that when you think an issue is important, if it happens to be the labeling of GMOs, and your actions are not consistent on that issue, we can't really complain about how the public policy-holders are working.

I think recently you all had the federal legislative agenda meeting last week, and of course, not very many of us have hope for the federal activity given the new Congress. But I do want to encourage you to focus more on the state legislative agenda -- and we've already heard about the \$15 minimum wage issue -- and also, improving healthcare. I hope that all of you will have candid conversations among yourselves, even though we want to see -- we never want to see the people at Moda become unemployed. We really do want an equitable health system. So, I hope that you will keep that in mind and look for ways to make that happen. Thank you.

**Hales:** Thanks very much.

**Item 51.**

**Hales:** Mr. Henry, are you here? It does not look like it. Let's go on to 52, then, please.

**Item 52.**

**Hales:** Mr. Williams? It looks like he's not here, either. Let's move onto consent calendar, I believe we've got requests to pull two items, numbers 68 and 69. Any other requests to take items off consent for the regular calendar? If not, let's take a vote on the balance of the consent calendar.

**Roll on consent agenda.**

**Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Novick:** Aye. **Hales:** Aye.

**Hales:** Thank you. OK, time certain item 53.

**Moore-Love:** Will we be taking the pulls at the end of the regular agenda?

**Hales:** Yes.

**Fritz:** At the end of the regular or after the time certains?

**Hales:** After the time certains.

**Item 53.**

**Hales:** Thank you. Let me call up our honored guests to make this presentation, and with just a brief explanation, why should the Portland City Council have a public hearing on disproportionate discipline in the public schools and a strategy to deal with it? And I would have three answers to that question.

One, the City Charter actually has a wonderful provision in it that says that the mayor and Council should exercise a general supervision of all the affairs of the city. Which means that we should pay attention to what's happening in the community, even if it's not our direct governmental responsibility -- and we do, as a City, do that. And this is one of those instances.

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Secondly, this City Council and our predecessors have really focused on equity, and that's why we have an Office of Equity and Human Rights, that's why we put a lot of attention into equity as a community. And this is an equity issue that we need to pay close attention to.

Then additionally, this particular issue is one that the school district has a very aggressive plan to address. I was so impressed by the presentation that I asked them to essentially replicate here for us this morning when Lorenzo made it to our Community Peace Collaborative -- formally known as the Gang Violence Task Force -- a couple of weeks ago. So, I appreciate your willingness, Superintendent and Lorenzo, to come here today and make this presentation.

Finally, by happenstance, some of us were in a conference on Friday called the What Works conference. It's a conference about the criminal justice system that the local public safety coordinating committee puts on. I heard an amazing presentation from a Dr. Robert Anda, the chief author of the ACES study, the Adverse Childhood Experiences Study. Commissioner Novick and I were both there, and we heard this presentation. An hour of this man's presentation was just enough to whet my appetite, because that study demonstrates to me scientifically and unassailably that there is an iron-clad connection between what happens to young people at an early age and the likelihood that they will have difficulties later on, including showing up in our criminal justice system, which men of color to particularly disproportionately.

So, we're in the public safety business. If we want to get upstream, we ought to think about these issues. And fortunately, we have some school district leadership that are thinking about them and preparing to act decisively. So, I wanted to give them the opportunity to put that situation and their strategy before us, and hopefully, for us to be an effective ally for their work. So, Superintendent Smith, Lorenzo Poe, and anyone else from your team, a big welcome and really glad that you could be here this morning. Good morning.

**Carole Smith:** Good morning. Carole Smith, Superintendent. Mayor Hales and Commission, we're really pleased to be able to come and do this report, and appreciate deeply the partnership with the City in the work that we're doing.

As you know, equity has been a primary focus and driver for Portland Public Schools. In 2010, our board passed an equity policy, which is really has been our guiding framework. And then this fall, we set three priorities, which are anchored in that framework.

The first is we want every single one of our third graders reading at grade level by the time they leave third grade, believing that that changes the experience for them for the rest of the time that they are in Portland Public Schools, and that our best shot at closing the achievement gap is doing it early.

Second was around exclusionary discipline. Our goal -- we set an aggressive target over the next two years to cut our exclusionary discipline by 50%. So, that's suspensions and expulsions/ 50% overall, and then again 50% the disproportionality of students of color being excluded from school.

And our third goal is to accelerate our graduation and completion rates, both four and five-year. Since 2007, we have increased our graduation rate by 14 percentage points, getting us to 67%. It's still not high enough, although that's an incredible increase in that time period. The comparable statistic for the state in that same period is 2%. So, we're looking at accelerating the strategies that we know work that graduate kids on time.

The only other context that I want to provide to you is that we've got a strategic plan that looks at the strategies for all of our students; an equity plan that really targets the students of color and trying to really do very personalized strategies that meet their needs; and now as of last June, we signed on to males of color pledge with the Council of the

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Great City Schools as part of Barack Obama's My Brother's Keeper. It's very compatible with the Black male success initiative that the City is doing, and part of what our effort is here. It's with the 67 other large urban school districts in the country. We went and stood with Obama as he rolled out the My Brother's Keeper, and it's really asking all of us to look very personally at what strategies worked for our males of color, because the gap there is even more significant.

So, that's the context I want to provide you. I just want to say the other appreciation for the black male success initiative or Black Male Achievement initiative and also for your partnership on coaching boys to men. We were just at a PIL basketball showcase on Saturday, and took something that you guys are helping us support and take something that's been a successful program at Franklin with our male athletes, and taking it system-wide, and you guys are really the primary support in helping us to provide that training. Those kinds of things are very specific and personal strategies matter. So, thank you for your partnership. With that, Lorenzo Poe.

**Lorenzo Poe:** Let me turn it over to Sarah Singer, because one of the things -- we want to set the frame and let you see the data points which drives our strategies and also has driven the superintendent to identify -- particularly in exclusionary discipline -- the reason that becomes such a high strategy level for us. So, let me turn it over to Sarah to walk you through the data, and I will come back and talk about some of the key strategic efforts to address the issue.

**Sarah Singer:** Great. Thanks, Lorenzo. Again, my name is Sarah Singer, and I'm the senior director of our system, planning, and performance unit, which among other things includes all things related to data at PPS. Before I start presenting on the data, one thing that I want to make sure is that we're operating under the same understanding of what exclusionary discipline means.

In this context, when I talk about exclusionary discipline, I'm talking about students who have either been expelled or students who've been suspended. In most of these slides, it will be students who have experienced an out of school suspension, meaning that they have been asked to leave the school building for a finite period of time.

There's many reasons to care about our discipline rates and our disproportionately. One of the most critical reasons is that it directly correlates with our graduation rate. What we know is that students who have never been excluded at PPS have a 68% graduation rate of a four-year graduation rate. But students who have been excluded at least once? Their graduation rate drops to 43%. Students who have been excluded between two to five times, their graduation rate drops to 34%. And finally, students who have been excluded between five and 10 times, their graduation rate drops to 20%.

We've been tracking our exclusionary discipline for a number of years, and if we were to look at sort of where we were as a district in 2007 and '08, approximately 7% of our students experienced at least one exclusion. Last year, 3.3% of our students experienced one exclusion. So, we are trending in the right direction over time.

However, when we look at our African American, our Black population, in 2007, it was about 18% of our students experiencing at least one exclusion. Last year, we were at 10.25%. So again, we're making -- fewer of our African Americans are getting excluded. However, if you look at the green line, when you look at our white population, in particular, you'll see that last year, 2.3% of our white population experienced an exclusionary incident. You compare that to our Black population at 10.5%. What you are looking at is our Black population experiencing exclusion in comparison to our whites at about five times the rate. Nationally, we see it around two or three times, so there is an issue here in Portland.

**Fritz:** Are you tracking other minorities?

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**Singer:** Yes. In this slide, I just put the Black population. But this next slide -- wire looking at other groups, as well. And we see disparities in other racial ethnic groups. The Native population is our second most excluded group. Our Black population is our first. You can see in this slide how disparities break out by racial ethnic groups.

One thing I want to comment on this slide is that in this one, I've included in-school suspension. So, in-school suspensions as well as out of school suspension. In-school suspensions are where a student has an incident, a violation, they're not sent home but they're taken away from the classroom and still in the school building. It's just another way to define exclusion.

And here's what I'm going to tell you: there's a lot of different ways to measure exclusionary discipline. You can look at days missed. You can look at incidents. You can look at percent of students excluded. You can include in-school suspensions or not. Regardless of how you cut the data, you're going to see our Black population followed by our Native population who experience the greatest percentage -- who experience the greatest amount of discipline in our system, regardless of how you cut that data.

**Fritz:** Do you track it based on African immigrants versus African Americans?

**Singer:** We did do a study this year on that, and what we saw was our African immigrants have a disproportionate amount of exclusion -- they experience a disproportionate amount of incidents in comparison to whites, but our African Americans experience the most.

We also desegregate the data by gender and race. What we see is our Black males followed by our Native males followed by our Black females experiencing the most amount of exclusion. And there is definitely a gender component. You can see after our Black females, it's a host of males of color who then experienced the next most. And if you keep going here, you will see our white females and our Asian females experience the least.

What I will also tell you is we've done this type of analysis for three straight years, and it's interesting because for three straight years, Black males are on top, followed by Native males, followed by Black females. In that order for three straight years.

This data was something that All Hands Raised, the eliminating disparities collaborative produced. They looked at the number of incidents for what's called disruptive behavior for 100 students. How disruptive behavior is defined, is things like violation of school rules, insubordination, disorderly conduct. You might say that those are sort of more subjective offenses. They tend to be more up to the interpretation of the adult. So, that's what is meant in this case. That's what they included in disruptive behavior.

This is a slide that compares PPS to other districts in Multnomah County. There's a couple of interesting items to note in here. One is that you're going to see quite a spike in exclusionary incidents when you get to middle school. And that follows the national trends. You're also going to see that PPS is not alone in this challenge, that there are other districts in Multnomah County who are experiencing similar challenges. PPS is sort of excluding students at similar rates in middle school, a little lower in high school, a little higher in elementary for this type of offense.

**Fritz:** Parkrose has zero in elementary schools.

**Singer:** Yeah, that was the data that was provided to us, and we need to go back and look at that.

**Fritz:** It will be interesting to know if they have a policy about discipline and the elementary schools.

**Singer:** Yes.

**Fritz:** That's an encouraging step right there, to have zero.

**Singer:** The other thing that we know is that disproportionate exclusion by race is presents for our four to eight-year-old student population. So, this begins at pre-K through third grade. And we know that our -- we see that disproportionate discipline beginning very

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young, with our Black students experiencing 5% -- 5% of them experiencing an exclusionary incident in comparison to 2% of our white students. We have a similar pattern with the Native students at this age.

Just to summarize, exclusionary incidents have been decreasing at PPS since 2007. Black students followed by Native students experienced the greatest percentage of exclusionary incidents. African American and Native males are excluded at the highest rates, in particular. Exclusionary incidence have been decreasing for Black students since 2007. However, the relative rate of exclusionary incidents between African American and white students has not improved over time, and we know this disproportionate exclusionary discipline begins at a very young age.

Lorenzo eventually is going to talk about some of our supports that we have in place and some of our strategies to address this issue, but one thing we're also focusing on quite simply is just the notion of accountability. And so, we have set system-wide reduction targets -- as Superintendent Smith alluded to -- very aggressive ones. And every school also has targets. So, we specifically are looking at measuring incidents and students excluded, and we are seeking to cut that in half.

Then the other thing to note is because the goal is both to reduce exclusion by 50% but also to reduce the disparity or that disproportionality by 50%, what that really means is we have to improve with our historically underserved populations at a more aggressive or faster rate. So, you are really looking at having our historically underserved populations reduced by 60%.

As I said, every school has a target that's aligned to the system-wide target, and the supervisors of those schools meet monthly with school principals to review their progress on that target, as well as the other priorities that the superintendent has laid out previously. With that, I will hand it over to Lorenzo, who's going to talk about the key strategies.

**Fritz:** Before you do that, could you give some specific examples of the kinds of behaviors that kids get excluded for?

**Singer:** Yeah. So, it could be -- I mean, there's a large range. Disturbingly, for our four to eight-year-old population, the number one offense is battery. And it's a weird term for a four-year-old. But that's an example of something. Violation of school rules could be you're not wearing your clothing correctly. Maybe you're wearing a hat backwards. Sometimes those can be a violation.

**Fritz:** Excluded for wearing their hats backwards?

**Singer:** Well, it would be over a progression of time. It would be a number of incidents. For some of these detailed questions, I would refer you to some of the program people.

**Poe:** Again, you're looking at incidents where you're having fights in schools. Some violence between students, altercations between staff and students. Those become the kinds of things that kids are getting excluded for. So, it runs the gambit. There is nothing singular, but as we start to look at what they are, when they occur, we're able to strategize for that and begin to address that. So, clearly, a lot of issues of fighting between students, what we call insubordination to staff -- those kind of things build up over time, the kid is sent out of school. So, those are the things kids are excluded for. Of course, when you have weapons or guns brought into school, that is a mandatory reason for exclusion. You do see those things.

**Fritz:** Do you have that data summarized somewhere?

**Singer:** Yes.

**Fritz:** And could you send us a link to this report? Because I didn't have anything coming into this, but I think the data is really useful. I assume it's on your website?

**Singer:** Yes, we have that data. We don't have this presentation on our website, but we can get it up there.

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**Fritz:** Thank you. Once it's up, if you could send me the link, I'll post it on my page.

**Singer:** Thank you.

**Hales:** Lorenzo, please.

**Poe:** Let me start by thanking you, Mr. Mayor, for having us here. One of the things that I really appreciate this morning is the framework and context that you set for the reason that we are here. Clearly, we agree this issue of student achievement, disparities, and particularly disparities in students of color isn't one that is just a district issue. It really requires support, collaboration, and participation of our communities, jurisdictions, and others. Because again, the consequences of what happens is seen and shows a variety of systems and a variety of places. So, let me thank you and the council for having us here.

I want to reiterate that part of what we look at for the disparities, the exclusion piece is a 50% reduction overall; a 50% reduction in discipline, in exclusionary discipline. And for us, as we look at the disparities in discipline. It really is vested in what is happening to the African Americans, and what is happening to Native American youth.

What we understand from a strategic standpoint and what best practices tells us is that you really have to build an environment and a culture and a school that is inclusive, that is supportive, and it is restorative. We look at best practices across the country, positive behavioral support invention, which is a framework that really talks to students about how do you, in fact, engage every student, family, and staff in understanding the rules and regulations.

Some things that sound kind of routine that kids understand what is expected of them is not always the case. We have to make sure that students understand what is expected of them, and they need to understand -- and staff needs to understand -- what is expected of them and what is that environment like. So, PBIS gives us that framework.

We also build into in that framework a notion of restorativeness. Because what happens in the process of exclusion, particularly for kids of color, is a violation and severing of a relationship. We are here to build relationships with students, so what happens when they are impaired? We need to find a way to restore that, to build an environment and a climate of school where it really is about restoring, repairing, and bringing the students back into the classroom. Because we can't get students to graduation if we're not in school. And making sure that we understand what this is about restoring, building in that restoration opportunity for staff, students, and community to really to be a part of the process that says, this is important, you're in class, and we recognize things happen, but how do we then give back in the way that restores and it becomes a meaningful lesson for young people and staff?

We are including our community in that because it's important that our community and all our partners and parents that come in to the building understand that it is a culture, and it will be what Portland Public needs to be to build a climate where you don't see the disparities based upon some of the things that we know that we can begin to address and to restore it.

But we also understand it is important -- at least for Portland -- as we look at this issue that the issue historically has been engrained in an issue of race and culture. You have a disparity between African Americans and Native Americans. So, if you understand it, then how do you really begin to address the issue of race and ethnicity? And from a cultural dynamic, how is that impacting the system?

We've been involved in Courageous Conversations About Race for a number of years, and part of that -- we have a collaborative action research for equity process, and it is really where you get a foundation of how you look and talk about practices and what's going in the classroom. How to peer to peer teachers begin to look at practice and data about what is occurring with them and their students as a way to begin to address it,

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understand from a cultural standpoint, what are the kind of nuanced differences that we, in fact, need to be doing in our schools in order to address the disparity.

Interesting note -- we were in Wisconsin with the Council of Great City Schools, and we were having these conversations. All districts have talked about the issue of PBIS. They talked about restorative justice. Just Sunday in the Oregonian, there was an article about restorative justice as a practice and really building those kind of practices to restore and maintain the relationships in school.

But as we look at everybody's data, this issue of race continued to crop up, and the conversation becomes, if you do not understand from a cultural standpoint, if you do not understand the cultural nuances, you can't begin to address it just with good programs. So for us, we aligned and integrated the three concepts to make sure that in the school climate, we're addressing the framework that talks to kids about what is expected in a restorative way, but a recognition that race and ethnicity and culture manifest itself in different ways. And so for us to understand that and work with us is a central piece of what we do.

We're also providing for our staffs the Courageous Conversations About Race training with everybody staff member, a beginning to look at and address your racial consciousness and understanding of how it manifests itself potentially in the work that we do. Also, the revision of our student discipline document. We need to have the framework of the documentation that in fact is the governing piece that students and staff begin to understand their expectations in a way that really addresses the concept of restoration.

We want to be a restorative district. It really talks about maintaining, building, and continuing relationships, and when there is some disruption in that relationship, how do you restore that? Because we are a district that is paramount to the student achievement in making sure the student achieves.

The other piece, which is part of Commissioner Fritz asking about the data -- we are finding it improving our data ability. We want to have the ability to understand, where are the incidents occurring -- how do we collect the data? How is it real-time data that the staff and administrators can begin to use so that you can begin to structure it strategically, align what you do to support, and intervene so that you're not in the position of excluding children for the kind of behaviors we don't want to happen?

We're also partnering with families to develop the school climate. We know in every document and every research says that you cannot begin to really truly address what is happening in schools and our communities without families' involvement. How do you bring families in? How do you do it in a culturally responsible way, and how do you bring the communities to the table so they are a part of the participation of the plan that addresses the students' discipline, the students' behavior, and the expectations of both parties? So, you have to make sure you are building that in. And in particular, communities, we have the challenge of making sure that we are getting parents to the table and participating, because we all know how critical that is. So, we are partnering with our community partners and other entities to help make that transition available to us and interactive with a broader community.

We want to support students at the earliest signs of consent. As you see from the data, one suspension from the data ends up demonstrating that you have a 43% chance of graduation. And the earlier it is occurring, the less likely that it is -- now you have a three-year-old being suspended who is starting off their journey with an expectation statistically that only 43% will graduate. That is not acceptable. So, how do we intervene in that? What are the processes and the steps and how do we ensure the teachers have the kind of tools that says that if I am having a disruption in the classroom, what are the kinds of places where they can go and begin and get a tutorial we can be supportive and showing what we

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do is restoring that relationship and get them back into the classroom as quickly as possible? And because we were making sure that a restorative climate in school is shared by everybody in the building.

In the district, that we have a number of our standing partners. We have the SUN system, which is a part of our schools. We want to train and maintain all the people in the building in their act in our schools around restorative practice and restorative justice so you have the entire community of a school grounded and restored to practice. And what those key strategies are.

Lastly, the other piece that we have to continue focusing on -- our racial equity and education policy focuses on looking at the chronic achievement gap of Black, brown, and red students. That is what we're seeing in the disparities data. But we have to also understand it's important to note because often this gets lost in any of our discussions.

Since 2007, exclusionary discipline has gone down in the district, including for kids of color, just not as rapidly for our Black and red students. So, we have to find a way to build upon those things that we know are working, and accelerate from a cultural place the closure of that gap. We believe that looking at that, isolating that, and being very focused and specific about strategies for African American males, Native American males is the approach that it takes to do.

For us, we are going to employ three student assistant coordinators who become the bridge between schools, families, communities, students, who are able to work with understanding the culture. We have identified the student assistant coordinator who will focus on a caseload of African Americans. We are not saying exclusively that it will only be African Americans, but their focus will be the African American population and understanding the cultural nuances that it brings. One will be to look at and address the issues of a caseload of Native American students, and the third will carry a general population. Because again, our strategies have to cover the entire district as we're going to reduce discipline by 50% for the district.

It's also important to talk about it from a cultural standpoint how in fact we bring people into the building. We talk about African American students and the recognition that in our schools, we have African American young men who go through their entire school career without ever having an African American male teacher. Who go through their experience without ever really having a meaningful relationship with an African American male in the building. How can we bring African American males into a building to support students and teachers and families who are contracting with the organization to help us begin African American males into the building, to be seen as a present, to help mediate the place where, in fact, when students, particularly males, have challenged issues, that they see no one that looks like them to talk to, we want to make that available. Because we know what happens when we do that. We have asked a number of organizations to be a part of that because recruiting and maintaining the level of volunteers to help us make that happen we believe in the opportunity for our community to come to work with us.

We also recognize students who often have challenging and traumatic issues in school that manifest themselves in exclusion. And it's tremendous leadership potential. How do we take that and how do we work with the kids around leadership and begin to turn around and stimulate them in a very cultural way? So, we're looking at organizations that can come in and begin to talk about what it takes to lead and what it takes and understand why it's important to be in school, why it's important that when you have challenging issues, you don't act out in the classroom, you deal with it in other places. So, we're looking at specific organizations who have a history of working with our populations that we have identified.



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We also recognize that what happens in exclusion and what happens in school oftentimes is the break in the relationship, and there's a lot of healing that needs to occur within the communities. Because when you suspend or expel a student, it has traumatic impact on not just the student but the families. We look at the healing circles -- which we've been doing in a number of places across the district -- but we want to increase the ability to have healing circles with the school community and our parent community to really address the issue of healing and make school a place that belongs to the entire community.

The last one I will mention is the issue around mental health. So much what is talked about in our schools is a need to get mental health services to the students. But I do understand from a cultural standpoint, particularly I'll say for African Americans, when you raise the issue of mental health, you have already set up is a block for them to make it think it's about, am I crazy? No. When you put that block up -- because the concept of mental health isn't universally accepted, we want to engage with those mental health professionals who does not come at it in the traditional way. And when I say that, it's not just common mental health, you can call it counseling, but what you what you are getting at is the opportunity to build a relationship and then begin to do the kind of assessments that needs to happen from a mental health standpoint to get children and families serviced if they are needed and necessary.

That's the short overview of what our strategies are. We're prepared to take questions. We have with us those experts who actually do the work here that can answer any questions in a level of specificity you may need.

**Hales:** Thank you very much. Questions from Council members?

**Fish:** Thanks for your excellent presentation. A couple of observations with the questions attached. When I was principal for almost a day recently, I was at Woodlawn. And Woodlawn is about 50% African American, 50% Latino. So, first question is, does the data around disparities, does it -- is it different in schools that are majority, minority versus a school like Ainsworth where the white population is so much larger? Do you see differences based on the demographics of the school that you are looking at? Or are you still looking at aggregate data?

**Singer:** Honestly, it depends on the school, because we have 87 schools. I think regardless of the school, you do see patterns of our Black and our historically underserved students being excluded at higher rates. In general. There are these outlier schools that are really doing a fantastic job and have closed those. We've identified some of those schools. But again, as a general rule we see exclusion.

**Fish:** That leads to it is second question, Carole, which is -- what I learned in Woodlawn is that lots of kids are not coming to school ready to learn. And so, there's a big focus on the non-cognitive side of the equation -- and that's because they are coming from households where there's enough stress or living in areas where there's enough stress that the kids are not physically -- they're not coming to school in the right disposition. And so, this focus on non-cognitive skills -- is that part of your approach to help kids be prepared to learn and addressing some of the challenges they bring into the classroom from their home and neighborhood?

**Smith:** It's both part of our focus and it's also part of our focus with partners in terms of meeting us where we need to be met. But -- like, we're focused on building an attendance support, so in some of our clusters we started to pilot having people whose sole focus is supporting attendance.

We've got more focus on trying to do -- we added counseling support last year in all of our schools, and that will be a focus in the budget this year -- is having adults in the building who are able to focus on counseling. We've had conversations with the ESD

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about increasing nursing support and looking at just the impact that can have in terms of dealing with the other issues kids come to school with.

**Poe:** And we also rely on the community network or support from the SUN systems and others who really can engage with students in ways that we can as an institution -- being prepared to go to the home, helping kids understand and get access to those kind of things for a family that can help kids come to school and ready to learn.

**Singer:** The last thing I would say on that is from a staffing standpoint in terms of the resource allocation, we have an equity allocation, and schools can use that equity allocation as they see fit to meet the unique needs of the school. And on top of that, we have another set of resources for schools that are considered what we call focus and priority schools. So, these schools that are the schools who are kind of lower achieving, according to the state standards. And in that allocation, we specifically call out a menu of supports that schools can select from, and that includes social service workers and that sort of thing.

**Fish:** The other thing I'll share with you is I once spent a day with Tamala Newsome and I'll never forget one experience, and that was where I was in her office, and a young man -- a young kid, a boy -- was referred to her office for a significant disciplinary violation. This young man had all kinds of issues, and it was very clear even for me, just observing. And she chose not to send him home and he was abusive towards her. So, I kind of closed the door with her and said, you know, maybe I'm old school but when I was that age, the boom would be lowered, you know, why are you going the extra mile? And she said well, you have to understand what it means to exclude this child who is maybe in second or third grade or something. She said that there are sometimes two people at home. One is in the sex trade and the other is an abusive male. And she said, I have to balance putting that young person back in an unsafe environment versus maybe doing an in-school exclusion and having him sit in the conference area and keeping my eye on him, but I have to consider the impact on him of sending him back to an unsafe place. That was just mind boggling. I think that was, for me, kind of eye opening about this whole issue of exclusions and how you balance the need for discipline and accountability with the particular custom needs of an individual child. But it's tough enough to be a young person in our society, to have that burden and to not go home to a safe place is just unbelievable. And it places unbelievable burdens on administrators and teachers. So, it was very eye-opening to witness that exchange.

**Smith:** Thank you for calling that out. The other thing I'd like to put attention on here is this is part of the value of our partnerships with culturally-specific organizations as well, who may have a whole set of services that also -- like that the family is taking advantage of and have relationships with the family that go over time. So, they're not just about a school year, they may be relationships that start with the student is in second grade and go, you know, and the whole family is involved. So, us being in partnership with one of those organizations that's involved with the family totally expands our ability to really address the needs that are going on in the home or with the student, and we have numbers of those and worked to deepen those relationships. And some of our schools have -- and again, it varies school to school -- but Latino Network, IRCO, SEI, NAYA all totally expand our capacity to really meet the needs of a whole child and a family.

**Poe:** You address something that really points to us why it is important for us to keep our kids in school, engaged in school, because not only would the student likely be going home to an environment that isn't good, but it's much more likely they're not going to go home and they will be in the street. That's where you begin to develop the prison pipeline. Because a child out in the street with no school to go to often gets involved in things that are less than desirable, and end up getting into activities that end up manifesting

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themselves in other systems that other people have to be responsible for. So, for us to figure out and maintain and develop the kind of intellect and strategies to keep our kids in school and engaged is the one that we have to be focused on.

**Saltzman:** Who makes the decision to expel or suspended a student?

**Poe:** The principal makes the decision to make the suspension. Again, as Sarah talked about, there are the goals by which we are asking principals to pay attention to, also to begin to involve the senior director in some of those critical decisions. The senior director is ultimately the principal's supervisor. If you're talking about expulsion, that is to be reviewed by senior director, and up the latitude looking between the assistant superintendent for -- schools?

**Singer:** School performance.

**Poe:** School performance. And the chief equity officer's office, and we will review those kinds of issues. But it's generally the principal, the guidance and support and oversight from the senior director and the assistant superintendent.

**Singer:** That's actually been a change, so that's a change in the policy. In previous years, it was just the principal, and now we have more stringent guidelines around that.

**Hales:** Other questions or comments?

**Novick:** What are the policies and or strategies used to reduce the exclusion rates as much as you have in the past several years?

**Poe:** A lot of reliance on PBIS, Positive Behavioral Support Intervention, has been a process that we have undergone for the last years building that climate and culture. Restorative justice. We have a number of restorative justice coordinators in our schools that are helping in suspension and expulsion. A number of students assistance coordinators to begin to intervene and cares when you are working with the teachers in their practice looking and examining what it is you are doing. Often, teachers don't recognize what they're doing. They don't recognize there are other strategies and options, so, beginning to develop those things which is why when we looked at the menu of what we've been doing, we incorporated and expanded a number of those and included the things that were culturally focused and specific.

**Fritz:** First, thank you, Mayor, for bringing this report, and I request that we have a similar one from Parkrose and David Douglas because I think this is very important work. And thank you all for coming to present and for doing the work. I'm wondering about the restorative justice program. Do you contract with the Resolutions Northwest for that, and is it in all schools?

**Poe:** No. We've done a couple things. We do contract with Resolutions Northwest, even as we are expanding. We're also going to bring onboard a restorative justice coordinator whose job will be to train our folks, and we're also looking at expanding it as we go forward. But again, the theory is looking at where we need to make the immediate impacts, make sure we get restorative justice coordinators and the practices in place, and expanding it out.

**Fritz:** Right. And I support the training of everybody on what the concepts are. I think also there are many advantages to having an outside agency helping with that rather than somebody in the school. Over the 17 years that I was a Portland Public School parent, we cut every year, and as a parent I was clamoring for more classroom teachers. When I first attended kindergarten roundup back in 1985, I was given the card of the elementary school counselor, and I think by the time that we got out in 2008, there was one counselor per 400 in high school. What's the current staffing of just your regular routine counselors who might be able to intervene before things get to the expulsion?

**Smith:** As of this budget -- I'm going to tell you, this is the first year since I've been the superintendent -- I'm heading into my eighth year -- that we haven't cut. And we actually

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added capacity. So, our counselor ratio at the high school level is one to 300 now, which is significant. And then, we also added counseling capacity to every school. So, some schools may only have a half counselor, but they have a half, and they previously had none. As of this year, every schools has counseling presence, and it will be again something that we look at as we're going into this budget cycle of whether we can add more capacity there.

**Fritz:** It makes a huge difference.

**Smith:** It does.

**Fritz:** It makes a huge difference, and it's the kind of thing that as a parent, until you will need it, you don't realize it's important --

**Smith:** Exactly.

**Fritz:** But it is important and I think it can help with that whole development of the school culture to have the counseling staff. So, if you need me to come talk to PTAs about what I learned the course of my time as a parent, I would be happy to do that. Have you made any specific policy changes or stated expectations for teachers and principals that explicitly set out your expectations on discipline?

**Smith:** We've just actually done one round of revision to our discipline handbook, which is a conversation between the district and the union. So, the part of -- it's a collaborative conversation about what those changes are, and I anticipate that -- some of that was bringing us into compliance, but it's also decriminalizing language in terms of how we talk about the discipline. I anticipate more revisions in the years to come, so that will be part of the project that we're still engaged in.

**Fritz:** I was thinking of something like, "we're not going to exclude kids in elementary school."

**Smith:** One of the things we're looking at in the Portland parent union is the concept of a moratorium. That is something that they are involved in -- a national movement to do moratoriums. They have been working with us on figuring out what is a moratorium that could make sense, such as, do you say, you know, pre-K 2, that you will not exclude? Do you pick subjective offensives like insubordination, as Lorenzo was referencing, where you say we won't exclude based on subjective? We haven't actually identified which one it will be, but as part of our ability to meet the targets that we've set, we said we'll engage in figuring out where is a place that we realistically believe a moratorium would be an effective stake in the ground.

**Fritz:** Yeah, I think setting parameters like -- making it very clear.

**Smith:** We've been looking at our data down to the classroom level. Each individual school, individual offenses, individual classrooms, and really trying to make sense of where would a strategy like a moratorium make sense that would be a lever that helps.

**Fritz:** You mentioned the compliance with the state law that requires that non-expulsion -- all non-expulsion opportunities should be explored before expulsion is done. How are we complying with that?

**Poe:** That again is part of the menu of options and strategies we have for schools to in fact exercise prior to moving to the level of exclusion or expulsion. And that is part of the conversation and expectation that our senior director handing down to principals and having the discussions and in schools so that they know what is available to them and required before you move to that level of discipline.

**Fritz:** And I would assume after a student is expelled, that student is still the community's responsibility to educate, right? Are you then required to find them placements at an alternative school?

**Smith:** We do. We work with some to find an alternative placement. MESD or alternative school, yes.

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**Fritz:** And is there a time frame that you are required by state law to find them another placement? To offer them another placement? Or a policy that you have?

**Smith:** Hang on, I'm going to let Rick Kirschmann come up. He's --

**Rick Kirschmann:** Good morning, Council, I'm Rick Kirschmann, program director for school climate and discipline. And generally, our policy is to reconnect students to what we would call a CBO or a charter based organization within a timely fashion, so we have is a group -- a department that focuses on that. So, it's part of the expulsion process. Those kids are connected to another school as soon as possible.

**Fritz:** Something maybe you are looking at already but I would encourage you to is instead of having a category of expulsion -- which then is like being on a criminal record and is going to follow the kid and is a label for the kid -- is to have a transfer policy. If there has been an incident such as a kid -- a student, sorry -- a student bringing a weapon into school, then that's probably not going to be a good placement for that student regardless of the discipline. But if would have a transfer policy or some kind of a mandatory transfer, where you find them a placement and do the counseling immediately get them into another alternative situation, it seems to me that would be a better way to avoid them dropping out and be more careful about how the incident that the child made a mistake is handled so that mistake does not then follow them and direct them into the criminal justice system.

**Hales:** It's a good point. Thank you. Any other questions for the team? Thank you very much for being here today. We'll see if there is any citizens that want to comment on this report before we accept it. The primary goal was just for the council to hear this and have this discussion, so thank you very much for being here. Anyone want to speak on this item?

**Moore-Love:** We have two people, Joe Walsh and Tanya March.

**Hales:** Come up. Mr. Walsh, you are on first.

**Joe Walsh:** My name is Joe Walsh, and I'm just speaking for myself today. It would be really easy to embrace this entire concept and presentation that you just received, because if you look at it, it sounds really good. Mentoring and equity for the employees and we have to figure out a way of using softer language like exclusion instead of expulsion. Expulsion is a very powerful word. Exclusion is kind of like, yeah, I'll come back later.

I listened very carefully to this, and I was struck by something happened 40 years ago. I was sitting in a political science class in college special heard the same things. All of you are college graduates, and you heard the same thing. You've heard about mentoring. You've heard about equity. It might not be the key word, we did not use the word, "partnering" -- that's a new word, everybody wants to partner with somebody.

All I'm saying to you is this is processed. When it gets down to the student, you need to ask the question, like Commissioner Fritz asked, how many students to a counselor? You know how important that is? If you had 300 students to a counselor how long does it take to get to see a counselor? If you have 40 students in a classroom -- and none of you asked that question -- how many kids are in the classrooms? I think it's in the thirties -- high thirties, if I'm right. That's important. And the superintendent just got a 23% raise. And I'm saying -- and I'm saying this individually, not as representing any organization -- that the three people that gave you this presentation are failures.

If you looked at those stats, 12% in the Black community that are getting expulsion - - what percentage of the Black community is in our schools? I know it's 6% in Portland. I don't know the percentage in the schools, but I would guess that it's small. So, that's an astronomical figure. 12% doesn't sound so bad unless you take into consideration the small population of the African American community. And nobody asked that question. Why not? Thank you.

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**Hales:** Good morning.

**Tanya March:** Good morning. My name is Tanya March. I was here in City Hall today because my business partner, Mike Reyerson, passed away, and the obit in the Oregonian was only six words long. So, people here in the community saw me and asked if I could come up and speak on this issue because they know that I have personal experience.

I'm afraid that Nick Fish's comments reinforced stereotypes about parents with children that have faced disciplinary practices within the school district. I think many of you have known me and know my expertise. You may not know the story of myself. I am a mother with two children with special ed. They're IEP. I am on SPEAC which is a Portland public school board where parents with kids with IEPs have representation.

Last week, SPEAC members were told to come to the board meeting to testify. When I got there to testify, we were told that there was no place to testify. Part of this is going to be me talking from that place that I had wanted to testify last week.

I am worried about tokenism, reinforcing stereotypes, and type-casting of parents. My oldest son was sent home from kindergarten -- he's now in seventh grade -- 30 times. There was no record of this, and I did not realize that there was no record of this until the behavior of him being sent home again repeated in third grade.

In kindergarten, I lost my full-time job because I cannot maintain a job when I have no certainty that I'm going to have a place for my child to be. There was not reports of this behavior. And we're talking about children, we're talking autism behaviors -- large sized classrooms, the neighborhood schools would not allow my child to enroll, which is why he ended up at an alternative school. You've met him. He is a bright young man. I am supporting my children. My second child -- when I found out that he was diagnosed with autism, is now a second grader. I really decided to focus on my children and my experience.

And my experience is when we advocate for our children, our children are punished, and we as parents are punished for our advocacy, and it harms and makes a culture that you can't get to resolution, you can't problems. I talked to other parents with children, and I sometimes wonder if the Portland Public Schools doesn't realize that parents talk and we share our stories and it's heart-breaking when I talk to people that tried to testified at the school board meeting and tried to testify before, and I find out the cameras were turned off during the school board meeting and the public comment was not accepted into the record. That's like saying -- you don't want to hear from us. And that hurts. That's all that I have to say.

**Hales:** Thank you.

**Fritz:** And I'm sorry for the loss of your partner. And thank you for coming to tell your personal experience.

**March:** This wasn't --

**Fritz:** Well, thank you for coming to the microphone to tell people. Thank you.

**Hales:** Thank you very much. Mr. Johnson, welcome.

**Charles Johnson:** Good morning. For the record, my name is Charles Johnson. And I'm very glad this report got delivered and is being taken seriously. However, I think we need to amp up the seriousness of this. I think what the citizens really want to see is next week, we want to see the letters that the mayor or the city council has sent to the Paul Allen Family Foundation and to Mr. Phil Knight. The school district is going to need more resources than they think to fix this problem.

In the state of Oregon we have a small Black population, a very small fraction of that population is extremely rich from being Trail Blazers, and they want to engage with the community and give back, but I think that the success of this program is going to require that all five of you, and tomorrow the five County Commissioners engage with the people

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who have resources and connections. If you engage with professional athletes who are people of color, they've successfully completed school. They've gone onto college, however we don't want to set forth the situation where athletics is the track of success. We need to find you -- and the woman who got the \$20,000 or \$30,000 raise for leaving the school district -- need to find African American men who are working with the science, technology, education, math, STEM workers -- it needs to be greater engagement and specific funding targets and time targets, which weren't part of the report. So, I look forward to hearing from you, how you are going to work with Lew Frederick and Loretta Smith and how we'll get men from the Trail Blazers and players of color from the Portland Timbers, and five mentoring relationships for these men, and actually do something other than have a report that kind of perpetuates what some would say like Joe Walsh indicated is bureaucrat-ese.

So, when we have this report, and you may have some of those intentions to cover some of those things that I have mentioned, but they did not get put in the record. They need to be verbalized. I'm a little bit disappointed that other groups that work with helping prevent crises -- particularly communities of color in the neighborhood -- were not included by the school district.

When we have these situations that raise huge red flags about how our regular white patriarchy is traumatizing particularly people who are African American or immigrant African or Native American, we need to have people here from the Grand Ronde tribe, from the Urban League, the newly elected president of the local NAACP JoAnn Hardesty is mostly focused on police protection, but one of the ways to reduce the police encounters is to build school success.

So, I hope that this report is the beginning of some additional hard work for you as you work, particularly with leaders who aren't white and we diversify the face of Portland that's working on these problems. Thank you, Commissioners.

**Hales:** Thank you. Good morning.

**Lightning:** Good morning. My name is Lightning, I represent Lightning PDX Rethink Lab. One of the things I want to emphasize -- I do like the report and the speakers -- but one of the things that I want to emphasize is I want to make sure that Multnomah County Health department will be involved in this whole situation. When we're talking about counselors, when we're talking possibly mental health, behavioral issues, we need to have Multnomah County brought to the table on these issues. They are the trained professionals. We need to have their input on this.

Another issue that I have on this is that when we are talking -- do we have committees set up within these schools that, before that individual is say excluded for a long term, do we have committees say from the neighborhoods, parents, that can actually have a say on that happening? It sounds to me like we are allowing one or two people to make the final decision. There are two sides to every story, and we want to have the side from also the individual being excluded, and we also want that to be put up in front of a committee to have an understanding of what the best direction to go on this.

I'm very impressed we're using the term "restorative." We tend to have, in this city with a lot of people -- we are more worried about historic properties and restoring historic properties. We need to start looking at the people in this city and understand that that is where we need to direct our most attention. We need to create plans and go in that direction and understand that we need to focus more money in that direction instead of these historic properties that we think are so valuable throughout this city. My last note on this is that again, that mindset of restorative mindset I absolutely agree with, and the people need to come first. Thank you.

**Hales:** Thank you. Ms. Schwab, good morning.

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**Mary Ann Schwab:** Good morning. Good topic this morning regarding discipline. I'm wearing --

**Hales:** Put your name in for the record.

**Schwab:** Mary Ann Schwab -- former job placement with the school district, a job I dearly loved. I also worked very close -- the first secretary because of the public law 94142 with the motor development team. And I really know the system inside and out and backwards.

The troubling part all came with Measure 5. The 11 job placement secretaries were the first cuts. And they did keep our crime prevention -- or our work in coordinators, and some of them were double if not triple our salaries. But on paper it looked good, it looks like the district was cutting dollars.

My concern, and I think that Commissioner Fritz just mentioned it -- I heard it in passing when I was in her office dropping something off, is that what happens when the discipline follows the students into adulthood? I was rebuffed when I challenged the staff sending confidential reports on the fax machine, and inner office -- the school students helping pull things off the fax machine and filing these documents into the teacher mailboxes. I was concerned because some of it had to do drugs, alcohol, counseling off-campus, those types of things.

My concern was, what happens when this goes into adulthood and it affects their car insurance, their life insurance, and medical insurance? Even whether they could get into the military depending on what they were experimenting with. And on these reports is when I challenged it a second time because their social securities for three years were going down. Well, as you bump from school to school, every school did it a different way.

I called Salem, and because I trusted the person on the other end, he assured me that though public record, they would not let loose the social security numbers. So, there is a lot of measures that could be checked. And I am very, very concerned that some of these expulsions -- when you expulse a kid because he missed a red light taking a cigarette at Plaid Pantry, not knowing what the situation is -- that's trouble. When you have a 16-year-old in the front office crying, really upset, then that's when I jump in and I go where angels fear to tread. The kid did stay in school and did release that -- and kids are not paper file folders.

And your counseling, one -- and you did it with arts in the school. There's one art teacher to 500 kids in two elementary schools. There's something wrong with this math. And now they're rescheduling the boundaries? I guarantee Grant High School is a sacred one, Lincoln is a sacred -- [beeping] -- and well, I give up. I'm really, really upset with the boundary changes because when they took kids out of the Sunnyside middle school, with hearing impaired kids -- they had been there 26 years, and without any notification of the parents over the summer said, next year your kids go to Creston. That's after the building people came in and put flashing lights for fire drills. Somebody is not doing their job. And I think I agree with what Joe said, they all get an F minus. Thank you.

**Hales:** Thanks very much.

**Moore-Love:** We have two more who requested to speak.

**Hales:** OK, let's take two more and then a motion to accept the report.

**Moore-Love:** Director James and Teressa Raiford.

**Hales:** OK. Good morning. Welcome.

**Teressa Raiford:** Good morning, Council. Good morning, Mayor Hales. I didn't want to make --

**Hales:** Put your name in the record.

**Raiford:** Teressa Raiford. I'm here as a community member, as a parent advocate. And I didn't want to do testimony today, I came here to meet with someone in the Mayor's office



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for another issue but it's relative to this issue. And I knew that this meeting was going to happen, but I didn't know that it was today. So, god is good.

I did want to say, though, that one of the reasons that you don't see a lot of Black people in the community coming out to things like this or standing up for themselves is because they've already been retaliated against for several years. Those parents' voices have been shut down by what we would call tokens or gatekeepers or people that are in appointed positions of power that absolutely look like myself. And whenever you have the people that are in power in elected power or in corporate power with the money basically cosigning for people that are suggestive tokens or filters between the people's voice and the voice of the policy-makers, then you're going to have a lot of discernment, and you won't have a lot of feedback from those people that count.

The people that need to be here today -- it should have been publicized that parents could come here and speak on the record regarding this, even if this is something that, you know, is kind of not what you guys deal with in City Hall. But, I think in that you would have gotten a lot of F minuses. I think that if they had not have turned off the stream last night, then you would have heard parents' voices, and all those voices said they are not being heard and that they feel like their inclusion in their children's ability to be successful coming out of school is necessary, but the engagement is not there. It's not there.

We have these different organizations and these different agencies and these different proprietary partners that are there for the children, but you guys exclude the parents because you give them so much value over the parents. The parents, the teachers, and the children are the voices that you need to be talking to. Those are the people you need to listen to. Those are the people that you need to make a concerted effort to get into a room with and have these discussions.

Those other people that get big raises that have a job, that's their 9 to 5. Those parents -- this is their future. Those children -- this is their future. Those teachers -- this is why they work. They don't go in there with a malicious intent to fail our children. But when there are systems in place that basically benefit from the failure of our children financially or by having some type of national [indistinguishable] to popularity because of the success for granting an opportunity, it devalues their needs, which is a successful life and not jail. That's it.

**Hales:** Thank you very much. Good morning, Director James.

**Dante James, Director, Office of Equity and Human Rights:** Good morning. Dante James, I'm the Director of the Office of Equity and Human Rights. I just wanted to just come and make a quick comment, and I guess say thank you to PPS for the work that they are doing -- the courageous work that they are doing. That doesn't mean it's done. In the same way my office is I think doing some good work, but we're certainly not done. Portland Public Schools are the big ship, and it's hard to turn a big ship quickly. And so, at this point, I don't know that they mentioned the statistic, but almost every other child now in Portland Public Schools is a child of color. And that's who we're talking about.

**Fish:** Say that again, will you?

**James:** Almost every other child in the Portland Public Schools is a child of color, and that's who we're talking about. And that's not only our future, it's our present. And we don't have the luxury of failing those kids. And so, this is a courageous effort, and it's a difficult-to-implement effort, and you can read the paper and go back all you want to and read the challenges and difficulties that PPS is taking, and the attacks that it's had based on its Courageous Conversations and it's equity work, and the individuals sitting in this room who have had to implement that.

But clearly, you can see that there is movement and things are happening. I think that that is at least the essence of the message. We're not done, no, they're not done.

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They're working very hard. And Lorenzo is also a member of the Black Male Achievement steering committee and has the support of that in interacting with the Black Male Achievement initiative, and it will also be working towards trying to gain more data and push for policy changes and other things. But clearly, at least as I see, there is movement and the movement is in a positive direction, not a negative direction. So, I just wanted to offer a quick congratulations for their work and -- as I always do -- challenge them to keep on working and make it even better. Thank you.

**Hales:** Thank you. Thank you both.

**Fish:** Mayor, I move --

**Raiford:** Parents. Talk to parents.

**Hales:** We are.

**Fish:** I move the report.

**Saltzman:** Second.

**Hales:** Further discussion? Then a roll call on accepting the report, please.

**Item 53 Roll.**

**Fritz:** Thank you again, Mayor, for bringing this report. Thank you to the presenters from Portland Public Schools for your obvious caring about this issue and your direct attention to that. I know that you know that you can count on us to be good partners for you, and I do look forward to hearing from David Douglas and Parkrose as well, since those are the two other school districts that are entirely within the city of Portland.

We need to fund education adequately at the statewide level. We should not be relying on philanthropists to donate. We had one respite year last year, where the legislature dedicated as much as they could, and we need to continue to encourage them to do that. We are nowhere near where we were in 1990 when Measure 5 passed, and that's why Vera Katz dedicated one time money to Portland Public Schools at a time that it wasn't easy to do that. That's why the council spent money with one time funding to buy park land from Portland Public Schools both to provide parks in parks-deficient areas and to provide money for the schools. And this is why this Council and the previous one dedicated money to the Resolutions Northwest restorative justice program. That we have been recognizing that this is a problem.

Superintendent Smith mentioned the 14% increase in graduation rates in just six years. Show me another school district who's been able to do that. And yet, as Director James said, we are certainly not done. My son, who graduated from Wilson High School, then toured at Marshall High School and Madison High School in the Step Up program run by Open Meadow, and that's another program -- Superintendent Smith is smiling because she was in charge of that program -- it's way to provide extra support to kids who are struggling or could be expected to struggle. And it's produced some phenomenal graduates from those schools.

We need to be supporting those programs. I will continue to do so proudly. And it is absolutely -- as the mayor pointed out -- it is part of the purview of the Charter for the City Council to be involved in all of the affairs of the city, including the schools. It's also one of the reasons why I ran for City Council and not for the school board, because I think they have a tremendously difficult job with parents like the parent that I was for the 17 years that I was there, learning as I go along. Because your child does not come with an owner's manual, nor does your school district. And Portland Public Schools was the structure that helped me learn what it was like to be an American citizen, what it was like to be a Portland Public Schools parent. And that too is the unseen challenge that your entire staff has.

You're not just educating the students, you're educating families. You're bringing in everyone. And as Ms. Raiford suggested, we need to make sure that we're including

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everyone in our discussions, and not only inviting, but making sure we're going where people are listening and going where we can listen to folks and hearing some hard truths about not being done yet and sharing commitment that we're going to keep trying as hard as we can and we're going to be dedicating funding to this process. Thank you for coming, and I look forward to continuing to work with you. Aye.

**Fish:** Thank you, Charlie, for putting this on the agenda. Frankly, when I saw the agenda, I wasn't entirely clear why we were giving this presentation. The other novelty or important point about our Charter is it actually doesn't say that we have any direct responsibility over education. But I think the mayor understands and the Council understands that if the young people that you're charged with educating are not successful, we're not going to be a successful city. So, thank you, Charlie, for bringing this forward.

Thank you, Lorenzo, for a very compelling presentation. You've been in the trenches for a long time fighting the good fight, and PPS is lucky to have you.

Mayor, my wife is a teacher and I have two kids who are in or have gone through public school. The best teacher for me -- and I think you shared this -- the best teacher for you is actually being in the classroom, in the school and observing. That's where I have learned some powerful truths about the challenges that we place on administrators and teachers. And it's a tough job. Everybody needs to be part of the solution.

I actually think that serving on a school board is a tougher job than our job, because they don't have staff, it's a part-time job. At least we have resources backing us up. I would argue it's almost a tougher job.

Finally, I just want to acknowledge that we talked about why does it matter. My mother-in-law because of her gender was denied an education. So she never completed the sixth grade. And it was just not expected in her community in the south of Spain that an investment in her education mattered. And so, she faced diminished possibilities in her life because of it. She insisted that her eldest child get an education. Because a first rate public education and college and graduate school, she is a professor now at Portland State University -- my wife.

One generation; a commitment to giving people opportunity. The kids that you are educating are some days going to be sitting up here or running bureaus or making leadership decisions in our community. So, we all have a stake in their success. Mayor Hales, thank you for focusing our attention on this very important issue. Aye.

**Saltzman:** Thank you, Superintendent Smith, Mr. Poe, Ms. Singer for this excellent presentation. It is indeed laudable that you and the school board and our community are openly talking about these very vexing issues that can easily become uncomfortable conversations very quickly. So, I laud you for doing this and doing this on a very public manner in a way that you're committed to reducing the number of suspensions or exclusions. And I think the data indicates why we need to reduce those so that young people can be successful in life. So, thank you. Aye.

**Novick:** I was really impressed by the progress you've made in reducing the number of exclusions across the board. That is something that I was not aware of. And I was equally impressed that you did not dwell on that, that what you're dwelling on the disparities that still exist and the exclusions that are still going on, and you're committed to doing something about that. I think that Director James put it very well. I really appreciated his comments and I appreciate what you're trying to do and what you've told us here today. Thank you. Aye.

**Hales:** I thank the council for your energized interest in this report and in this discussion. I think it would be possible at first glance to look at the question of student success and then look at the City of Portland as the municipal corporation responsible for police, fire, parks, transportation, water, sewer, housing and so on and say, well, it's not our department. But

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of course it is our department. Because not only that Charter mandate that we pay attention in general, but because we're doing very specific things that will work better if this initiative by the school district is successful.

We have an office of youth violence prevention and our director who was here -- her work will succeed if our kids succeed. We have a youth services division in the Portland Police Bureau that puts school resource officers in each school and they're an important ingredient in this work. Their understanding of how this needs to be done differently is important, so I'll make sure that they are active partners in the change that you're trying to make.

We have an economic development agenda that says talent is our future. In fact, we had an economic development consultant in this chamber a couple weeks ago who said the most important thing you can do as a city is education. There are some other things you ought to do, but do that first and well if you care about the future of your economy. So of course, this is our department. Doing the right thing should always be our department, but it's specific in this case to the work we actually do.

Speaking of traditional City services, a thought occurred to me listening to you this morning that our school district leadership -- the folks that were here to speak, our superintendent, Lorenzo, Sarah -- you have a firefighter's instinct. Seen a little smoke you're running towards the problem. And that's courageous and that's exactly the right instinct in this case. And instead of obfuscating it or keeping it out of public view, you're running straight for the problem.

Not only are you running towards the problem, but you're setting a very clear goal and putting numbers to that goal that you're going to change this problem by this much this year. That sets the standard I think for a lot of us in public service for, how clear can we be about what we're going to hold ourselves to as a goal and what we're going to measure as success? So, I really appreciate you being here this morning. I appreciate this work, this good discussion in our chambers, and the work we'll do together to make sure that you and therefore our kids succeed. Thank you very much. Aye. Thanks a lot. Let's move to our next time certain, number 54.

**Item 54.**

**Hales:** OK. This is the second reading. We take roll call then the other item. Roll call, please.

**Item 54 Roll.**

**Fritz:** I very much appreciate the efforts that have gone into this ordinance by members of the public, staff, and community partners. I believe that the amendments that we made make it a better ordinance regarding safety and administration, including smoke alarms, percentage of units allowed in apartment buildings, and the ability of property owners and managers to do their jobs and exercise their authority and responsibility. Of course, it remains to be seen how this will work out in practice and we'll get some mixed ingredients and continue working on it. Aye.

**Fish:** This has been a great discussion. Mayor and colleagues, I appreciate the way this particular ordinance was crafted and the amendment. And I was fully prepared to support it today until I got a number of communications from industry representatives explaining the number of reasons why they don't intend to comply with it.

And I want to be very clear that the enforcement mechanism that we're about to take up as the second part of this has at its core a requirement that we have some reasonable life safety measures in place, including a functioning smoke detector alarm. In response to this, this is what industry representatives have told us. They have likened it to big brother. They have said that it is a violation of user privacy. That it's an overreach of government regulatory authority. That it is preempted by federal law. That it breaches

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constitutional rights. That the regulatory enforcement piece is overbearing. And that's the politest portion of the materials that I received.

That does not give me, Mayor, the confidence that people understand that in allowing this activity, we expect that the guest experience is safe. And if the industry is telling us that they want the right to do something but they do not accept the responsibility to partner with us to make sure it's done safely, then I cannot in good conscience vote to expand the authority at this time until the industry says that they understand that safe dwelling units is our collective responsibility to.

To hear, for example, that even the requirement that a platform verify that a host has a permit -- which is a requirement of the law -- represents somehow government overreach to me is ridiculous. That argument applied to other parts of our economy means that we will be left without the tools to ensure reasonable life safety protections for our citizens. You can just imagine any internet-based platform could make the same arguments and undermine the ability of this Council to apply community standards.

But let's be very clear. We are being told that it is a violation of privacy rights, federal law, and constitutional protections to mandate that a platform -- and that's the company that makes money by advertising these units -- is required to verify that someone has a permit, is operating legally. The converse is we are allowing something to occur where we know -- because 93% of the hosts out there are not in compliance with the law -- we're essentially sanctioning behavior which we know puts guests in harm's way. It's the first time in my experience on Council that we have been put into such a dilemma.

Until such time as the industry comes in good faith and says we want to be a partner in protecting guests who have a reasonable expectation of safety when they rent a room, then I'm not prepared to expand the scope of what we've already done in single family residences. And I'm disappointed to have to cast this vote, because I thought the second ordinance we were going to take up was reasonable and was proportional and reflected the spirit of doing this together. This is not New York State, where the Attorney General has taken this industry to court. This is not other parts of the country, where the welcome mat has not been rolled out. This Mayor said we will welcome you subject to some reasonable regulations. And I think it is a sad moment that we do not have partners willing to embrace a reciprocal relationship. And so, I'm compelled to vote no.

**Saltzman:** Thank you, Mayor, for this fine piece of work, and I'm happy to support the thoughtful amendments to Title 33. As I've stated numerous times, short term rentals are happening in our community and we need a way for residents to operate within safe and reasonable guidelines. I believe the second piece of the puzzle around multi-family buildings is a good step in this direction. Specifically, I would like to thank Jackie Dingfelder and Matthew Robinson of your office for all the hard work on this piece, and I look forward to this being implemented in a timely fashion. Aye.

**Novick:** I also appreciate all the work that has gone into this. I want to reiterate something I've said several times before, which is that I am concerned about the allegations that the existence of this short-term rental market will have an adverse effect on housing affordability. I don't think that that has been proven yet, but it is a concern.

What I hope is that over the next year or so, we can look at data we can gather within the city and from other cities where there's an active short-term rental market, and determine if in fact there is a meaningful adverse effect on housing affordability. And if so, my recommendation would be that we re-outlaw this practice, and that would mean that we would have to come up with the enforcement resources that so far have been lacking to prevent the practice. So, I see this as an experiment which I hope will work, but because of the concerns about housing affordability, I do see it as a revocable experiment. Aye.

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**Hales:** I want to thank Jackie Dingfelder and Matthew Robinson as well as folks from the Bureau of Development Services and the Bureau of Planning and Sustainability who worked hard on this, as well as folks in the advisory group who served us well.

This is a proposal that's had a lot of robust community discussion, and I think we've done a good job of trying to address a lot of concerns that have been raised about health and safety, about affordability, about being a responsible participant in the opportunity economy for our citizens.

I think some of the testimony we heard from people in our community who want to participate in this service was some of the more compelling testimony I've heard from my fellow citizens. And it was moving I think in a sense of telling us what that opportunity economy means.

We still have a responsibility to regulate. We have a responsibility to protect neighborhood integrity and private property values, and I think we've made a good attempt here at balancing those. We can always make adjustments in the future, as Commissioner Novick, said if this for some reason proves to be a poor experiment or if there are changes we have to make.

I also want to reemphasize that on this multi-family piece, owners and landlords still have control of their buildings. Homeowners associations still have their role to play. We're not having the City supplant the role of private property owners here, and that's important. I think we've created a workable system that's not overly onerous. It will require that people in the industry step up and follow the code and follow the rules and pay their taxes. We expect that of every business in Portland, no matter whether it's an old economy business or a new economy business. And I have every expectation that Portlanders and people doing business in Portland will follow the law. I think we've made good law here and I look forward to seeing it used effectively by everybody in our community. Thank you all for good work. Aye.

**Item 55.**

**Hales:** This is second reading, but I understand we have a friendly amendment.

**Fish:** Mayor, let me offer a friendly amendment, if I could. In reviewing 6.04.040 C, it reads as follows in relevant part. Operators which include booking agents must provide all physical addresses of transient occupancy locations within Portland city limits and the related contact information including but not limited to the name and mailing address of the general manager, agent, owner, or host for the location. I have a memo I'll just share with you.

**Fritz:** Could you just give me the code citation again, please?

**Fish:** Yes, it's 6.04.04 C. I have a memo that has the language. I believe this is not a substantive change but more in the nature of a drafting issue. The including but not limited to language implies that the scope of the inquiry could go well beyond the information that is currently sought in the ordinance. I think to address concerns that have been raised about a too open-ended process, it would be wise to delete the but not limited to, which I think is standard language we use, but I think has been interpreted as opening the door to a broader set of requests for information. This has been discussed, Mayor, with your staff and with Thomas Lannom, and it's a friendly amendment that they accept.

**Hales:** I have no objection to that as long as we understand that related contact information would be assumed to include telephone numbers, since that is related contact information.

**Fish:** The intent is to have but not limited to be construed as authorizing the request for information that goes well beyond what is identified in the ordinance. That was not the intent, and this is a case where using standard legal language may give someone heartburn in thinking it's an invitation to go into a broader set of requests for information. If

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at some point the Revenue bureau thinks they need additional authority, they can come and get it. But they're comfortable with this friendly amendment.

**Hales:** OK. Unless there's any objection by other members of the council, I'll consider that a friendly amendment and a technical change.

**Saltzman:** Before we vote, I have a question about this very same section. It talks about any location and related contact information provided under this subsection is considered confidential and is not subject to public disclosure due to personal privacy concerns. I guess, what is the legal basis for that? What's our ground to stand on when somebody wants that information?

**Linly Rees, Deputy City Attorney:** Under state public records laws, we have to oblige ourselves in good faith to accept information as confidential in order to assert a personal privacy exemption. And so, that would be our way of asserting that when we take that information we're obliging ourselves in good faith not to disclose it.

**Saltzman:** Does that mean if somebody makes a public records request for licensees who provide dwelling services or whatever category they may fall into -- is that exempt from public records disclosure?

**Rees:** It would probably depend on --

**Hales:** Thomas is here.

**Rees:** Thomas is probably more familiar with that particular type of record request.

**Thomas Lannom, Director, Revenue Division, Office of Management and Finance:** Thomas Lannom with the Revenue Division. The bare fact of a business license is not subject to public -- it is subject to a public records request. In fact, we post that information on our website. It's the financial information that's not subject.

**Hales:** So, the fact that somebody has a business license -- that's disclosed.

**Lannom:** That's correct.

**Hales:** What they pay in taxes is not.

**Lannom:** Right.

**Saltzman:** So, it sounds like we have the ability to exclude disclosure of the names and addresses of people providing short-term lodging services understand this ordinance.

**Lannom:** That was our intent. To the extent that they are fully compliant with every aspect of our law including Title 33, it will be a public record. For example, if I'm able to locate a host property, go to the BDS website, the Portland Maps website, you can actually click, get the BDS permit number, and that will reveal all of the contact information of the owner or the responsible person, the agent of that property.

So, to the extent that an operator is fully compliant with our law -- they are already out there as having pulled that permit from BDS. The intent of this language was simply to state that up until the point that we have to disclose the information, we don't necessarily have any particular need to disclose that information.

**Fish:** And Thomas, that would be no different they any claim of confidentiality that would apply. Ultimately, if a court issues a duly authorized subpoena, if a court or district attorney rules that the public interest outweighs the privacy concern, we are always subject to some other authority directing us to produce information. I mean, we should be clear about that, regardless of what we build into our ordinances.

**Lannom:** That's true.

**Saltzman:** So, I mean, are we creating a false expectation among people who will get permits under this program that there is some level of confidentiality when in fact it sounds like there's various ways to get that information?

**Lannom:** Not as to those that pull permits. I think it's fairly widely known that when you receive a permit that you are -- at that point that's a public record.

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What we were trying to do in the discovery phase of bringing people in compliance was not to create a long laundry list of 1000 or 1500 operator locations who may or may not truly be in or out of compliance with the law such that the newspaper or other requester could get that list and publish this as what might be referred to, say, as a wall of shame. Why aren't you in compliance? We have no reason to do that or allow that to happen. So, this is an effort to bar that from happening.

Ultimately, as Commissioner Fish, said if it were challenged under sunshine law, we would see where that would go. But it's the one first step that the local government is making an assurance that we would try to hold that information as confidential.

**Saltzman:** Thank you.

**Hales:** Other questions for staff before we vote? Roll call, please.

**Moore-Love:** Did you want to take public testimony?

**Rees:** To clarify, the amendment that we're voting on is the entirety of this memo including

--

**Hales:** Right, those three words.

**Fish:** Right, but it's the friendly amendment that just strikes the "but not limited to."

**Hales:** I don't think we have to take public testimony --

**Fish:** And we don't need an emergency clause because it's a friendly amendment.

**Rees:** You may want to ask if there are people who want to testify on that amendment.

**Hales:** Does anyone want to speak on that amendment? Seeing none, we'll proceed.

Thank you.

\*\*\*\*\*: [inaudible]

**Hales:** On that amendment, on only that amendment.

\*\*\*\*\*: That amendment relates to broad policies.

**Hales:** No, we've had an extensive public hearing on broad policies. This is a technical amendment and we're not going to have Groundhog Day. If you want to speak on that amendment only, you're welcome to come up. Come on up. We had hours of testimony on the policy questions here.

**Mary Ann Schwab:** Mary Ann Schwab. Concerned with the policy question. It's not clear to me when you're voting on this amendment -- when I buy my car, my license is registered with the state. All of my information is registered with the state. In fact, I understand as of when we had the three-year income tax to rescue the Portland Public School district -- all six of our districts -- you have that information available to you, all the income.

So, I'm really concerned that if I'm in business -- and this is a technical piece -- Sunnyside has 68 Airbnbs. We're talking one to two-bedroom short-term rentals. We're not even talking about the apartment that hasn't been approved. Of the 68, they've had six months to apply for a permit. Only two have that permit. I think you are making a grave mistake by creating this loophole. If they are renting their rooms, there is no platform -- you're talking platform, platform, platform, yet none of these online businesses have to report to the IRS that these homemakers are making income -- these homeowners.

**Hales:** I think that's the point of the amendment --

**Schwab:** That's the point that I want to make sure that somehow the IRS is aware of this business income or nonbusiness income, because I pay my taxes and I know you all do too. Thank you.

**Hales:** Thank you. Further questions or testimony on the amendment? Roll call on the amendment. I'm sorry, on the ordinance as amended.

**Moore-Love:** We didn't add an emergency clause.

**Rees:** We didn't add an emergency clause, so we can't vote on it yet. You have to take it to a further reading if you amend the ordinance today.



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**Fish:** So, a friendly amendment triggers a second reading?

**Rees:** Any amendment to an ordinance requires that five days pass between --

**Fish:** I move the addition of an emergency clause.

**Hales:** OK, is there a second?

**Fritz:** Emergency for the amendment or an emergency for the ordinance?

**Hales:** For the ordinance.

**Fritz:** I'm not going to support the ordinance.

**Hales:** Thomas, a suggestion?

**Lannom:** Yes. If because of the amendment it needs to return for second reading anyway, I would suggest the removal of the emergency ordinance.

**Hales:** It's not yet an emergency ordinance. It's a second reading.

**Fish:** Does it matter that we set it over for next week?

**Hales:** We can set it over for a week for second reading.

**Lannom:** I would suggest that.

**Hales:** What's that?

**Lannom:** Move it for second reading would be my suggestion.

**Hales:** OK. If there's no objection, we'll set it over second reading next week.

**Fritz:** Since Thomas is here, though -- and others that may be able to answer my question -- I'll just put it into the record. I was listening to KGN this morning, as I do on my way to work, and they were talking about Uber and noting that Uber drivers are not covered by their regular auto insurance so that a passenger who is injured in an Uber crash might not have any kinds of coverage for their injuries. I'm wondering, would a regular homeowner's insurance cover liability from an accident that might happen to a guest?

**Lannom:** Excellent question. I won't pretend to know the answer. I would defer to the City Attorney.

**Fritz:** They might not know either. [laughter] I would be very interested -- for those in the audience from the industry, I know that some platforms do cover their hosts for things like damage to the home by the guests. Just wondering -- do you have an answer for me?

**Rees:** I don't know the answer. We could --

**Saltzman:** I thought that had been answered in previous testimony on this. Yes, homeowners does cover that, but --

**Hales:** I think the answer is it can. So, let's get clarification.

**Fritz:** And the other clarification I would like before next week, Mr. Lannom, is that you've included now short-term rentals in the definition of hotel. I'm wondering what consideration of any unintended consequences to the definition of hotel might result. For instance, are downtown hotels that pay into various business improvement districts would -- by defining short-term rentals as hotels would this open up other obligations to those hosts which are not really hotel-ish? That would be something I would like maybe not now but before next week.

**Lannom:** We could do that.

**Hales:** We may need to return to the question of taking action. We're going to set it over until next week, then.

**Rees:** I may have missed because I have had people talking at me -- have we voted the amendment in yet?

**Hales:** No, let's take a roll call on the amendments, and then the modified ordinance will move over to next week.

**Fish:** Council, the mayor accepted it as a friendly amendment. Why do we have to vote on it? It was a scrivener's change. We just deleted including but not limited to.

**Fritz:** Would it be cleaner?

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**Rees:** To me, it seems cleaner. It seems like it may have actually been a substantive, change given the ACLU's memo. I would vote it --

**Hales:** OK, I will take it as a substantive amendment. Is there a second?

**Fritz:** Second.

**Hales:** Roll call on that.

**Roll on amendment.**

**Fritz:** I'm prepared to support the amendment because it makes the information requested more restrictive. I still believe the information that's in the rest of the ordinance is problematic, but I do support the amendment. Aye.

**Fish:** I do want to thank the ACLU for bringing to our attention the concern that including but not limited to language might have been broader than we intended. This seems like a reasonable fix. Aye.

**Saltzman:** Aye.

**Novick:** Aye.

**Hales:** I want to thank the Revenue bureau while I have you here, Thomas, for your work on this. I think it's important to remember this is the ordinance that modifies our revenue code, not the substantive ordinance that we've already addressed which says that under our zoning code, this use is legal.

So, this is the question of how Revenue bureau will proceed to collect revenue. And of course, unlike code enforcement, revenue compliance is required, not complaint-driven. So, Thomas and his staff have brought authority to make sure that people are paying their taxes, and that's as it should be.

I also have a lot of confidence in you and your staff to use that authority appropriately in a measured way, because the goal again is to have people be able to operate legally and pay their taxes. And that's what this ordinance is about. So, thank you. Aye this will return for second reading next week. Let's move on to the two items we pulled from the consent calendar and take those first, then the rest of the regular agenda after that.

**Item 68.**

**Hales:** Someone pulled this for testimony or questions?

**Moore-Love:** Mr. Lightning pulled this.

**Hales:** Is there someone here to provide information on this?

**Saltzman:** Yes.

**Hales:** OK, Commissioner Saltzman.

**Saltzman:** Andrea, come on up and give us a brief overview of this.

**Andrea Matthiessen, Housing Bureau:** Good morning. Andrea Matthiessen with the Portland Housing Bureau. The item before you is an administrative exercise on our single family tax exemption programs. You've seen this resolution previously before. We bring it approximately three to four times a year. Encompassed within it are our audit and compliance efforts to ensure that the people who continue to receive these tax exemptions are actually living in the homes as well as not renting the homes.

Additionally, this resolution activates formally applications that the Housing Bureau has approved for new units. And within that is information on the amount of foregone revenue that the City is approving, as well as revenue that's going back on the tax rolls for units whose exemptions are being terminated.

**Saltzman:** Thank you.

**Hales:** Thank you. Other questions for staff and anyone want to speak on this item? Then we'll take a roll call on the resolution.

**Item 68 Roll.**

**Fritz:** Aye.

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**Fish:** Thank you, Dan, and Portland Housing Bureau. With the creation of the new bureau, all of this oversight responsibility on tax exemption programs shifted to the bureau. They have done an admirable job being transparent annually, particularly around the area people no longer compliant and therefore lose the benefit of the deal. Aye.

**Saltzman:** Aye.

**Novick:** Aye.

**Hales:** Thank you. Aye.

**Item 69.**

**Hales:** Commissioner Novick, comments before we start?

**Novick:** No, I'll just ask Jamie to take it away.

**Jamie Waltz, Portland Bureau of Transportation:** I'll actually let Andrew start.

**Novick:** Oh, sorry.

**Andrew Carlstrom, Portland Bureau of Transportation:** Good morning, Mayor, City Commissioners. Andrew Carlstrom, PBOT employee services division manager. This ordinance request an amendment to the City's contract with Innovative Growth Solutions which PBOT has used for expert services related to revenue options.

The original amount of this contract -- which was executed in 2014 -- was \$50,000. This contract amendment if approved will bring the total amended contract authority to \$85,000. The purpose for this amendment is for additional scope for the following four items. One, additional economic analysis related to nonresidential and residential revenue calculations and analysis and associated criteria and implementation strategies. Two, additional transportation finance analysis of other potential funding mechanisms for transportation funding. Three, additional community outreach events and working group meetings. And four, additional analysis and consultation on the implementation of the nonresidential and residential funding mechanisms.

This firm is a state-certified woman-owned and emerging small business. And with me today is Jamie Waltz to give you additional background on the amendment.

**Waltz:** Jamie Waltz, Portland Bureau of Transportation. This is for the analysis for the Portland Street Fund. We had extended the program and process beyond May when we first came to Council with the proposal, and so we needed additional expertise and analysis done. And so the contract with Gary Corbin that we are asking to amend -- we have spent the \$50,000 of the contract limits so we're asking for additional revenue for the contract so that we can continue to finish off the process, and then also go into the implementation phase.

**Hales:** Thank you. Questions?

**Saltzman:** Is Mr. Corbin the principal of Innovative Growth Solutions?

**Waltz:** No, he is not. Shirlene Warnock is the principal.

**Hales:** Other questions? Thank you very much. Anyone want to speak on this item? OK. Come on up, Lightning.

**Lightning:** My name is Lightning, I represent Lightning PDX Think Lab. One of the concerns I have on this -- it's my understanding this is pertaining to the street fee. They're doing an analysis on the residential, business. I'm beginning to watch these costs very closely.

One of the things I want to have this company watch if I might state this is that on the special appropriations, I have a big concern with RACC receiving a tremendous amount of money for art when we have streets that need a tremendous amount of repair and paving services needed out there desperately. I need to have an understanding and data provided on this on how they have received like \$55 million plus.

If we're allowing special appropriations to be directed in certain areas, who are the people deciding that the street maintenance in this city -- repairing the potholes, repairing

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the streets -- is not more important than funding some of these art projects or these art nonprofits? I want this to be looked at very closely from the public's position. They're expecting to us come up with a tremendous amount of money and I want to have an understanding. And I hate to say this to you, Mayor, is that the history on what's going on is very important to me to have an understanding on what needs to be funded at this time.

I have also would like additional studies possibly from this company. I would like a little more data pertaining to Multnomah County. Now, do they have a responsibility on this street fee? Do they have a responsibility to look at the vehicle registration fees that were imposed of \$18 per vehicle that was applied to the bridge? When does that run out? Can we extend that out? Can we work with Multnomah County to transfer anything toward the street fee down the line? These are things that I want to have looked at to have a clear understanding what is Multnomah County's responsibility pertaining to the street fee or the streets throughout.

Originally, they did have agreements that they were supposed do certain streets within certain areas, and that has been transferred back to the City of Portland. So, I want to have a clear understanding on exactly what they are expected to do on this. This is why this data is very important. I'm not questioning the amount that you're asking. I just want to have certain areas focused on so me as the public has a clear understanding on what needs to happen pertaining out on this street fee if it's going to be approved. Thank you.

**Hales:** Thank you. Good point. Anything else? Then a roll call on -- no, it's second reading, it moves to second reading next week. OK, now we have a few items on the regular agenda. I understand Director Shaff is here and we have a couple of Water Bureau items we may be able to deal with fairly. swiftly.

**Item 70.**

**Hales:** Good morning, Ms. Moody.

**Christine Moody, Chief Procurement Officer, Office of Management and Finance:**

Good morning, Mayor and Commissioners. Christine Moody, procurement services. You have before you a procurement report recommending a contract award to Stettler Supply Company. The original engineer's estimate was \$750,000. On December 4, 2014, one bid was received and Stettler Supply Company is the low bidder at \$640,945. Portland Water Bureau has reviewed the bid items and believes the price offered is good.

The City identified one division of work for potential minority, women, and emerging small business subcontracting opportunities. Subcontracting participation on this project is at 2.1% with a minority-owned business performing painting and wallpapering. I will turn this back over to Council if you have any questions, and Dave Peters from the Water Bureau is here with any technical questions about this project.

**Fish:** Mayor, the only other thing I'll note before questions is that unlike a couple of other bids that Christine has brought forth, recently in this case, the optimal estimate was \$750,000 and we only received one bid.

**Moody:** That's correct.

**Fish:** Which is interesting. And it came in at 640,000.

**Hales:** Great. Nice exception.

**Fish:** Nice work.

**Hales:** Other questions?

**Fritz:** Obviously, the minority and women participation is abysmal. Is that because there's just one applicant that was the only responsive bid?

**Moody:** Actually, in looking through the subcontracting opportunities, there were only two subcontracting opportunities. The other one is drilling, and there's no minority, women, emerging small businesses that do that type of work. So, they're subcontracting out

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painting and wallpapering and then the drilling. The other work is all being self-performed. It's a pretty specialty type of work, thus the one bidder.

**Hales:** Thank you. Anyone want to speak on this item. Then, a motion to adopt the report.

**Fritz:** Second.

**Hales:** Discussion? Roll call.

**Item 70 Roll.**

**Fritz:** Thank you for your work. Aye.

**Fish:** Thank you, Christine, and thanks to the Water Bureau. Aye.

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

**Hales:** OK, then the other Water Bureau item was 74.

**Item 47.**

**Hales:** Commissioner Fish.

**Fish:** Thank you, Mayor. The item before the council would allow the Water Bureau to work with the procurement team to bid the construction portion of the Mt. Tabor Reservoir disconnect project.

As you know, this project is part of the City's plan to comply with the open reservoir portion of the LT2 rule, which is part of the federal Safe Drinking Water Act. That plan also includes the construction of new underground storage facilities at Kelly Butte and at Powell Butte. This project is currently in the land use review process. The Historic Landmarks Commission is hearing the bureau's Type 3 application package. It is possible that the Landmarks Commission decision will be appealed, in which case it would come to Council for a ruling.

For that reason, I want to call Council's attention to the finding at number seven, which reads as follows. Quote, elements of the Tabor adjustment project are the subject of a pending Type 3 land use review before Historic Landmarks Commission which may result in an appeal of the decision to this City Council.

Approval of this ordinance only authorizes the Water Bureau to solicit bids for the implementing work for the Tabor adjustment project. It does not constitute Council approval of this project, or pre-judgment of any land use appeals concerning the project that may be filed with the council.

Additionally, it's important to note that the contract that results in this procurement will thought come back to Council for approval until such time as the land use process is resolved at the City level.

We have Director David Shaff and principal engineer Teresa Elliott, who is managing the suite -- I love that word -- of LT2 compliance projects here to tell us more, and we also have Kathryn Beaumont on hand if any legal questions arise. David?

**David Shaff, Director, Water Bureau:** Good morning. I'm David Shaff, I'm the Director of the Water Bureau. As the Commissioner, said this is Teresa Elliott. She's the principal engineer in charge of all of our LT2 reservoir compliance. And she's here to rescue mow if I misstep.

As you know, the project is intended to disconnect the three open drinking water reservoirs at Mt. Tabor from the City's water distribution system as part of our plan to comply with LT2. It includes about 1500 feet of new pipe. It includes connections between existing pipes and other improvements to our facilities at the park.

Construction is scheduled to begin in the summer this year 2015, and to be completed in 2017. As the Commissioner mentioned, the project is in land use hearing. The second hearing actually occurred Monday. We expect to be ready to advertise for bids in February or March of 2015. We will not open those bids until the land use decision process from the City side is completed.

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The work will be sequenced in order for to us meet the deadline that we committed to the EPA to disconnect the three reservoirs by December 31st of 2015. There will be contract work occurring after that that's not tied to the compliance deadline but is essential to keeping the system operational. For example, the pipe installation along SE Lincoln.

Why are we doing this now instead of waiting for the land use process to go through its course? The time involved -- as you well know -- in the procurement process can influence the scheduling of critical activities for the project. This includes all elements of the City's bid process up to the selected contractor providing insurance, bonding, obtaining a signed contract, and the other work elements associated with the project. Due to the amount of the lead time required to complete these important elements, our best practice is for City procurement to work with us to begin soliciting bids in February. This could allow for construction to begin this summer in June, assuming that there are no further delays.

We won't start the disconnection -- we won't actually complete the disconnection until December 31st, and the time between this summer and December provides us our ability to approve the required materials for the project, set up the site, and physically do the work involved in the disconnect.

You're all very familiar I think with the public involvement approach that we worked on this. Our staff, staff from Commissioners Fish and Fritz's office, and a consultant have done significant amount of public outreach and involvement. This has included public meetings, public walking tours, meetings with the community advisory committee, the land use review process.

Based on that input, the staff made design choices. We limited the number of trees affected by the project, we changed the routing of some of the project, we've committed to keeping the reservoirs full of non-potable water after the disconnection until the council makes a final decision on the future use of those reservoirs are going to be, and we've committed to park improvements in the vicinity of the work.

The overall project is estimated at about \$7.4 million, and that includes the planning, design, public outreach, construction management, inspection, two different contracts, work by our staff, historic restoration, specialty consulting permits, and contingencies. The two contracts will be the actual disconnection work that we're talking about now and the smaller contract to repair the Reservoir 1 facade and sidewalks.

The estimated cost for this primary contract that we're talking about putting out to bid is approximately \$4.1 million, with a moderate level of confidence. Total construction should be about 4.8, and that includes both contingencies and our internal costs. We consider it to be a moderate confidence level because the design isn't complete yet. We have to get through that land use process to see if there are any changes that we would need to take into account. The project has about 15% contingency to cover the unknowns.

The conditions of the approval when we get them could affect the costs, the bid prices will also affect the cost. We are doing some in-house construction, so some of the disconnection projects along 60th will probably be done by our crews. So, we're doing a mix of both contract and in-house construction.

The bid type will be through the design bid build method for the construction contract. A formal bidding process will be done in accordance with the City procurement rules and the public contracting law. The solicitation will include unit price and lump sum bid items, and of course we will -- the MWESB subcontractor involvement will be included to the bid and required by bidders in accordance with our goals and objectives.

There are some related projects and contracts that will be done under this one design bid build contract. This includes the pipe cut and plugs in or near the right-of-way. Those will be done by the Water Bureau crews, as I mentioned. The Reservoir 1 historical structure repairs will be done under a separate contract. We will do long term maintenance

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of the mitigation trees along the project. That will be done through a separate contract or in consultation or agreement with the Parks Bureau. The Tabor generator project which is covered under the same land use review will be done by separate contract -- that's removing the generator from the Tabor gatehouse.

There are a number of agencies that are involved in this. We have been and will continue to work with the Oregon Health Authority regarding the water quality-driven reservoir disconnections. We have submitted signed drawings to OHA for their approval. We will be working with DEQ on their permit for stormwater management in construction areas. The Bureau of Development Services will issue one or more building permits following the approved land use review. We've worked with the Oregon State Historic Preservation Office to review potential impact to the historic districts and make sure the project doesn't adversely affect any historic resources. SHPO issued a letter last week indicating the project has no adverse impact on historic districts and that no mitigation would be required from them.

It is currently in a Type 3 land use hearing process with the Portland Historic Landmarks Commission. If there is an appeal, it will be heard by hearing with City Council later this spring. And of course, we're working with Parks and Recreation on landscaping and planting operations to minimize the impacts during the construction on the park, the park users, and the park operations. If you have any further questions, either Teresa or I will attempt our best to answer them.

**Fish:** Mayor, just one comment. I want to thank Commissioner Fritz, Director Abbaté of the Parks Bureau for being terrific partners in this exercise, this enterprise. This is very, very challenging work. We particularly appreciate Commissioner Fritz's advice to how to make the community consultation process more robust. That doesn't mean we're going to convince some of the people that frankly don't agree with the federal government's rule, but I think it is demonstrably true that more people have been heard and the process is better because of her input.

And I also just want to acknowledge that Mary Ann Schwab -- who I think left -- came up to me and I think she forgot this is not a budget hearing, but she did ask I put a budget request in for the Water Bureau, and that was a raise for Teresa Elliott. [laughter] I want to just acknowledge that she has a very challenging job. What Mary Ann said to me was she trusts her, and that's the highest compliment that you can give to someone who works for a bureau. So, thank you for your work.

**Hales:** That's great to hear.

**Fritz:** Particularly for Mary Ann Schwab, who is very diligent about looking into all the details. I echo my thanks to you, Teresa. I love it every time you're introduced as the principal engineer. It's just a great role model for students in public schools and elsewhere we heard this morning at what women can do.

**Hales:** Thank you. Any questions?

**Saltzman:** Yeah, I was just curious -- has it been decided who pays for the non-potable water that fills the reservoirs?

**Teresa Elliot, Water Bureau:** No, we're going to bring that back to you, to Council.

**Fish:** We haven't decided --

**Fritz:** We haven't decided what we're doing.

**Fish:** And to the extent -- we haven't got a proposal with the community. And we don't want to prejudge whatever the Landmarks Commission recommendations are because that's a Type 3 hearing. No, we've made no decision or commitment on that issue.

**Hales:** Partially covered by ticket sales for the arm wrestling contest between Mr. Shaff and Mr. Abbaté. [laughter]

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**Saltzman:** There aren't bond covenants that prohibit Bureau of Environmental Services or Water Bureau from providing free service?

**Fritz:** Commissioner, we'll probably have that discussion when the appeal from the land use decision comes to us. So, we shouldn't be discussing it before that quasi-judicial process gets to us.

**Fish:** We've been specifically instructed not to talk about that because there's a Type 3 hearing proceeding, and we've made also no commitment one way or the other on that issue. There will be full opportunity for Council to give guidance on that issue.

**Hales:** Good to know. Thank you both. Anyone want to speak on this ordinance?

**Moore-Love:** We have three people signed up. Michelle Mundt, Charles Johnson, and Joe Walsh.

**Hales:** Come on up, please. Ms. Mundt, I think you're first.

**Michelle Mundt:** I'm passing, but thank you for having the forum allowing me to speak out in sometimes inappropriate ways. And appropriate would be for me to sign up and pass.

**Hales:** Thank you. Mr. Walsh?

**Joe Walsh:** My name Joe Walsh and I will speak for individuals for justice on this item. Just a side note, I said to my wife when I left this morning I was not going to speak on anything. [laughter]

**Hales:** It's important to keep promises to your wife. [laughter]

**Walsh:** I'm sure she's watching, she's probably just cracking up.

**Saltzman:** You're on TV, Joe.

**Fish:** Joe, what happens here will stay here.

**Hales:** I don't think you can't count on that.

**Walsh:** On Monday, we went to the land use review. It lasted about four hours. There were 100 people who testified one way or the other, either in person or in writing. There was not one that supported this project. Not one. There was one woman who was kind of on the fence, but even she did not support this project. You've heard hundreds of citizens who represent themselves and represent organizations say to you, don't do this. But you chose to do it anyway.

Here's how you're going to do it -- for the record. You're going to wait for the land use management to make their decision, and there's some indication they may say no. At least one Commissioner was pretty much saying no. So, it may happen. Miracles do happen. They may say no. And where is the appeal? Back to you guys. You talk about a loaded deck. Would you give me a break? You already decided you're going to do this. You're already spending millions of dollars. There's not a politician in the world that would make a 180 on this issue, and it's coming back to you. Why don't you skip the middleman and just make the damn decision and cover the reservoirs so we can go into court someplace, somehow to try to stop you?

**Hales:** OK. Mr. Johnson?

**Charles Johnson:** Good afternoon, Commissioners. I also had the pleasure or the duty to remain on the second floor of the 1900 southwest building from 1:15 until 5:15 to hear pretty much unanimous feedback from our community that you should -- we talked about the diversity of opinion. But I think sometimes you all are evasive of the dual concern. Obviously, as Mr. Fish noted, some people just don't like LT2. And that's understandable.

But I think the other thing is that they have a quote on the literature we looked at the other day about it's the duty of the citizens to essentially control the government. What we expect from you all is since part of the politicians, local politician's job is to whine about unfunded federal mandates, we expect you to fight them instead of throw money at them. And I believe you've essentially been -- I was tempted to say dishonest, but I mean, there's been a comprehensive discussion and you felt that you were going to have to throw \$4.5



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plus million plus construction for the cracked underground -- you thought you would have to do that anyway. And as it turns out, you may not have had to. The LT2 might have been a waivable thing, it might be reversed, we may be able to reconnect the reservoirs. That's very much up in the air.

But really, you should all vote no on this to regain the confidence of the voters who want you to resist unfunded federal mandates that are based on poor public policy. That is why there's so much energy and contention around it. It's not just that we don't like LT2 and we don't think the reservoirs need to be covered, it's also that we're the citizens, we're the voters. We haven't mobilized a massive majority. There was a little TV recall campaign which you know we won't get into the details here -- but the main thing is that often we hear from our elected officials, oh the federal government wants us to do things and they are taking gobs of money and they don't help us accomplish those things.

And yet, many of us firmly cling to the opinion that instead of asking for \$4.8 million to do this unnecessary poor policy work, you should have just used the 40 attorneys that you pay annual salaries to postpone this further, and the cost would have been about the same. So, boo on you. Don't minimize or ridicule us for our fervent objection to your over-eagerness to expend money on unnecessary projects. You are free to dispute the necessity but since we're the electors, when we tell you, you didn't have to do it, just believe us and say I'm sorry, it was different. Don't ridicule us. Thank you.

**Hales:** Thanks. Anyone else want to speak?

**Fish:** Mayor, you won't be here next week, is that right?

**Hales:** I will not be here next week.

**Fish:** I could, Mayor --

**Hales:** Please.

**Fish:** Thank you, Charles. The last time Commissioner Fritz and I were in Mt. Tabor, we were presented with a set of questions from the community. We prepared detailed answers, furnished them to the community. They're also posted at the Water Bureau website and there's a link on my website and I think Commissioner Fritz may have a link. So, for people that want more information, there's a detail Q and A.

I just want to clarify something about what's before us. There is no proposal to cover the reservoirs. That's not part of this proposal. It's not been part of our plan. Secondly, we deeply appreciate that there are people in the community that disagree with the federal government on LT2. This Council fought tooth and nail and opposed the other side of LT2, which is the treatment side. We're the only city in the country that got relief from that rule. The only one.

Conversely, no city in America has received a variance or waiver of this side of the rule. So, we can argue about whether it's good policy or not. No jurisdiction in America has obtained the relief that some of the critics think we should have obtained. We did fight this good fight for seven years in the courts, in the legislature, and before administrative bodies. Whether you agree or disagree with the underlying science, the train has left the station. Powell Butte 2 is now online, you're drinking the water, and what's left is a disconnect process which Commissioner Fritz and I are trying to lead in a way that's sensitive to the historic fabric and the traditions and the community will while complying with the federal rule that every other city in America has been ordered to comply with.

To the comment about minimizing voices -- we can agree or disagree on many things. I don't think you can accuse Commissioner Fritz or me of minimizing any voices. In fact, at some hearings we've had a hard time actually even responding to the voices because they've been so loud and robust. That's democracy in action, but neither of us has minimized anyone's voice in this. But we are fulfilling our sworn duty to comply with a

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directive of the federal government, and we're in the same predicament as every other city in America. So, I just want that context, and we'll take up the vote next week. Thank you.

**Hales:** Appreciate that clarification. Passes to second reading. Thanks. Alright, then we have a couple things left.

**Item 71.**

**Hales:** Mr. Miller and team. Good afternoon.

**Fred Miller, Director, Office of Management and Finance:** Good afternoon. Fred Miller, Director of OMF. I'm here to give information with several helpers about an ordinance before you to approve 12 proposals from the innovation fund, which of course, you put in the last two budgets. I think my best purpose here is to explain how we got to these 12, and then you're going to see presentations from five of the 12, all of which will be two to three minutes just to give you a sense of what they are. Then by the time we're through, you should understand where we are and what we have left to do.

So, sometime in September, we inherited this program from the budget office and it all of a sudden appeared like there was lots of work to do to get things done, to learn from what was done last time and then get recommendations to you today. And there's a reason to get here early before the budget process. So, we looked around and made the good judgment of transferring Liz Mitchell to us for a while from BTS, who understands the City and knows lots of employees and can help facilitate innovation. She became our employee to work with three or four others within OMF to sort of spearhead this effort.

As we looked at the process from last year, we heard several comments. I'm not sure this is exhaustive, but some suggested that the process was very expensive to prepare proposals from which they might get no money but they may spend thousands to get a proposal in and then it didn't turn out for them that perhaps they didn't receive enough feedback, and then the decisions got made after the budget process. There's some confusion about budget proposals and innovation.

With Liz's help, we launched the program to basically establish a panel to review the proposals when we had them. And there were two bureau directors, Sam being one -- I think he's the only one from that panel here -- Amalia being the other, and then a couple people from the review panel last year, and then some employees and citizens to look at all the proposals we got.

We then asked bureaus for a call for ideas. We said, don't spend thousands of dollars on a proposal, give us one page with the best ideas you've got. We want the panel to review them and give you a thumbs up or thumbs down if they like it and they want more information they'll invite a larger proposal of about three pages to hear in the next month. So, we had lots of people working on it. We made one more change -- something that I think is important in the program -- to help establish a culture of innovation within the City. We thought big ideas that are the 100,000, 200,000 are hard sometimes when in fact we think the employees have lots of ideas that with 10,000 might be funded very successfully.

So, we asked for both what we called micro grants of less than 15 to 20,000, and then larger grants that you saw last time. In asking for the proposals, we got 45 proposals from 16 bureaus, and we reviewed those internally, gave them to the review panel, and they made the recommendations, they brought back those they got more information from. All the proposers were able to sit and watch the deliberation of the panel and respond to questions. So, I think it felt good in terms of that process.

We ended up with a panel selecting eight larger projects and four micro grants. So, I think we have a pretty good collection. You're going to hear that from a couple of those that were selected. But one of the things we don't want to do is to say the process is now over. We're hopeful that you'll approve this ordinance and we can go ahead with these 12.

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We have in mind two more opportunities for our review panel to look at micro grants this year -- this fiscal year.

Because the basic theory is good ideas shouldn't happen before November 4 when the committee meets and then wait for a year. If someone has a good idea to be funded, they should be able to raise it in January or February and have a chance for us to fund it via the innovation funds. That will be work on our part and employees' part, but I think we'll have a pretty good bunch of proposals and then let other recommendations that we would bring to you. Essentially, that's where we are.

Liz, did I leave anything out in the overall? I think what I will do is move out of the way and be ready to respond to questions afterwards, but let Leslie begin. We'll have -- Liz has orchestrated this well, so we're going to have four more people make presentations of two or three minutes, then if you have any questions, I'll be happy to respond.

**Hales:** Great. Thank you. Go ahead.

**Leslie Goodlow, Housing Bureau:** Good afternoon, Commissioners, Mayor. I'm Leslie Goodlow, I'm the business operations manager for the Housing Bureau, and I'm going to talk about our innovation project. Ours is about assisting homeless data.

Our city has hundreds of homeless assistance programs operating on an average winter day. Faith-based organizations are about a third of the programs, including the majority of food and substantial portion of all shelter and shelter and drop-in services. For example, at our faith-based summit that we had in December, we had 15 churches participate. Eight of those do hunger and food services on a weekly basis, and nine of them provide some type of homeless service -- either clothing, shelter, letting families park in their parking lots, a variety of things which if we had not had that summit we would not have known about the services.

Despite the long history of them helping people in need, we know very little about what they're doing. They serve primarily a diverse population. Faith-based organizations have historically steered clear of government because we require a lot of restraint and a lot of rules and things they don't generally feel they should have to do in order to provide help to people.

This innovation project aims to couple the specialized care and commitment provided by faith-based organizations serving the homeless with City services and housing resources. As part of the proposal, we'll appoint a staff member as a faith-based liaison to work in churches to develop a data and information sharing program. The data sharing program will employ a tool that's XML data transfer to make data sharing as easy as possible.

This proposal will build on work we started last year with our innovation fund project, where we were working with some of our sub-recipients on how to transfer data and to save time so they don't have to do double data entry. That was successful. This second portion was recommended by Portland State, who was working with the City on the innovation fund project last year.

This project aims to create a new relationship contributing new information to the City's efforts to reduce and end homelessness. It will contribute new knowledge about the needs of Portland residents and the strategies to best meet those needs. Faith-based agencies have very close ties with their communities and are often the first place people reach out to when they are in need. Many of the potential data sharing partners identified served diverse communities that have not been reached through our traditional outreach efforts. And we have identified three churches that we're going to start with for the pilot. Thank you.

**Hales:** Thank you. Great.

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**Liz Mitchell, Office of Management and Finance:** For the record I'm Liz Mitchell with the Office of Management and Finance. I would like to ask Sue Glenn from Parks to join us.

**Sue Glenn, Portland Parks and Recreation:** Good morning. My name is Sue Glenn, I'm the zone services manager for North Portland Bureau of Parks and Recreation, and I'm the project manager for Rx Play, the Prescription for Play program, which addresses widespread inactivity among our youth and the resulting health consequences.

Today, Jean Rystrom is with me. Jean is original founding champion for Rx Play. She's retired from Kaiser Permanente, however, she continues to be a tireless advocate for the program. Jean worked closely with the Oregon State Parks, Portland Parks and Recreation and a variety of health organizations to create the opportunities for prevention, which are core of the Prescription for Play project.

**Jean Rystrom:** We know that pediatricians and other health-care providers routinely provide advice to become more physically active to their patients. But we also know that for some patients, that advice alone isn't sufficient. Being able to follow that advice through the Parks and Recreation with an organized systematic handoff to Parks and Recreation which then provides concrete and accessible options to the patient and their family through personal and tailored interaction with a guide has been a win for the child, the family, health care, and recreation.

**Glenn:** This program has evolved from a research-based pilot in 2008 to citywide rollout in 2011 and 2012. During that time, both initial phases identified barriers within the program, barriers which included access, registration fees, staffing capacity.

In 2013, Portland Parks and Recreation was awarded a grant from the National Recreation and Park Association to specifically address those barriers. We are seeing great success. We have increased our capture rates. We have impacted families. We have reached out to families and individuals who either were unable to or unaware of our services.

By removing these barriers and encouraging physical activity, we are creating socialization opportunities and creating community. The innovation fund will ensure that this effort continues. It will fund staff, scholarships, and an outside evaluator to assist us in proving the efficacy of this program. It will create a panel to assist us in reviewing the model, and to assist in obtaining ongoing funding and a replication of Rx Play to benefit children and families beyond Portland city limits. Thank you.

**Mitchell:** Thank you. Next up, we would like to have Peter Wojcicki and Kirstin Byer from PBOT join us.

**Peter Wojcicki, Portland Bureau of Transportation:** Good afternoon. I'm Peter Wojcicki, I'm the division manager of street systems at PBOT. With me is Kirstin Byer, a traffic supervisor. She's the one who did most of the leg work for our innovation funds project idea here.

With over 163,000 traffic signs throughout Portland, they provide all sorts of information to the traveling public in the form of street names, parking, warning, regulatory, and stop signs. Our crews are out there almost daily cleaning them, removing graffiti, adjusting them, making them visible and functioning for the public to use.

Graffiti has been identified as one item that really sticks out a lot and takes a lot of effort for our crews to clean up. It's identified between 20% and 40% of our signs have graffiti on them. Oftentimes, it's in the form of ink, paint, stickers, and because it's multiple layers of these type of mediums, it takes a while for our crews to clean them. Typically, when you're cleaning something -- if you do that at home or something -- you typically you wear the paint off or something behind it. So, we've been really looking out trying to find something that can help protect our signs in a manner that also provides the retro-

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reflectivity that we need for signs to be seen at night when they reflect off your lights and things like that.

About 15,000 signs have retro-reflectivity on them now. Most are stop signs. About 100,000 of them need to meet retro-reflectivity guidelines based on federal law. Over the years, we have tried different products to clean or coatings on the signs. None have provided ease of cleaning, protection, or have been cost effective. Operations traffic supervisors met with a service disabled veteran-owned business that introduced us to a new coating that's applied in a three part compound that will provide both retro-reflectivity protection and anti-graffiti protection. These would allow the signs to be cleaned faster and with an environmentally-friendly cleaner.

Eventually, we hope we will be able to allow our neighborhood associations or cleanup crews to be able clean our signs. Currently, we essentially forbid them from doing that because of the chemicals we use and the damage done to the signs that I detailed earlier.

We have also found this new product will cost on an average \$6 to apply to a stop sign, whereas right now, we're currently spending \$28 to put a sheet coating on the stop sign to protect its retro-reflectivity.

So the other final point about this project is what we call non-sacrificial. You'll be able to clean it over and over again, whereas with some of these sheet coatings, once you clean it you start to wear it off, it diminishes, and you have to recoat or replace the sign entirely. We're really hoping to see a great deal of savings in the long term for extended life of our signs, lessening the amount of time cleaning them, and being able to redirect our resources elsewhere. Thank you.

**Novick:** Thank you so much.

**Hales:** Clever solution. Thank you.

**Mitchell:** Thank you, Peter and Kirstin. And now, I would like to ask Scott Bradway from Water and Lauren Nixon from Human Resources to join us.

**Hales:** Good afternoon.

**Scott Bradway, Water Bureau:** Good afternoon. Scott Bradway, I'm the water quality information program manager with the Portland Water Bureau.

The proposal that we submitted was for a water quality mapping widget. One of the programs I work with is what we call the water line. It's a phone line that takes phone calls from our customers concerning water quality questions and concerns. One of those questions that comes up occasionally is when there's a disturbance in our drinking water system. What can happen is sediments in our drinking water can get disturbed, resulting in discolored, dirty water by our customers.

While this is harmless for folks to consume, it's obviously disturbing to see, again, resulting in quite a few phone calls to our water line. It can overwhelm our staff working the line. Quite often people will comment they have searched online looking for information about what's going on with the system and aren't finding anything.

So, what we're hoping to implement with this proposal a mapping widget or plug-in to our website that will also be mobile-friendly that will allow customers to go to the website -- either the homepage or Water Bureau website -- using their phone to be able to look up where they're at when they are experiencing this type of situation and see what's going on with the drinking water system to see there is a main break or some other situation that has resulted in this condition that they're experiencing. It'll also provide them with a link to find more information as to what they can do to remedy a situation, or when a situation might improve.

This widget will hopefully relieve some of the phone calls that we get. It will also help put information out there for people who don't know about our water line, and who

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don't know where to get information -- going to our website looking for what's going on. Ultimately, we hope to partner with other bureaus to be able to increase the scope of this program to be able to put other information out there that the City is doing, such as road construction or closures, other work that may be happening at a park or sewer work that's happening. So, I think it holds a lot of potential.

**Hales:** It's a clever idea, and it may be the first time in history of government that the word widget has actually appeared in an ordinance. [laughter]

**Lauren Nixon, Bureau of Human Resources:** Good afternoon, Mayor and Commissioners. My name is Lauren Nixon, I'm with the Bureau of Human Resources.

The innovation project is an opportunity to support our work force and prepare them for tomorrow. In 2013, the Bureau of Human Resources launched its first e-learning training program, and to-date, over 3300 employees have successfully completed the program. The training and work force development department will continue to create new e-learning training programs in the next fiscal year.

E-learning training offers a multitude of benefits. It improves efficiency, because participants don't have to wait for a scheduled course and travel to a central location. Instead, the training comes to them on their time and it's responsive to a rapidly changing comment. We can easily edit the content, delivering up-to-date and timely information. It's really an all-inclusive package that saves the City valuable time and resources while delivering high-quality training.

However, employees must have access to a network computer in order to take the e-learning training and currently, we estimate between one-third to one half our City's workforce does not have regular access to a network computer. To bridge that technology gap, we're asking the innovation project to fund a \$10,000 pilot project to acquire and deploy training tablets.

These training tablets will be specifically designed for e-learning programs to bring e-learning to employees out in the field. The Bureau of Human Resources will manage and administer the distribution and maintenance of these training tablets, and bureaus can opt in to use them. By investing in the City's workforce, e-learning training provided on the training tablets will save resources and improve efficiency and develop our workforce through emerging mobile technology.

**Hales:** Thank you.

**Mitchell:** I would like to thank our presenters. We have been very pleased with the 12 proposals that panel has recommended. Thank you for your time and support of the innovation program. We would be happy to answer any questions.

**Hales:** Questions for Liz, Fred, or anyone involved in this?

**Fish:** They all seem great. The one from the Water Bureau seemed just exceptionally great. [laughter]

**Hales:** You're not biased or anything.

**Fish:** I wanted to ask them whether they felt that Chairman Miller was parsimonious in the allocation, or whether Council can override the parsimonious Miller. [laughter]

**Hales:** Penny-pinching Fred is coming to defend himself.

**Miller:** As it happened, I don't think the committee even looked at where the proposals came from in terms of Commissioners or bureaus. But just by chance, we did have one from each of your areas in this presentation. That was an odd coincidence, but the selection was not.

**Fish:** Were there enough resources to fund the basic asks of the ones you selected?

**Miller:** Yes. We have some remaining looking for micro grants coming in. We'll keep you posted on how that goes.

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**Hales:** I think the cost of some of these projects is pretty modest. I was impressed at that as well -- not only the innovation itself but the fact that people figured out how to do some of these things for a relatively small amount of money. So, that was pretty impressive as well.

**Miller:** In the whole process, I think Sam made the most meaningful comment on what should we be looking for. Things that don't cost a lot of money that you normally wouldn't budget where there's a risk but there could be a huge payoff. Those things we tend not to fund. But if you're looking at research on the private side, you like to find try new things and fail early. If we do that, some of these aren't going to work -- if we try something on the edge -- but at this stage we're not being too risky. But I think we need the culture, when good ideas are there, we're saying we're here to try new things.

**Fritz:** In adding up the numbers, it looks like \$330,000 is being allocated to OMF for training. Is that correct?

**Miller:** No, it's not. I'm not questioning your adding. We did want to do something with some supervisory training to facilitate the implementation of ideas. We haven't done that but we have whatever, 66,000 here, some money for Liz. We've got two hundred and some thousand not spent. Right now, again, there are micro grants in the offing. It could be we don't spend the full million but it's not OMF using.

**Fritz:** How much is going to administration within OMF?

**Mitchell:** At this point, the only funds that have been designated for administration are for the position that I am in, which is \$125,000. When we're not going to --

**Miller:** We're not going to spend all that because it's not a full year. That's what you approved in the fall BMP.

**Fritz:** Is the plan to continue that? The administration position of 125?

**Miller:** I think we need to make a proposal in the next budget process to say how we would expend the funds. We're learning this year, I think we're better this year than last. We'll be better next year.

**Fritz:** Did you say it was a member of the selection committee here?

**Miller:** I think just Sam.

**Fritz:** Would you mind coming to answer some questions?

**Novick:** Actually, Commissioner, may I ask Fred one more question?

**Fritz:** Well, I'm not done yet. Because I wanted Sam to join -- I'm sure you'll all have answers to this question. Thank you very much for serving. I agree, these are a lot of great projects and the range of projects is better. Obviously, the bureaus are learning how to write successful applications. My question relates to the evaluation about equity, and I notice at least one of the funded grants doesn't really address the equity question as far as who benefits and who is burdened, and I wondered if you could talk to me about the decision at the committee about equity issues.

**Sam Hutchinson, Director, Fire and Police Disability and Retirement:** Sam Hutchinson, Bureau Director at FPD&R and on the innovation selection committee. It was bought up from virtually everyone what type of innovation, who did it serve, who did it serve directly, would it indirectly serve equity, and there are a few that don't because they are internal but it was definite -- we had at least two members very committed to discussing diversity and equity in the proposals as well as it came up and most members discussed it. It was actively discussed and actively a criteria.

**Fritz:** How are the applications screened to make sure that the written application should be responsive to that question?

**Miller:** I'm not sure of the screening because they are presented to us, but we did ask questions because that was one of our criteria to look at in the selection. If we did not see it, we asked questions of the finalist groups that we were --

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**Mitchell:** And I'd be happy to add to that. For the projects that were asked to come back for round two, we did ask for an in-depth project proposal focused on who would benefit and what equity -- how this would promote equity and also promote opportunity and to whom. And so, the proposers had that criteria out there.

The panel had five filters that we asked them to use to evaluate the proposals when they came back. And they were -- do you think the proposal were innovative, does it show strategic creativity? Are other funding sources taken into consideration? Is innovation fund the best funding source? Can this be carried out with the information put forward including estimated budget? Are the key partners on board? And are there benefits to the proposed project? Does it advance equity, does it provide opportunity, is there potential for greater benefits with broader applications? So, those were the filters that we asked the panel to put each of the projects through. And if they had passed all of them then there was more.

**Fritz:** OK, thank you. That actually answered my next question which is a concern about cost savings. When this proposal was first put forward in the budget, the expectation was there was going to be a payback either short-term or long-term in cost savings. That doesn't sound like that was one of the criteria.

**Mitchell:** The focus this year. The focus was -- it is certainly is out there, but the stronger focus was on the equity and opportunity that we heard from last year's panel and from Council last year, as well as making sure that we are building an innovative culture within the City.

**Hales:** Other questions for the team?

**Novick:** Fred, I note two of the proposals were based on ideas submitted by people named Bradway. [laughter] I'm wondering if you could talk to Anna Kanwit about expanding our Bradway recruitment effort. [laughter]

**Miller:** I'll certainly take that under advisement.

**Hales:** Something genetic going on there. Thank you all very much. Anyone signed up to speak?

**Moore-Love:** Yes, we have three people.

**Hales:** Come on up. Lightning, you're on first.

**Lightning:** Thank you. My name is Lightning, I represent Lightning PDX Rethink Lab. I definitely like this innovation fund, and a lot of the ideas being presented I think are good ideas. I come from more of the side of creativity and creating your own ideas, and I think this is really a great thing to have.

I'm looking at the funding, I was a little more interested on the amounts that you funded toward different projects. I didn't know if that would be like a -- across the board, say at \$50,000 each one, but I notice you have different amounts. I wasn't quite sure on how you came up with providing more funding for one and quite a bit less for the other. That's just something that I'll try to understand later.

**Hales:** It's just really based on what they requested, I think.

**Lightning:** OK, you've answered my question for that. I guess if some people might have a higher number, they might have possibly gotten higher. So, that's a fair answer.

One of the things I like about this -- and I'm referring to mainly on the homelessness on the data-sharing. What I'd like to see possibly is more data on more of a daily count of people that are homeless, say, on a quarterly basis out through the city. Why I mention that is I want to see more of a sophisticated system set up to where we really monitor that number. And I'm talking about where people get their food, if they are chronically homeless outside -- I want to have that data to really understand that number, how it's changing, how it's changing with the population, with people moving out of the state, people moving into the state. I really want that number to even be broken down to central downtown, eastside, certain areas, by the block. I want that number accessed. I want it accessed on a



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quarterly basis, and I want to understand when we look at those numbers, how much more housing do we need? How much more services do we need? How much more money do we need? But we need to have that number, and I know that number changes all the time. It's a very important number to have on a quarterly basis to project out on what we really need to do each year.

Again, on the property management -- real property management, I want to have a closer eye on the real estate assets of the city. I want to understand a lot of other areas. So, let's really focus on that.

One other issue on this funding -- I don't have an issue on how it's being funded. Can we present this as one future potential foundation to cover this cost, to match this and to cover the cost for the city? I think this is very beneficial. I would think a lot of foundations would be open to discussing this and understanding the benefits throughout the city.

Thank you.

**Hales:** Thank you. OK, Charles?

**Charles Johnson:** Good afternoon, Commissioners. I'm glad that Lightning retouched on the issue of homelessness. I know it's a difficult issue to find funding in places. You know, there are federal restrictions. We really -- we kind of know we just need more units. And Commissioner Saltzman and all you have worked to take steps in that direction.

Last night, I was particularly aware of which doorways already had people asleep prior towards 10 o'clock, and I hope that next year we might have some capacity to directly approach people and engage, have a facility where we can actually rescue people and actually just -- and actually be glad some homeless people, all they would want to do is rest. They would turnover do it in a warm structure but we don't have any warm structures available for them. And I hope that next year we can have a program that actually does what good people can do but people are really afraid to do in their home, and that's actually go find sleeping people and say, there's a cot, there's a mat in a certain place, and not only when the temperature is ridiculously low.

I originally came up because of course, as the mayor noted, we get to say widget in the record.

**Hales:** Really, when does that ever happen?

**Johnson:** I did get a chance to research the widget project. But I have seen on Facebook multiple people complaining about water quality and sediment. And I hope that Commissioner Fish will have a chance to work with the widget guy and maybe move to the front of the Water Bureau page a quality reporting, which may even perhaps proactively relieve some of the higher workload that comes up so that when data comes in and says there's a sediment problem in a certain area, it'll be easily found on the front page of the [portlandoregon.gov/water](http://portlandoregon.gov/water) and people may see a map which is highlighted. They could know that maybe a crew has been dispatched to do a sediment flush by opening a hydrant or whatever. And if there is a problem with call volume coming in, perhaps you can even cost-effectively robo-call people and say, we're aware of the sediment problem, there's no need to call, a crew is dispatched at such-and-such a time. A service-tracking type of ticket.

**Fish:** Thank you for that suggestion, Charles. We have 930,000-something customers. I want to do a shout-out for the customer service people, because they really do a great job. We can always do better in government, but that's one area that I can assure you there's a very high level of service and responsiveness. We appreciate your suggestion.

**Hales:** Anyone else? If there are no further Council questions, we'll take a roll call on the owners.

**Item 741 Roll.**

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**Fritz:** I vote for the budget which includes this \$1 million and therefore I'm going to support this ordinance. I'm very concerned -- obviously the list has many, many good projects and very pleased that three of the 12 are Portland Parks and Recreation and pleased that the bureaus are addressing the equity criteria.

There may be other ways to fund these, and some of them may indeed be reprioritizing within the bureaus. If the main criteria this year was equity rather than on saving money, then I would suggest that bureaus should be reprioritizing their existing funding to be more equitable.

I hope, Mayor, that we have a specific discussion about this in this budget process about the innovation fund, because I'm not seeing the kind of cost-saving projects that I was hoping for when we allocated them. I believe we should be looking at things like implementing 311, which is the most innovative thing on the agenda right now. We know we're going to need millions of dollars for it, and that would be one way to dedicate this money.

We know we need more money to save in Transportation to pay for paving so that we don't have expensive road repairs to be done. So, I'm concerned that even though these projects are all great and they do good things, almost everything we're asked to do before the council is proposing to do great things, and there's a finite amount of money. But I do respectfully vote aye.

**Fish:** Thank you for the presentation and for the various proposals, and thank you, Fred Miller, for your stewardship of this and the committee staff. Aye.

**Saltzman:** Thank you. I think the process, as Fred said, gets better each time. I know from serving on the Children's Levy, our process for making tough decisions about how to spend money when you have many more requests than you have money available. We have also improved our processes over time. I think you're doing the same thing and these sound like great proposals. Aye.

**Novick:** I think this is just great. And I congratulate and thank the mayor for giving the bureaus an opportunity to show that we can be innovative and we can do significant things with small amounts of money. I think that these are valuable things to do, but it's also an incredibly valuable message to send. So, I am pleased as punch with the whole idea and with the specific proposals for this year. Thanks for Fred and his team for shepherding it through the process. Thanks for the bureaus for their proposals and their work. I think this is just awesome. Aye.

**Hales:** Well done. I think the process is working well. Just reminiscing a little bit -- the council knows I'm going to be out of town this week. I'm going to be out of town next week for the same reason I was out of town two years ago the same week, and that is because I got invited to go to a U.S. Conference of Mayors meeting followed by a Saturday morning conference about innovation in cities, which Andrew Scott attended with me two years ago.

Of course, we heard the idea of an innovation fund and how it worked in other cities on that Saturday morning. But prior to that, I was getting to know a few other mayors at this meeting. It was a pretty impressive meeting. I got to meet the president, members of his cabinet.

But I was agonizing a little out loud to Greg Fisher -- who's the mayor of Louisville who's a little more experienced at this than I was -- and said, I'm still wondering how much time I should spend on any of this extracurricular stuff. I mean, it looks like the U.S. Conference of Mayors is a good thing, it looks like the innovation conference is worthwhile, but I need to be home minding the store. How do you, Greg, strike that balance? He said, Mayor, how many people do you have working for your City? I said, well, about 5600, why? He said, well, how many of them in their job description have big picture thinking or research and development? Hmm, well, you could kind of say our bureau directors and

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Council members are supposed to exercise big picture thinking, but I'm not sure it's in our job description. I'm pretty sure almost no one has research and development in our job description.

And of course, this guy -- if you've checked him out -- is a very successful businessperson who then decided to spend a tour of duty in public service, and I got the point, which is we ought to exercise some big picture thinking and we ought to exercise an effort at research and development. We ought to encourage people to try things and fail and try something else after that. That's very much the idea here.

So, I got the point with him. I think we've all got the point this is an idea worth doing at a modest scale with some that are going to succeed and some that won't, but every time we learn something. Appreciate the great work being done in the bureaus and by Fred and his team to evaluate these. Thank you, Sam, and others who served on the committee. So far, so good, and I look forward to seeing what kind of widgets we hear about next year as well as the results of these widgets this time. Gotta keep using that word. Aye. OK, we have a couple more items on the calendar and then we will take a recess.

**Item 72.**

**Hales:** Good afternoon.

**Becky Chiao, Risk Management, Office of Management and Finance:** Good afternoon, Mayor and Commissioners. My name is Becky Chiao with City Risk. The ordinance before you authorizes a settlement of a police use of force lawsuit brought against the City of Portland by James Waters.

Mr. Waters was arrested during the service of a search warrant in April of 2012. In the course of his arrest, Mr. Waters suffered physical injuries to his knee and calf when he was bitten by a police dog. Mr. Waters required medical treatment at hospital. He brought a lawsuit seeking \$5700 in medical damages and \$200,000 in noneconomic pain and suffering damages. The trial is set for later this month, but in November, the parties participated in a day-long mediation session at which time a tentative settlement of the case in the amount of \$47,500 was reached. Risk Management and the City Attorney's Office recommend the settlement to you as it minimizes the risks and future costs of proceeding with the litigation.

**Hales:** Thank you. Questions?

**Fritz:** Mayor, I'm wondering what kind of follow-up there has been with the Portland Police Bureau to look at this incident and what our policies are.

**Hales:** Well, we have of course changed our policies for the use of force since 2012 when this incident occurred. What I don't know -- and I will find out -- is if we have specifically changed any of our policies relative to the use of canines.

**Fritz:** Right.

**Hales:** So, good question. I'll go check on the answer to that question and report back to the rest of the council, because I'm not sure if we specifically addressed when and how you release a canine and under what circumstances and that's what was at issue here.

**Fritz:** Yes, thank you, that was part of my question. The other part was about employing the destruction device. I would like to know the policies for when that's --

**Hales:** OK, good. And of course, all of our current and proposed new policies are now being posted as we work on them, so it's a public process, not just here. But I will get back to you about both of those.

**Fritz:** Thank you.

**Hales:** Other questions, Council members? Anyone want to speak on this item?

**Moore-Love:** We have four people signed up.

**Hales:** Michelle is deferring. Mr. Johnson and Mr. Walsh, come on up.

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**Fish:** Joe, your wife is on the phone, I think you should talk to her before you say anything further. [laughter]

**Hales:** Yeah, stand and deliver.

**Joe Walsh:** I'm never going to live this down.

**Charles Johnson:** For the record, I am the wifeless Charles Johnson. I want to thank the mayor for having the policy and putting this in review. Is it possible to disclose what counsel represented Mr. Waters?

**Hales:** It's in the ordinance --

**Johnson:** I didn't see that in the page --

**Hales:** Kafoury.

**Saltzman:** Greg Kafoury.

**Johnson:** Shocking. I didn't have a chance to verify that on my way in. Thanks.

**Hales:** OK. Mr. Walsh.

**Joe Walsh:** My name is Joe Walsh, I represent individuals for justice. A few things jumped out at me about this item. The first is I know the lawyers involved in this and they're friends of mine. That's the first thing that jumped out.

The second thing that jumped out -- the supporting documentation is very limited. It's the most limited that I've ever seen in a claim. And I don't understand that. It jumped out at me. It's very little information. You asked the question, have you changed the policy? There's an indication in the supporting documentation but it's not very firm, it just implies that you have changed your policy about releasing the dogs on misdemeanors. So, it would have to be a serious felony before you would release the dog.

The third one is that it wasn't on the consent agenda. And I want to tell you, Mayor, how much I appreciate that. Because I think the people that are watching this and the people in the audience have a right to know what's going on. And this is something that's happened especially with our police department. They need to know what's going on. They need to know what happened, they need to know if there was any action taken by the police department to reevaluate it, to look at the officer, how that happened, what happened with the warrant. Was the charges dismissed? All of that information may not belong to me, but I'm asking you to make it belong to you because you should understand what happened. And I do appreciate that you took it out of consent agenda for the TV audience. You opened it up to discussion and do I appreciate that.

**Hales:** Thanks very much.

**Johnson:** And I do want to encourage you, Mayor, that when -- this afternoon, we'll be talking about the crowd control policing report. I hope that for the people who are interested, there will be some sort of summary tracking to know over the course of policing in Portland, has litigation against the police gone down? How many specific incidents? I think that's something that would be something in line with good government and with your standards for good government.

**Hales:** Thank you, good suggestion. Anyone else to speak on this item? Then, roll call on this item, please.

**Item 72 Roll.**

**Fritz:** Is it an emergency?

**Hales:** Yes.

**Fritz:** Thank you for the explanation and for getting back to me on the policy. Thank you for the testimony and appreciation. I hope your wife is forgiving of you doing that. Aye.

**Fish:** Aye.

**Saltzman:** Aye.

**Novick:** [inaudible]

**Hales:** Aye.

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**Item 73.**

**Hales:** Commissioner Fritz.

**Fritz:** Thank you, Mayor Hales. It's my job and delight to bring this ordinance to Council and pass it over to Kia Selley for the presentation.

**Kia Selley, Portland Parks and Recreation:** Thank you, Commissioner Fritz. Good afternoon, Mr. Mayor and Commissioners. My name is Kia Selley, I'm the Portland Parks and Recreation planning development and asset manager.

I'm here today to request Council approval via ordinance of seven on-call contracts of \$150,000 each for construction management and roof and building envelope investigation and design services.

The request for proposal announcement was placed on the City's procurement website and a City minority evaluator was a member of each review panel. Four of the seven firms that we've selected are certified MWESBs. In other words, they're certified minority, women, or emerging small businesses. Two firms are minority-owned and two firms are women-owned. The remaining three firms are required to allocate at least 20% of their task order work to certified MWESB firms if that additional expertise is needed.

We use on-call contracts for small to medium-sized routine projects, and for small to large urgent projects or emergency projects. These contracts help us quickly access skills and experience, often for skills and experience that are not within our team's bailiwick.

For large projects such as Beech and Gateway Park, we issued a project-specific request for proposal because of the size of the contracts. Issuing a project-specific RFP we think is the right thing to do for large projects, but it take a lot of time and resources -- often up to six months from the beginning of the request for proposal process to the inking of the contracts.

Most of our existing on-call contracts are for amounts less than \$100,000. We currently have 17 categories of these on-call contracts such as landscape architecture, architecture, engineering. We decided to increase these particular contracts to \$150,000 based on our recent experience. We recently used an on-call contract for the Charles Jordan Community Center roof project and found that the scale of the facility roof project required a large contract amount -- over \$100,000.

We've also found the same to be true for construction services, construction management of services, such as for the South Waterfront Greenway Project. When we need these specialized construction management services, they are often for very large and very complex projects. So, that commands a requirement for a larger contract size -- over \$100,000. This concludes my comments but I'm happy to take any questions you might have.

**Hales:** Questions? Anything to add? Thank you both, thanks very much. Anyone want to speak on this item? If not, then we'll take a roll-call vote.

**Item 73.**

**Fritz:** Thank you very much for the presentation and Dale Cook and Sarah Drake also provided a lot of early briefings to my staff. I also want to thank Mike Abbaté for his support of this program, this project, this series of projects. It's an emergency to avoid service disruptions and to contract for the two projects in process when the contracts expired in December of 2014.

And I'm particularly proud of the minority and women component of these contracts. Four of the seven firm resource minority and all women. A couple of them are also ESBs. That's wonderful. And 57% minority and women in the contracts. So, we are putting our money where our hearts and our minds and our mouths are, and I'm very proud of that. Aye.

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**Fish:** Nice work. And I don't want to create additional work, but I'm going to ask my two bureaus to talk to you about how you got such robust participation, particularly where you have the commitment -- that a commitment was made to get between 20% and 30% from some of these firms. Thank you for your good work. Thank you, Commission Fritz. Aye.

**Saltzman:** Good work. Very impressive results with minority and women-owned businesses. Aye.

**Novick:** Thank you. Aye.

**Hales:** This is not only impressive in itself, but it has such leverage. As it happens, I was up late at the kitchen counter helping my step-daughter who's a civil engineer work on her resume for what she hopes will be her next job. And getting these on-call contracts, whether it's for a firm or an individual -- because actually, this will affect individual engineers' lives who work for these firms, because then they will have that kind of project experience for. So for her as a young engineer trying to show that she really has the credentials, each time you get a project like this and have you this on-call contract, you get to do a variety of tasks for a major client, the City of Portland. It really has a catalytic effect on the emerging and minority and women-owned businesses listed here, but also for the individual people that work for those firms. And I just saw that illustrated last night as it happened. So, I can really appreciate the special value of what you've accomplished here. This is great, well done. Aye. I have one more task, which is to set a City Council meeting for January 20th at 4:00 p.m.

**Fritz:** Four?

**Hales:** Four, because of other scheduling issues. I think your staff says you're available, so I think --

**Fish:** What issue, Mayor?

**Hales:** The referral of candidate measures under the street fund for the advisory vote.

**Fritz:** And are we anticipating it'll go long enough that people can come after work at five?

**Hales:** I suspect it'll go more than an hour and a half, yes. So, if there's no objection, I'll set that date and time for a special Council meeting and we recessed until 2:00 p.m.

At 12:55 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 and should not be considered a verbatim transcript.

Key: \*\*\*\*\* means unidentified speaker.

**JANUARY 14, 2015**

**2:00 PM**

**Hales:** We'll come back to order. Would you please call the roll?

**Fritz:** Here. **Fish:** Here. **Saltzman:** Here. **Novick:** Here. **Hales:** Here.

**Hales:** OK, we have a couple items. Number 75, please.

**Item 75.**

**Hales:** I think we have a member of the Noise Review Board and staff here to speak. I just want to say I appreciate the work that both our volunteers and our staff have done in this case and many others. I think this case kind of demonstrates to me that system works, and your role in making it work in this case is much appreciated. Welcome, David Sweet and Paul van Orden. Not sure who's on first, but we're glad you're here.

**Paul van Orden, Noise Control Officer, Office of Neighborhood Involvement:** I'll jump in. Paul van Orden, Noise Control Officer for the City.

Just a little background. Today, we're revisiting an appeal of a staff-approved noise variance for crane operations and early morning concrete pours. In particular, the appellant David Vanadia asks that City Council overturn one particular item in our noise variance, which was a year-long element that would have allowed up to 10 Sundays of work for crane erections and demobilizations and the delivery of large-size materials. So, it was for those two particular elements, the cranes and bringing in large elements.

In our last Council hearing on this particular item, Council had asked the contractor and appellant to mediate regarding the Sunday work. The item was easily resolved in so far as Andersen Construction made a decision that the 10 contingency days of work on Sundays were something they could remove from the table and give the neighbors a respite on Sundays and that there would not be a need for mediation. So, that item was rather easily resolved in terms of their request to do that Sunday work.

There were several other items that Council asked staff to research regarding this item, and to also to check in with the City Attorney's Office and find out some possible options. One concern regarded the almost ubiquitous EX zoning in the Pearl and exploring the concern that EX zoning is a mixed use type of zoning more or less that allows a higher decibel level. In our exploration of the EX zoning, the interesting thing that came out was that quite clearly, Planning was looking at -- both through the comp plan and more specifically for central city elements of planning concerns -- what's the best situation in the Pearl for zoning. So, there really wasn't a particular avenue for the Noise Office to push to change the zoning in the Pearl or to make changes to zoning.

That compounded with the fact that EX zoning appears in lots of neighborhoods in the city, and making a specific change to the noise code to EX would need quite a bit of research, because you're talking about a myriad of neighborhoods that may have one lot, several parcels with EX zoning. So, it wouldn't really be a simple fix that would help reduce the decibel level in the Pearl, for instance, not to mention the concept that Pearl is someplace that we see as having the beneficial element of mixed use zone -- things happening that EX permits or other zoning and limitation on the decibel level creates some challenges.

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**David Sweet:** If I may -- David Sweet. The mixed use zoning task force that's working on issues around mixed use right now intends to roll the EX zone into a commercial zone that will be one of the mixed use zones at that point. Clearly, designated as commercial will be changing the noise code to consider EX zone a commercial zone which will reduce the allowed noise levels in the Pearl and in other EX zones.

**Fritz:** It will reduce it or it will increase it?

**Sweet:** It will reduce what's allowed.

**Fritz:** Why?

**Sweet:** Because commercial zones are allowed to make less noise than industrial zones, and EX is currently considered industrial.

**Hales:** Right. Yeah, that will help. Questions?

**Fish:** Paul, I have a question. When did you grow that beard? [laughter] Dan and I both had the same reaction, we were wondering when Paul was going to show up.

**Van Orden:** Takes about a month and a half, it grows that quick.

**Fish:** Now you can do your work in a stealthy manner.

**Van Orden:** Yes, until I change the look again.

**Saltzman:** Undercover.

**Hales:** Undercover Noise Officer.

**Fritz:** So, do we have anything in writing that Andersen will not be working on Sundays?

**Van Orden:** Their variance -- I might have an extra copy -- their variance was changed, and it was pulled right out of their variance. So, they had a revised variance -- which I think I have extra copies -- and the revised variance clearly states that -- it doesn't state Sundays, Sundays are just removed. Let's see if I have an extra copy.

**Sweet:** Commissioner, the nature of the variance is that it identifies what is allowed. So, if Sundays are not included, then Sundays would be off the table.

**Fritz:** Thank you. So, do we need to enter -- presumably -- I mean, this appeal is against the noise variance. This is not a new noise variance. What's the procedural path forward here?

**Van Orden:** This revised variance was issued to Andersen officially, so this is their official document that says, this is now what your variance has been revised to state because the Noise Control Officer in the original conditions they received -- there was always a condition based on complaints and other concerns we can revise their noise variance. So, they've actually formally received this -- that these are the conditions they are operating under. So unless they said we need to use something more official, I think we legally told them they no longer have Sundays and this is the variance they operate under.

**Fritz:** And our current noise and construction ordinances don't allow Sundays, which is why they wanted a variance in the first place, correct?

**Van Orden:** This is always the tough part. The code doesn't say you absolutely can't work on Sundays. It says you can't exceed the permitted decibel levels, which basically means you can do things like paint and bring sheet rock and plumbing materials and work inside a building. So, they're actually just asking for a variance -- not philosophically to work on Sundays, but to make more noise than they can legally make on Sunday.

**Fritz:** And the construction -- is construction allowed in general that's not noisy allowed on Sundays?

**Van Orden:** Yes. What we have to do when we issue citations for people working on Sundays is we actually have to document that the body of work that they're doing is exceeding the baseline permitted decibel levels.

**Fritz:** But construction itself is allowed.

**Van Orden:** Yes.



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**Fritz:** OK. And there was a discussion at the previous hearing about forbidding noisy activities such as cutting metal before 6:00 a.m.

**Van Orden:** And we did not look to write a specific regulation into the code to write the code in that fashion at this point. That is something that could go through the Noise Review Board. What we focused on more so was -- the other items I didn't mention improving notification and the venue of review. But we did not have a specific dialogue around adding a new component that limited construction work on Sundays, for instance.

**Sweet:** I happen to be there when we were drafting the noise code in 1975-'76. And the idea with construction was that there are certain construction activities that are so loud that we couldn't set a reasonable decibel limit for them. So, we set restricted hours instead. The permitted hours are 7:00 a.m. to 6:00 p.m. Monday through Saturday. And within those hours, the sound levels permitted from construction are very permissive. Outside of those hours, they are the same as they would be for a rock band, an air conditioner, a stereo.

**Fritz:** So in fact, we do already have codes saying you cannot saw metal at 5:00 in the morning.

**Sweet:** 6:00 a.m. -- no, you cannot.

**Fritz:** So then what's the penalty for that?

**Van Orden:** If it's a first citation, it's \$300. If it's a second citation, it's \$1000. Third citation is \$3000. After that, it's \$5000 for every citation after that. There is a philosophical dispute which is part of the reason we're in appeal today that I think many of the citizens you may be hearing from feel that the Noise Office is not issuing citations quick enough or in a large enough number on construction projects. So, I think there's a question that I don't know will be easily be resolved here. That's why in the last hearing I tried to illustrate that just in the year, year and a half since there's been a transition from BDS to ONI, we've issued more citations in the Noise Office than in the five or six years previous at BDS. As staff, I'm obviously potentially biased, but I'd say that that kind of improvement in a 25-year career in environmental law enforcement is a pretty good statistic to show that we're serious about issuing penalties.

**Fritz:** It is indeed. Even with or without beard, there is only one of you. And when I was the Commissioner-in-Charge of the Bureau of Emergency Communications, noise complaints tended to get pretty far down both BOEC and police response, and so we do rely on the police to respond at 5 o'clock in the morning. I'm wondering -- looking to my left and right, Commissioners-in-Charge of Police and BOEC -- if there can be a directive for egregious noise violations, not just your noisy party but for things that are actually specifically called out in code such as not sawing through metal at 5 o'clock in the morning, that there could be some directive that in fact police would respond and cite.

**Hales:** Already under way, actually. I'm glad you brought that up, because Chief O'Dea has directed that Deanna in my office and Paul will be working with the bureau for additional training for officers on noise enforcement. So, there may be only one of him, but there are a lot of people out there every day on behalf of the City in the form of police officers who should be assisting in the enforcement.

**Fritz:** Right.

**Hales:** So, that's in the works. Something that Chief O'Dea believes we ought to be doing as far as neighborhood-based policing, and I agree.

**Fritz:** Especially for our downtown folks -- anything adjacent to a construction site. If you as Commissioner-in-Charge of Police could make sure that the BOEC dispatchers are aware that in fact the police will be prioritizing these kinds of noise complaints -- I know in the past it's kind of been like, well, they may not be able to come within the next two hours

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by which time it's long past when construction hours are over. So, I'd like that. Just going back to notification, Paul, where did you get to on notification?

**Van Orden:** Improved notification as requested by Council -- in the short-term, we tried to work with Andersen because they have several projects going on at once as well as now Walsh Construction within close proximity of the same area. Their last request to do some early morning concrete pours we actually had them do notification to all the surrounding buildings within a two, two and a half block radius. They handed out approximately just under 1000 notices to those buildings, and then we followed up by requiring the folks at Andersen to give us a business card from each building so we knew the person they reached out to and dropped off the notices for the tenants. Because it's not always a possibility to get them into the hands of the tenants, and they can't put them in people's mailboxes legally.

So, we followed up and called those building managers and found that about a third of them had not yet passed them out to the neighbors. So, the notification element -- the part of the equation that Andersen had to take care of, which is delivering the notices with an appropriate number, was verified to have been done correctly. The buildings passing them out to their tenants -- we had some concerns that they weren't passed out until we actually called and said, we really need these in the hands of tenants.

That doesn't fix the problem completely in terms of notification directly to the tenants. Mailing could be a potential way to do business. The challenge there would be for a basic noise variance that may be one, two, three days of work. The mailing notification would be twice to three times the cost of what the noise variance is. So, if Council wanted to us go down that road, we could explore changing our notification component to require direct mailing to each person within a noise variance, but that was not where we arrived at this point.

The second component of notification improvements -- Council in our dialogue last meeting, we discussed the concept of trying to get a weekly notice out to neighbors. And so, two things in that area -- Kathy Couch, who is our main program specialist, she's taking a class in February to be able to use the City's webpage to post our weekly notifications of what variances have come in. And we're still trying to iron out how we're going to email out a list, because we're in the process of changing one of our other staff folks. Patrick Owen, who would normally be our person to email out to all the neighborhood coalitions, interested parties a list of variances that come in that week -- he's now segueing to crime prevention. So, we're in the midst of getting a new person and getting that new person trained up. That will be the other component of weekly emails, as well as posting on the ONI website.

**Fritz:** I appreciate you can post on the website, however, if I'm a resident downtown I'm not checking your website every week to find out whether or not there's a variance. Similarly, if I'm a neighborhood association volunteer, I'm not necessarily going to take it upon myself to get that email and find out who's the proper authority. I thought we had discussed something like posting a notice in the elevators or some other kind of public place.

**Van Orden:** As a matter of conditions that we're going to be putting in noise variances, they're going to actually have to have the formal variance posted on site.

Realistically, we've had some challenges with getting building folks to post them. It's not very hard for someone to take it down. It's the same component as giving it to a building manager and they're not getting passed out. So, when I explored this concept, I'm not sure how from a staffing perspective I can be completely sure, one, that the noise variances were passed out to the neighbors; or two, that they're posted in an area where someone can see it. So, it seems like the more appropriate way is to have it right on site

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when someone walks out they'll see -- just like a land use notification, they'll see a notice that says there's a noise variance on file. And since they're fairly succinct documents, someone can see the actual variance and the conditions.

And the benefit we chatted about last meeting is if an officer responds and a neighbor is frustrated, they can actually -- instead of something in their building, they can point and say, there's a notice right there and it says no work on Sunday. Or, there's a notice right there that says saw cutting will cease at 9 o'clock p.m.

**Sweet:** To be clear, all major construction projects long-term, such as the Sellwood Bridge, the painting of the Broadway Bridge, major ODOT projects do come before the Noise Review Board. We do require the applicant to mail notices within the area that we expect to be impacted by them and we do hold a hearing on those.

So, here we're talking about variances that are ordinarily issued over-the-counter by staff. And I have asked that -- where it's feasible -- all construction variances in the Pearl District at this time be referred to the Noise Review Board for adjudication. We are asking the applicant to distribute notices. We're not asking for mailed notices, which would be very expensive, but we are asking them for construction noise in the Pearl, that they distribute notices within a reasonable impact area, and we do hold a hearing. We have one coming up tonight where we'll consider a variance for seven concrete pours and then a crane disassembly between now and May.

**Fritz:** I'm pleased to hear you're going to have all the projects in the Pearl referred to the Noise Board, because my understanding is that 98% of the current applications are done by staff rather than going through the board, and that the board chair chooses which they listen to and which they don't.

So, Mayor, I'm really concerned about -- this a specific case. I'm glad it came to Council because it's highlighted a number of issues that we as policy makers need to have discussed. Where are the written-down administrative rules or understandings or understandings or resolution of all of these issues that we would then adopt into findings and give directions to staff at the very least to move forward?

**Hales:** I don't know if we have to adopt findings in this case, because it's not strictly speaking a land use case, it's a code compliance case. Nevertheless, the question of how do we enshrine the work that's been done here in some kind of --

**Fritz:** And this is not just this project.

**Hales:** Yeah, I understand that. I would like to hear your thoughts about that, both of you, as volunteer board member and you, Paul, as staff. How do we take what we learned in this case and apply it as policy?

**Van Orden:** I think the concept of improving notification -- it's a matter of writing language into the permits that we try to consistently place in every single construction permit one, to save time for staff who pulled that information together for me; and two, to make sure we're being equitable and fair. So, it wouldn't be logical to require new elements of notification and not have that appear in every single noise variance that goes out that's of a construction nature.

I think in terms of what we have before us today, which is a construction noise variance and not a concert or other element of noise-making activity, it's easy to standardize that as we have with a number of different conditions for variance types and just uniformly make sure that's in every permit. I don't know that there's a particular methodology to enshrine this in code or enshrine this in particular policies and practices of the Noise Review Board and the Noise Office at this time.

That's an interesting question. The board could so decide that they want to put this within their own policies and procedures. For instance, one of their internal policies and procedures they've decreed is the reason why on many projects -- or not the reason why,

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one of the protections they have created as board is projects over a year long I can't review. They have to come to the Noise Review Board. This could potentially be something that the board could put to their policies and procedures and require that in that manner. I'm not sure if that's necessary if we're going to put it into all of our conditions, but they could --

**Fritz:** I'd like to see something like that, and I'd actually like to see it come back to Council for public comment, including your notion of posting at the site. I don't know that that's in code anywhere, right? So, that needs to be -- we've got a general understanding, thanks to the citizens that brought this forward and to your work and such on this particular case. A new Council, a different Noise Officer -- perhaps at some point it needs to be written down. And so, I'd like to see that brought back in a revised policy for the Noise Board operations.

**Sweet:** We can certainly do that.

**Hales:** I think that makes sense. Good. Thank you. So, this has been very helpful. I'm not sure if there are others here to testify -- we'll take that in a moment -- so with the case before us, you've sort of evolved from there, you have a new variance that is better for the neighborhood than what was being appealed, so I assume that the correct disposition of the appeal is to deny it since we have moved past that. Have I got that right?

**Van Orden:** That might be a Ben question so far as you could even approve --

**Hales:** Are we approving it or are we denying it?

**Fritz:** We're approving it, because it's a --

**Ben Walters, Chief Deputy City Attorney:** Before we get to the disposition, could we find out if the appellant is here?

**Hales:** Yeah, we're going to conduct a hearing, but what are the options for Council?

**Walters:** The options would be to deny the appeal as moot because there's a new variance; deny the appeal just on its grounds, depending on the council's consideration; or to approve the appeal with the variance conditions as identified in the newly rewritten variance.

**Hales:** I'm struggling with the third one. Wouldn't that be redundant?

**Walters:** Well, again, I don't know what the appellant's arguments are at this point, because the appellant has not made their presentation.

**Fish:** What's the difference between dismissing as moot because there's a new variance or approving the appeal with conditions of the variance? What's the legal difference?

**Walters:** It would be that the basis -- if they were to seek review going forward with the Council's determination, there is a writ of review in the circuit court from here.

**Fish:** If the appellant is satisfied with the terms of the new variance, the cleanest thing to do would be to dismiss it as moot.

**Walters:** Yes, I would agree.

**Fish:** Because there's a new variance which is applicable.

**Hales:** So, we'll find out.

**Fish:** We'll find out.

**Fritz:** I just have one final question for staff. Under the new variance, it says that the hours are of the construction work shall be from 5:00 a.m. to 7:00 p.m., and then it goes on to say about the concrete pours. But then in part G, it says the use of jackhammers and/or pile drivers shall not be permitted outside the normal documented construction hours. That doesn't include not allowing metal saws cutting on metal outside of construction hours.

**Van Orden:** Because you could write into conditions of permit 500 different items that might potentially happen on the job site --

**Fritz:** Then why did you call out jackhammers or pile drivers?

**Van Orden:** Because we do that on almost every project as a reminder and to make sure that neighbors are clear. And especially in this case, where there's been a high level of

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sensitively in the Pearl District around pile driving -- that has been a component that 20, 30, 40 neighbors have been vocal about. We could write an additional condition, but at some point this becomes an exercise in trying to second guess which items may be used on a construction site and make noise --

**Fritz:** I thought the point of C to is say you can have these variances for these early morning concrete pours.

**Sweet:** And that's the only thing.

**Fritz:** It should say that then. It shouldn't say that and then in G say you can't do pile driving.

**Van Orden:** I'm not sure I see your point insofar as we're reminding them -- it's just a way to try and -- this item winds up in the hands of citizens, and it's to help them read it.

Because we've been second-guessed on conditions again and again, it's to help educate people that we're in no way approving pile driving before 7:00 a.m.

**Fritz:** Can you cut metal before 7:00 a.m.?

**Van Orden:** Not if it exceeds City noise code.

**Hales:** It has to exceed a decibel amount.

**Van Orden:** Yeah.

**Hales:** But whatever they're doing --

**Van Orden:** So, saw cutting in a job site this large -- saw cutting metal may potentially be in compliance with City Code if you're a block or two away. I could not simply say, here's a citation. If an officer showed up and they're a block away, and they wrote a special report -- which is what we're working to do -- and said, I'm in my squad car, I hear these operations within my squad car, and forward a special report to us, I could use that to estimate a decibel level that's being operated on a cite and issue a citation. Whereas jack hammering and pile driving is so bloody loud that there's not an easy way to do that in the middle of the night, so we're in a safe position to say thou shalt not do this outside of the construction hours in the City of Portland. It's more an educational element to make sure neighbors know we have not issued any leeway with pile driving and jack hammering because it's one of the items we hear a lot of concern from citizens on.

**Fritz:** I think the wording of that condition might be improved to specify that.

**Sweet:** I agree with you, Commissioner, I --

**Fritz:** Including but not limited to jack hammers and pile driving.

**Sweet:** Yeah, it can be. The way it's worded is possibly confusing and I in future variances will look to change that.

**Fritz:** Thank you.

**Hales:** Other questions for volunteer or staff?

**Van Orden:** The only other component we didn't chat about which I assume someone might have a question on -- there was a bigger question for staff and for the City Attorney's Office on the venue of review. When we looked at that, within the concept of two variances from a staff perspective being reviewed at a Council level, it did not seem to make sense to -- organize the review back to the venue that's directing the variance be reviewed. So in essence, the chair authorizes the Noise Control Officer to review the more basic noise variances. It would be an interesting affair if we're appealing right back to the venue of review to begin with, so to speak, but it could be done. It seems like at this point with only two Council appeals in 18 years that it may not be the time at this moment to do that. I just wanted to make sure I reported on that component.

**Hales:** Helpful. Other questions? Thank you both. Now, we'll see if Mr. Vanadia is here and would like to testify. Anyone else? Welcome. Good afternoon.

**David Vanadia:** Good afternoon. Well, where to begin? The saw video that you saw last time turn out to not be in violation based on Paul viewing the video. That's what I was told.

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I've got an email. And he said it's very difficult to figure it out just like -- just as in the case of officers citing people for speeding with a calibrated radar detector to measure speed, in the Noise Office, we rely on calibrated noise measurement equipment bridged with unbiased observations to issue a formal citation based on noise measurements, yadda yadda.

So, it's really difficult because when I got involved in the noise stuff here in our neighborhood, it was first take a log, then take photos, then get videos, then it's been this carrot that I can't quite catch. I've heard him talk about hanging signs -- the company's responsibility to hang signs. And I've heard that mentioned in the summer. It hasn't happened. I believe that the onus should be on the company. If the company is coming into a neighborhood -- whether it's a small community, large community, a lot of construction or a little construction -- I think that the construction company ought to have the responsibility to take care of their place in the neighborhood. And I don't think that's quite set up that way right now.

Some of the things that Paul just mentioned -- the business cards -- there was a variance that got issued last month for this month that was supposed to be for last month. Andersen claims that they walked around and -- they didn't actually say they walked around, they implied they walked around. It was very weird. Anyway, our neighborhood didn't receive them. I guess before I continue, my wife has drawn a letter and it's just one page. I would like her to read it.

**Hales:** OK.

**Gwenn Seemel:** This is specifically for you, Mayor Hales. Last time we were here in October, I explained that the City of Portland --

**Hales:** I'm sorry -- put your name in the record.

**Seemel:** I'm Gwenn Seemel. I'm David's partner. Last time we were here in October, I explained to the City of Portland that the City of Portland has an enforcement problem when it comes to noise. Things look fine on paper and in the ordinances and in the variances, but in practice, enforcement is broken. Two and a half months, later the situation is the same.

ONI has told me it does not wish to be a punitive agency, and I'm here to report it succeeds brilliantly in that. Construction companies and developers alike are confident in just how not-punitive ONI is. Today, I just want to give you one example of the Noise Office's reputation for being toothless, a reputation that has damaged livability in many areas around the city and has now reached the north Pearl District, where I have lived for the last seven years.

In December 2012, a project across the street from me broke ground, and from the beginning, it violated the noise ordinance continually. Over 21 months of the project's major construction activity, I sometimes filed complaints with the City for the project's illegal activity and sometimes tried communicating directly with the construction company. Whatever I did had little effect on the project's illegal behavior, which included regular 5:30 a.m. starts, late evenings, and Sunday noise.

In the end, after months of consistent wrongdoing, ONI fined the project just twice. And when the developer contested the fines, ONI removed the larger of the two and reduced the bill to \$300. The fee was due in December. The developer has yet to pay. With that kind of slap on the wrist punishment, I suppose I should be grateful that construction companies aren't even more flagrant in disregard for livability in my community.

When just one construction project comes into a neighborhood, building in close proximity to people's homes, it damages livability for months on end. But when there are

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six sites in a two-block radius and two more breaking ground in the next few months, livability is impacted in a whole new way.

If you add to that mix City agencies that fail to enforce noise ordinances and special variances, livability no longer exists. My neighborhood will be in that condition through 2017 unless you make changes. You are the Council person in charge of ONI and the police, the two law enforcement agencies that are refusing to place a leash on illegal construction activity. Please fix those agencies and remind developers that it doesn't make sense to destroy the community if they want their own buildings to flourish once they are complete. Thank you.

**Hales:** Thank you.

**Vanadia:** I like the idea of a review, like a follow-up. I don't think that this problem is solved. I'm glad that I managed to prevent Andersen from taking more hours from the community. However, they are still taking hours from the community. They are taking from the community -- this Saturday they did a concrete pour, and they had a variance for that. But the language in the variance doesn't get followed.

For instance, in the variance, it said that they should have no more than two concrete trucks on site. They had five pumps, which means they had two trucks at each pump with two trucks in waiting, so at least 10 trucks surrounding the entire block and just going from 5:00 a.m.

On top of that, just next to our building, there are two large sites that they use for staging which has dirt and equipment on it, and they brought in a huge convoy of dump trucks before 7:00 a.m. which lined up, queued underneath apartment windows, and started taking dirt away. All this was happening at the same time, so there was some variance of activity and then other activity.

Now, the community is completely confused. I mean, I've been involved in this and put in way too many hours to figure out how all this stuff is working to finally get here before you today. And most neighbors don't know what to do. They wake up, they go out in their pajamas and their coats. I sent an email -- I think -- maybe some of you have seen it -- and they asked some questions. They just don't have the time to be able to pursue all of this stuff. When I go to the Noise Office particularly and I say, look, this was happened, they say, hey, we'll monitor it. We'll take your complaint into account. And nothing happens. Nothing has changed at all. Nothing has changed. So, I would love to do a review. I'm happy to answer any questions. But I think it would be good to revisit this issue.

**Fish:** David, you've raised -- and Commissioner Fritz has raised -- code issues, review issues. And thank you for framing those for us, because there's a bigger fix here. The other piece of what's before us today is the specific appeal and the new variance which has been issued.

**Vanadia:** Yes.

**Fish:** Are you satisfied with that new variance?

**Vanadia:** Um --

**Fish:** Understanding that you would like to have a broader set of issues addressed, and I don't want to lock you on that.

**Vanadia:** I'm -- as far as specifically to this appeal that I requested that it be revised to remove Sundays for workdays and that that has been done -- to that degree, I am satisfied.

**Fish:** OK. But you've also identified a cluster of issues that need obviously more attention and by the council. So, do you have any objection if we were to dismiss the appeal on the basis of the fact that there's a new variance and therefore that's in effect, with your right to come back if that's violated?

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**Vanadia:** I would like to do that with the stipulation that we are going to -- I am going to come back and we are going to revisit this -- have that built in if possible, rather than me have to start up any initiative to make it happen. Because to be frank, I feel like yeah, I got this piece of paper that says something on it but I'm just counting the days before some kind of large construction happens on that site and I can't call ONI, because they're not working on Sunday and they don't do anything, and I can't call the police because the police don't do anything either. That's how I feel. It's a frustrating feeling. I would really like to accept this variance as it's written here but with the condition that we meet again to follow up on whether it's effective.

**Hales:** Let's look at some options. The Chief is here. Chad and Rachel from my staff are here. We might want to get some combination of them to respond to what we might do next, not just with this appeal.

**Fish:** Well, Mayor, rather than keep the record open -- which I guess we could continue this -- since it appears that you and Commissioner Fritz have an appetite to look at the code issues, it seems to me that if there was a meeting scheduled in the next couple months to begin that conversation, that could also be a meeting to discuss any shortfalls on these projects.

**Hales:** Yeah, and I'm sensitive to this question of how bankable is this new variance, how much can you rely on that? I hear you about that. One option would be to continue the appeal rather than end it because it's not a land use case. We're not under some 120 day rule or something. We could continue the appeal and let the work that I described earlier continue, which is to have the police bureau training taking place that's going on and to have more ears on the street -- if you don't mind the bad pun -- then return to it, give you a chance to see how it's working and say how it's working.

**Vanadia:** Well, if we're all here right now, if I may, I would love to hear from them. I would like to be able to even talk with them. It would be awesome to -- it would be wonderful to get a commitment, a promise or --

**Hales:** OK, let's do that. That appreciate you two. Anyone else that wanted to speak on this?

**Fritz:** I actually have a question. You noted that the site has not yet been posted. If it were posted, do you think that's an appropriate mechanism to let neighbors know about the variance?

**Vanadia:** No. I think it's helpful, because it at least it allows people to go to that specific site to see. They might be able to see what the rules are for that specific site. But it's been very difficult -- when you looked at this piece of paper, what does this mean, what does that mean? It's very difficult for people to juggle figuring out this stuff on top of everyday matters and family matters.

**Fritz:** What would you like to see in terms of notification?

**Vanadia:** I would definitely like to see more enforcement. I feel enforcement would help. As far as notification goes, I think that having the company reaching out directly to citizens would be very helpful. In fact, there was a building next to us called the Parker which was recently completed after two years. The developer there for his -- he was having a grand opening party. And for that, he managed to make sure that everybody in our building got a notice that said, we're having a party, and it's going to be noisy.

**Fritz:** How did you get that notice? Was it mailed, was it posted?

**Vanadia:** It was directly mailed. They used a particular organization which I do know the name of it, I could find that out. But they used a particular type of business that does direct mailings. So, that was pretty effective.

**Fish:** You know, let me make a counterargument, because last time we had this conversation was looking at a more robust system. Now that I have a demolition going on



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next door to my house, I've actually come to appreciate the fact that I know there's one place I can go to check all the notices.

**Vanadia:** Yeah.

**Fish:** And it's right there. If that's not up to date, there's a real problem.

**Vanadia:** Right.

**Fish:** Putting aside the port-a-potty that was knocked over, the trees that were cut down without a permit -- put that aside, I know there's one place I can go to get the current documents.

**Vanadia:** True.

**Fish:** I actually probably might be overly confused if I got five or six notices for all the things that are going on in my neighborhood and have trouble matching which and what. There is something I would say personally comforting to know I can go to the construction site and there it is. That's a big no-no if it isn't there.

**Vanadia:** Well, what if you had six sites around and you had to do that and go to six different websites and keep track of six.

**Fish:** I'm with you, I mean --

**Vanadia:** It's just devil's advocate --

**Fish:** Have as much notification that you want, because I'm all for notification. But I would still -- I might as someone living in that community start getting confused by getting six or seven letters and have trouble matching it to which site and what's going on. Having watch dogs in the neighborhood that check each site would give me some comfort, but I'm for more notification --

**Seemel:** Part of that could be that the companies could take feedback from citizens about how to notify better. I actually just sent some to Andersen and ONI, and ONI thanked me for my comment and Andersen didn't reply. I asked them in their email notifications to state the variance number and state when they'd be working outside of normal hours right in the subject line. Because that's the most important thing, right? What you want to know is when it's outside of normal hours.

**Fish:** I would also hope that the building manager is being a little more proactive on this.

**Seemel:** In this case -- a lot of times the construction companies come before the manager is there and they just tape the stuff on to their door, and the cleaning people take it away because it looks like trash. If the construction companies would come during normal working hours and speak to the managers, that would be real community outreach, actual community outreach.

**Vanadia:** But that does happen sometimes, the construction managers speak to the building managers. For instance, today someone from Walsh Construction told our building manager that Walsh Construction will be going tonight to the Noise Board to apply for a variance for February.

Now, the building manager told me, oh, we'll put a notice up tomorrow to let the citizens know. Well, that doesn't work. And this is what I mentioned in my presentation last time I was here, is the companies seem to know enough ahead of time to be able to organize having 50 or 100 trucks come through the neighborhood filled with concrete and time all that stuff, they can put an \$80 million tower up, but when it comes time to like notifying the citizens ahead of time, giving citizens enough time to give their feedback, then logistics become really hard for them.

So for instance, I think with more stuff -- if I got -- say there were six sites and I got six notifications that were really clear, then I could say, this is that site because there's a little map on here and it shows me the days and it also tallies that that particular place has -- let's say they got 40 days on their variance and they've now used three and they are going to use four, five, six on this weekend. Because right now the way it works is it's up to

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the company to provide their own oversight and the City doesn't do that. So, that ends up forcing citizens to have to join in the oversight.

**Fish:** I want you to know that misery loves company. I got a letter recently from a state agency that said, and I quote, this letter was previously sent to you but returned to us -- meaning wrong address. We are resending but the statute has run for you to challenge the determination in the document because you did not respond from such and such date when we issued the ruling.

**Vanadia:** Right. Well how about we just don't do variances?

**Fritz:** I think I can help you with that. I'm not a lawyer, but I think I can help you with that.

So, I really appreciate this input, especially on the notification. These are the kinds of things I would like to see in administrative rules or policies for the Noise Board. Because clearly, if they were going to the Noise Board tonight, they knew about that ahead of time. In other land use cases, there are stipulations about how far in advance you need to notify the neighbors. These are things I would like to work out with you because -- and previously, in my 20-some years with the council -- six years on it and being a neighbor before -- we haven't had this kind of robust discussion of the noise program and I very much appreciate you bringing this appeal. Clearly, there's a number of committed volunteer citizens and staff who -- the small number they have need reinforcements, for instance, from the police and Emergency Communications to do the enforcement after hours. So, thank you very much.

**Vanadia:** I'm sorry, I have one last thing about that. The -- I think partially because citizens have been active and going to the noise board meetings, David Sweet requested that the Pearl District noise variance goes through the Noise Board, which we very much appreciate because it gives more voice to the process. And so, this has also caused, though, a little bit of bottleneck now because the particular variance that Walsh wants to do in February -- they don't want to wait until the February meeting. They want to do it in this month. And so, having -- as you mentioned -- just one person managing and being the only person that can sign off on these variances for the entire City is really a terrible way to work, I think.

**Fritz:** Thank you.

**Hales:** OK, I appreciate it. Anything else you want to add and if anyone else wants to speak on this? I'm going to suggest because we're missing some people that ought to be in this discussion like Amy Archer and because we have another time certain that instead of having them respond now -- and I need the Chief to do something else in a minute -- that we instead get you and the Police Bureau and noise staff and Mr. Sweet together, even starting outside in the hall after this.

**Fritz:** You can borrow my conference room.

**Hales:** Or in our conference room [laughs].

**Vanadia:** And is that officially recorded?

**Hales:** Well I'm saying we need to kind of move into a workshop mode rather than formal hearing. I want to continue the appeal. I'd rather it on the table here both to give you leverage and to give the council a chance to revisit how some of this stuff is working. The Chief is about to start training some officers and having more than one Paul van Orden out there -- that's going to take a little time but not too much time.

**Vanadia:** Let's get trained officers because one more Paul van Orden might not do anything.

**Hales:** I'm going to continue the hearing but give you a chance to have that conversation outside the formalities of this meeting. Maryhelen, did you want to speak on this? Come on up. Thank you both.

**Vanadia:** Thank you.

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**Maryhelen Kincaid:** Maryhelen Kincaid, in case you didn't know. I'm the one that kind of poked the hornet's nest on this, so I feel a little bit responsible because there's really responsible citizens, really talented noise office staff, and my experience with DRAC has been when you get all the convergent people in the room, you get good things to happen. I just said to Nick in passing, we need to get these people in a room. So, I very much appreciate that and I want to support that, because I think that things can happen. And we've got some things with DRAC in terms of notification and demolitions that I think we can use existing process to do. So, I think that's a very important piece of this that that directive happens. If they don't get the information they are unhappy. If they get the information, they can still be unhappy but at least they're informed.

**Hales:** That's where we want to get to. Thank you. Appreciate that. Unless there's anyone else who wants to testify I'm going to continue the hearing and ask that we have just that discussion as soon as possible including today or starting today and that we'll report back to the council as well as to folks in the community that are concerned about this. OK.

**Moore-Love:** Do you want to set a date?

**Hales:** We're going to continue it to what, 30 days from now? Sound right? Since we have stuff in the next couple weeks that might occupy our attention.

**Moore-Love:** You think about another hour?

**Hales:** Let's set a time certain on Wednesday or Thursday afternoon.

**Moore-Love:** Thursday afternoon on the 19th is available.

**Hales:** OK, let's take that.

**Moore-Love:** February 19th at 2:00 p.m.

**Hales:** OK.

**Fish:** Does that work for the appellant?

**Hales:** Does that work for everybody? Does that work for you? OK.

**Fritz:** Thank you.

**Hales:** Thank you very much. Alright, let's move to Item 76.

**Item 76.**

**Hales:** Chief O'Dea and others are here to present this report. I think it's the Chief's first official appearance in front of City Council as Chief. Welcome.

**Larry O'Dea, Chief, Portland Police Bureau:** Thank you. And I think it'd be most appropriate for them to present the report first and I'll follow on.

**Hales:** Welcome.

**Derek Reinke, Independent Police Review, City Auditor's Office:** Thank you. Good afternoon, Mayor and Commissioners. My name is Derek Reinke, and I'm the research analyst with the Auditor's Independence Police Review division. I'm responsible for the division's database, all of our tracking of trends, most of the reports you see coming from our office I have some kind of hand in those.

In addition to basic operating stats that we report quarterly and annually, we also do various policy reviews. You may have seen our recent hip-hop that review our director had a hand in.

The Citizen Review Committee also does a number of policy reviews. The 11 volunteers on the CRC listen to community input, they conduct reviews and research, they make policy recommendations in addition to their regular hearing of appeals and general advising of the IPR and the Police Bureau. They form work groups or subcommittees that review areas of public concern. And another part of my role with IPR is to strongly support these research efforts, facilitate and coordinate whatever kind of national research or other things they may need to do in those roles.

The report you have in front of you is the end product of the crowd control work group, which was formed in the wake of Occupy Portland, not the more recent event. This

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is more of an effort that's been going on about two years. This group started off holding a large public forum with a lot of the Occupy Portland folks, and then started with interviews and meetings with representatives of folks from Portland Copwatch, from the AMA coalition, ACLU, National Lawyers Guild, a few local defense attorneys, one judge in Portland that heard many of the Occupy cases. They then started talking about other groups like the OIR group, which is consultants that come in and review the bureau's officer-involved shootings. They talked with some folks from the City Attorney's Office and asked some questions and had meetings with the Police Bureau's incident command and rapid response teams.

They also invested time walking along protest marches. They were involved in May Day and other events like that. They walked both within the crowd and in some other events they shadowed the bureau's responders, attending some of the bureau's pre-planning meetings and some roll call events and things like that before marches.

I think this is a work product that's been informed by a number of different angles and certainly developed with a lot of volunteer time and effort on their behalf.

I also wanted to highlight quickly what this report is not. I don't do this often, but I think in this case it's kind of important. This report is not a comment on the bureau's proposed revisions of the crowd control directive. There was a little bit of confusion there based on the timing -- the bureau is doing a process now where every month or so they're posting two, three, four directives at a time up for public comment, and it just happened that the crowd control direct -- they've made some changes to that and they posted this the month of September for public comment.

The work group that had been going on about two years was very close to an end product, about 90% done. I think they used that kind of as a motivation or window as, let's get our stuff off to the bureau while they are studying this particular area.

The report itself isn't necessarily a thorough review of any changes made to the directive, it's not necessarily a commentary on that. But based on the timing, it was something that they wanted to get in during that month. To the bureau's credit, they've held off on making final revisions to that directive until this CRC process wrapped up. In fact, we've still been meeting -- we had a meeting with the Chief just this week on Monday where he probed us a little bit more about what was the thinking behind the recommendations and how could we take action on those. So, that was great.

Also, this report is not a comment or investigation of any specific incident. Just in the last few months, for example, seen since the Ferguson and New York City grand jury decisions, we've seen a number of protests and kind of a new series or a new wave of activity in Portland especially on Tuesday and Thursday surrounding Thanksgiving. IPR heard from 30 people on that Monday following Thanksgiving, and we are doing an independent investigation into what took place in those protest events.

\*\*\*\*\*: [inaudible]

**Reinke:** This report is more the end product of a two-year look into policies in this area. At this time, let me introduce Rodney Paris, who is the chair of this work group. He's also the outgoing chair of the CRC. He'll discuss some of the group's major findings and recommendations. Rodney is wrapping up a three-year term on the CRC, so I hope you'll also join me in thanking him for his long-term service to the City.

**Rodney Paris:** Thank you, Derek. Derek summed up our work pretty well -- the process we went through in working on this. You have the report in front of you, I'm not necessarily going to read all of our recommendations. We did make a number of recommendations. I think you could put them into some logical groupings.

The first grouping has to do with equipment, both around sound trucks and name badges. We made recommendations to beef up the existing capability of the sound trucks.

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Officer O'Dea said at a more recent protest they had access to more high-tech device from a manufacturer that they feel did improve their ability to communicate with the crowd, but I have been at other protests and heard public feedback that at times the equipment we had at some of those protests was not adequate to reach all members of the crowd, especially in a confusing, chaotic situation like that with a lot of other noise going on. It sometimes led to miscommunications and misunderstandings about directions from the bureau.

The second one is around name badges. We heard a lot of feedback. One of the top things we heard from the community was their desire that all officers in Portland monitoring crowd situations have name badges. There have been in the past some jurisdictions that did not want to go along with that. So, Chief O'Dea has done some work on that. I think there's been some agreements from some of those jurisdictions now that that will be more standardized going forward, but we believe that's important.

The next recommendation was on crowd control training. The Portland Police Bureau has been conducting training for both themselves and other agencies around crowd control. We believe that's important, especially as we bring in other agencies to the City to help us. We want to make sure that those agencies have the same sort of training that our officers and that we beef up the training for our own officers around how to handle crowds and deal with difficult situations.

Number four is around use of gear and military-style clothing and tools. Again, this was a common concern that we heard from the public -- that the presence of that hard gear equipment can be something that they feel is inappropriate in some situations, that the bureau feels it's a good tool but if you read some of the information from oversight agencies from other jurisdictions, there is some best practice out there that keeping that out of a crowd situation until you absolutely need it is a best practice. The bureau does do that and has been continuing that practice, we think that is the right approach to continue or increase that just to keep a de-escalation frame of mind until you really need that sort of tool. Again, you see a lot of that in the Ferguson protests, and some of the images you see from those protests where the police look more like soldiers -- that was really the concern we heard from the public.

Community relations. Again, this would probably be beyond just the scope of crowd control. I think the Chief's recent appointment of a new command position to deal with community relations is important. Even within the crowd control area, we think it's important. Having police presence at some of these events, making sure they get out into the neighborhood and know the people involved in some of these protests. Officers should really have that as part of their job description to help develop trust and confidence in them by the individuals and people that they serve.

Again, going through some of these others ones that I would say are more of the ones we heard the most about -- seven, eight, nine, and 10 have to do with documentation and being transparent, making sure that the permitting process is clear and straightforward, that crowd expectations and information for crowds about how to get permits, what sort of things the police will and won't allow during a protest would be helpful for crowds. Publishing standard operating procedure -- I think the bureau has some concerns that they wouldn't want to release confidential information about tactics. But even having those available so they could be part of an audit by CRC or IPR even to make sure they are following their own standard operating procedures -- we feel that would be important. And things that can be released publicly about general standards -- we think that would help build that transparency and trust.

Number 10 is around the crowd control directive itself. We feel more should be written into that preamble around de-escalation as an effective tactic to avoid confrontation, and just overall work on that directive, which is currently up for review and

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has been. And we are thankful that the bureau held off on finalizing that until we could finalize our process. That was very helpful.

Eleven is training officers regarding speech, not to target individuals based on political affiliations. We did hear from some members of the public that believe the bureau unfairly targets people that are supposed anarchists or members of the Black Block or other groups. We would encourage individualized assessments not assessments of people based on their membership in a particular political group or organization.

Twelve is again a little bit broader than just the crowd control situation, but we did hear from people had a difficult time getting their property back after a crowd control incident where they may have been cited or arrested. We've heard about that from citizens in other areas as well, that sometimes those are held out throughout Northwest Portland and people may not have access --

\*\*\*\*\*: [indistinguishable]

**Hales:** Ma'am, you need to let him speak.

\*\*\*\*\*: OK, then don't lie --

**Hales:** You need to let him speak. You'll be asked to leave if we can't let people speak.

\*\*\*\*\*: [indistinguishable]

**Hales:** One more time. Everybody gets to have their say. You also -- but one at a time. Go ahead, sir.

**Paris:** OK, thank you. So, making sure that process is a robust process and fair to people that are involved in that situation. Those are our recommendations. As Mr. Reinke said, we met with Chief O'Dea earlier. I think he's amenable to looking at most of these. I think there's some concern about a couple of them, but I'll let him speak about that.

Again, we thank you for inviting us here to bring this important issue up. It's been an ongoing issue for years. I think we've kind of wrapped up our work, but this will be an ongoing issue. We know the CRC will have an important part to play, as one of our main functions is gathering public feedback. So, we will continue to do that. We hear complaints and appeals on those complaints. I know it will continue to be a focus of the CRC.

**Hales:** Thanks for your volunteer service. I know we've got some questions.

**Fritz:** Thank you for your work on this report, and thank you for all your work on the Citizens Review Committee. I'm curious to why there's no discussion of the mounted patrol and the use of horses in crowd control.

**Paris:** The use of horses came up couple times from people in the public feeling it was overly intimidating. The bureau's position on that is they feel that's a useful tool to them. We didn't get too much into use of force, you know, use of batons, use of bikes during protests, pepper spray. We believe that the current use of force policy should apply to crowd situations as it would in any other situation -- if there are complaints, that they should be filed. We've seen numerous number of complaints from recent protests and those will go through the normal process. We didn't feel like that should be part of our report at this time -- trying to figure out use of force for each and every type of tool that a bureau may use in a crowd control situation.

**Fritz:** So, let me just summarize what I think I just heard -- you would view a horse as a potential forceful weapon --

**Paris:** If it's used that way.

**Fritz:** In your minds, it was no different than carrying a gun versus using a gun -- riding a horse.

**Paris:** It could be used that way. We didn't hear about any particular instances of it being used that way. Mostly what we heard about is that people just didn't like it being there.

**Reinke:** So, in IPR, we have horse as part of our force database. You know, if there's a complaint about force, a horse drops down in as part of a use of force in terms of how we

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count and structure things. So absolutely there's that acknowledgment that that can be something that causes injury that may not be appropriate into a large crowd. And absolutely the work group heard that from the community over and over.

They also went and explored and asked those questions of the incident commanders -- Commander Bob Day in Central Precinct, I remember -- and we said, what are the concerns around this from your perspective? Are they useful, we hear things that are negative -- why are you using them? What are the benefits from your perspective? I think we heard some things as a work group where they felt -- you know, we see both sides of this and can't really solve it.

**Fritz:** But from a community member's perspective, it wasn't a big enough issue for your to issue any recommendations or that you felt it wasn't a problem at this point?

**Paris:** We were trying to balance everything between the feedback from members that are active in protests, other citizens, the bureau -- just balancing those inputs, we didn't feel that rose to the level that we wanted to talk about in our report. There's other things as well that we didn't.

**Fritz:** Could you list some of those other things?

**Paris:** I mentioned some of them -- the specific use of force. Bicycles came up where some protests -- the officers would say they used them for mobility, for getting around crowds. There have been instances they have used them as a wall to direct people. I think there have been complaints. There have been some feedback we got that officers may have used them to push people, and there are jagged edges on the bikes. But again, we felt that would be a use of force. If it's a use of force complaint, we felt it should fall under a use of force.

**Fritz:** Thank you. That's helpful.

**Hales:** Other questions? Chief?

**Larry O'Dea, Chief, Portland Police Bureau:** Thank you. So late last summer, I had put out for public comment or revised directive. The directive was put out because we had made substantial changes really over the last two years in the way we manage both our crowd events, our protest events. I then became aware the CRC was finishing up their work on it, so I directed we hold taking any action other than continuing to get the public input that we had on that until they finished their product. Then I could look at their product, meet with them, and have a chance of incorporating that feedback into our process.

I want to thank the work group for their process. Most importantly, for having a very informed perspective. Frequently, have thoughts and ideas how we should do certain things but without asking, why we're doing them the way we're doing now? So, I really appreciate the process that the group went to talking to protesters, talking to community, talking to the police. That gives me a very valuable document to work from.

Briefly, there's two major historical periods in the Police Bureau where we've made changes around how we manage crowds. The first was in 2003, 2004, when Commander Sizer was there, and ultimately she really refined our process and reflecting that one of our major roles is to support free speech rather than try to control an event.

Our next most major revision in our process has really been the last two years, been really active in formalizing specially trained crowd control incident commanders who are very up to speed on the capabilities of bicycle squads, of the rapid response team, of mobile field forces. So, with those changes, the way we were doing business was not reflective of our '09 directive. So, we put that out revised directive to better reflect what we were doing. I can briefly go through the recommendations if you'll find that helpful or take any questions on anything in particular. Whichever you find best.

**Hales:** Wouldn't hurt to briefly go through that.

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**O'Dea:** OK. The first recommendation they have on sound trucks we agree with. That's one that's been a challenge for us. The equipment that we have for making those notifications is not the highest quality. During the recent protest around Ferguson events, we had for several weeks the loan of a new modern high piece of acoustical equipment head and shoulders above this technology and completely addresses the concerns they talk about here as far as the quality of language. Also, one of our revisions has been to always have a PPB member giving notifications, and it's actually a PPB supervisor, sergeant, because of the authority that they have.

Number two, name badges. That is something that Captain Elmore who's in charge of our rapid response team has accomplished. He's gotten agreement from all our partner teams that support us in events that they will wear name tags, and they have done so since that agreement has been in place.

Number three, the uniform crowd control training -- the same. We have formalized spring and fall training. The other departments are invited and attend that training with us. If a department's team can't attend, they'll always send a supervisor so they stay current on practices that we're doing and the expectations that we need.

Number four, around use of the rapid response team and their protective safety gear -- and this applies a little bit to mounted patrol unit, to your inquiry. Our crowd control incident commanders are very well-trained in knowing even showing the rapid response team in their protective safety gear -- which we need for many different events, not all of them, but many different events -- they are part of the planning -- we know that even showing them -- so we keep them out of sight unless we need them. Same with the horses. They're generally out of sight unless we need them for a particular event as it has developed.

Recently, we had an occasion where we were caught short of resources in anticipating what we need for these different events. It's a little bit guesswork, a little bit science, a little bit history based on what information you have. So recently, we had an event that was a two-part march that ended up at the Moda Center. When it looked like folks wanted to get in the doors, the only resources we still had were the rapid response team. So, that's the one time that's happened where we have deployed them where we wouldn't have intentionally deployed them had we had the adequate number of resources we want. But know that's a part of the crowd control incident commander's intent. They know just showing them -- let alone deploying them -- what effect that can have. But they're a component that we need. At an event just recently, we've taken rocks and bottles and had to reclaim highways. So, they're a part of our needed resources.

**Fritz:** What kinds of incidents would require police in protective gear?

**O'Dea:** The most recent example would be where a group of folks took control over the highway and started throwing rocks and bottles at the officers. And so, that's not something you want to have a regular officer in a uniform go in. You need your protective helmet, your facemask, your safety gear for when that's happening.

**Fritz:** Do you generally wait until it appears that people are going to be throwing stuff?

**O'Dea:** It completely depends on the nature of the event. It may be there's an opportunity - if that is what you're believing is going to happen, merely having the rapid response team roll by or deploy -- that can prevent that action from happening when they see those, that group of folks ready to prevent that from happening.

**Fritz:** Isn't that counter to what you just said though, that just by them showing up, that can escalate things?

**O'Dea:** What you would not want to do is have your rapid response team be -- here's your people just managing any kind of crowd event. It may be that just showing them can have that effect but it may be that an event has already gotten so bad you need them to come in



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because of the things that you're taking. But there's very much -- it's mentioned here that just showing them can have effects. It can also have an effect of, oh, wait a second, there's the proper people here that are not going to let us do that as well.

The front line officer training about kind of keeping their cool -- there's language in that draft from last summer that reflects that as well, and that's also part of all the incident commanders' briefing.

The permitting process -- the bureau doesn't really have a role in the permitting process. We have heard that maybe there's a way it could be more friendly. But also on the Police Bureau side, the fact that if somebody has a permit or not doesn't automatically indicate to us there's going to be problems here. It just means it's going to be maybe harder for us to manage because we don't know the route if folks aren't telling us, we don't know the duration, that type of stuff.

**Fritz:** So, Mayor, is there any thought of having the police be more involved more in the permitting process?

**Hales:** Not as yet. Again, once the permit is acquired by a group, the Police Bureau is given a copy and informed this event is going to take place so they can plan for it, right?

**O'Dea:** Yeah, if an event holder is getting a permit, we then become a part of that process.

**Hales:** It's really up to the organizer.

**Paris:** Could I just make a comment on that? The feedback we got was that the permitting process can be extremely cumbersome and lengthy for people involved in organizations -- that they wouldn't want to get a permit. We don't want to discourage that. The permit can help the bureau plan ahead of time and reduce the chance for conflict. I think anything we can do to make that easier for citizens to get a permit should be explored. There are always going to be groups that don't want to get a permit. That's not part of their mission, they feel that's overly intrusive. But where it does work I think that can be streamlined of.

**Fritz:** Particularly where we might crowd control and one route might be better than another, it would be both streamlining and encouraging more collaboration and not just in protests -- well, including protests like the Naked Bike Ride, where it would be helpful to know ahead of time where folks are going to be going.

**O'Dea:** Thank you for the help. Eight and nine were actually two points I was look forward to more conversation with the group and got some good ideas out of. We even tried to be at times as best we can careful about the words our PIO puts out. You know -- traffic will be disrupted. Maybe, your traffic may be rerouted. Not necessarily saying this free speech event is going to disrupt -- you know, using language that is maybe more inclusive around supporting free speech.

The publishing our procedures -- there's very little. There will be a small amount of specific tactics that we wouldn't want to discuss, but our directive is pretty robust that goes out for the public comment piece. Then that will be online. Training advisory council has access to all our lesson plans as well. But a piece of information through our discussion earlier this week that I found helpful is maybe just putting together almost like a frequently asked questions website that generally we could spell out in general what our expectations would be. So, it would be things like, generally, bridges are off limits. Generally, access to highways is not going to be tolerated. Disrupting major transportation infrastructures. And just kind of breaking down those pieces. So, that was helpful conversation that really appreciated earlier this week.

**Fritz:** And I just want to elaborate on that, because I had questions after one of the recent protests. Events -- not protests, events -- which again I think you're right, reframing it as not disruption, it's a rerouting. It's a part of what we do here in Portland. It's very important. So, I got some feedback. You mentioned bridges are off limits and I said, why? And the answer is some bridges people tend to climb when there's an event and that's not safe. So

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then it's better to block of access to the climbable bridges. The bridges that have access to the freeway -- obviously, pedestrians on freeways is obviously highly dangerous. That's another reason. So, I hadn't connected those dots and I think that explaining to citizens that we're not just arbitrarily making up rules, but this is why -- I think that would be really helpful.

**O'Dea:** Exactly. Number 10 on kind of revising the crowd control preamble, talking about discretion. That is talked about -- these are not -- we're specifically directing officers, no individual action. So, that part is spelled out in our revised directive as well as reiterated when the incident commander does their intent during their original briefing.

Part of our revised preamble piece in the directive from last summer also reiterates right up front in our policy piece that one of the most important roles police have is to support free speech events as well.

Number 11, talking about training officers to not target individuals -- continuing training and discussing officers to that. That's ongoing, that's in discussion and briefings. We don't target specific people. We target behaviors or known histories of folks. So, I've been a part of free speech and protest events since 2003, and have seen some of the same people at every single event regardless of the cause. We know that there are some people that they have a history of their role is to disrupt, cause damage, or hijack events. And so, there's people like that we know. What we will tend to do is focus officers around that. People with known specific histories like that. We have a finite amount of resources and a presence around people with a known history trying to hijack event or cause damage, that can help prevent that. But we don't target individuals based on the message in their speech. We don't target based on their affiliation.

**Fritz:** Chief, could you just discuss the practice of so-called kettling, of having police surround particular folks and arrest everybody in an area? Why would you do that?

**O'Dea:** I've only recently heard that term. One of the crowd control techniques that the bureau does have -- if we have not been able to disperse people after repeated opportunities, the crowd control incident commander may make a decision we're going to arrest this group. We have given -- by the time we would do that, they would have been given multiple numerous warnings to cease what they were doing.

**Fritz:** How is that decision made?

**O'Dea:** It's based on the incident commander. They've got a lot of different options to them. To include, you know, selective arrests, larger group arrests, based on the totality of what they had, how much violence has gone on, what kinds of property damage has happened, how many people have been hurt. They will look at the totality of that and of their many options and make a decision if that's the best decision that they want to do. Many of these events will continue on and when they get to the point of either causing damage or too much disruption we'll continue until it stops being fun.

**Fritz:** Yes. At what point does the Commissioner-in-Charge, the mayor, get pulled into that policy decision of this has gone on too long?

**O'Dea:** The mayor is generally not going to be a part of an individual particular event. He will be in conversations with me around policy, around what is our practice, what is his expectation around these events. But it would not be fair to him to call him in the middle of an event and say, what do you want us to do? His direction and his influence and conversation and expectation needs to be well prior to game day.

**Fritz:** Except that during Occupy, the whole Council was involved in how long this is going to go on with this particular demonstration, how is this going to be managed? When Mayor Adams was in Asia on a business trip, I was the president of the council and I was involved on a day-to-day basis of we're expecting this, what is your expectation? So, I think particularly when some of these political free speech.

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**Hales:** I have been present for some of these events, and I do believe that it's my job to give general direction but not moment-to-moment management. I think having incident commanders who have directives that are written down and in the light of day and public -- which is what we're doing -- then have the discretion to make good decisions and consequences for making bad ones on the scene works.

For example, in one of the recent protests, I watched the incident commander, say, you know, this particular group based on the way they're operating I think we should just let them go into the mall and have their protest inside the mall. And no police officer followed several hundred people into Pioneer Place. They chanted, held a moment of silence, and left the building. I appreciate that incident commander having the discretion to make that judgment call, and he made the right call in my opinion in that instance.

So therefore, for me to substitute my judgment moment-for-moment in a situation like that would be pretty absurd. But for me to lay down some expectations about the relationship between the Police Bureau and that particular free speech event is completely appropriate.

**Fritz:** So if the incident commander decides that he or she wants to stop or disperse a crowd because of whatever reason -- they're not causing a problem, they may just be sitting in an intersection, for example -- the incident commander makes that decision. You would then stand by that decision regardless if that then precipitated adverse outcomes?

**Hales:** I think that's pretty hypothetical.

**O'Dea:** And know that for our incident commanders, they truly are very specifically chosen and trained people knowing that one of their utmost responsibilities is supporting free speech and balancing that most difficult event. Every one of those events is critiqued afterward, and it's critiqued again quarterly with all the other incident commanders so that we learn from each of these events.

**Reinke:** I think the other piece that's important is the accountability loop. So, we haven't for a long, long time -- I've been with IPR just over eight years now -- I haven't heard of an actual case of kettling that was so documented as this last two months ago, or this flash bang grenade that was used in Pioneer Place. We're doing investigations of those. Those were an obvious decision by an incident commander that needs to be reviewed for appropriateness.

**Hales:** Yeah, that's how we should review -- after the fact.

**Paris:** And I would just say that when we spoke with people with the bureau about kettling, they told us they did not use that tactic.

**Reinke:** Although the term often is -- the way it was presented to us was to kettle up and spray with pepper spray or something like that. And we were told definitively we don't do that, it's not trained, we absolutely wouldn't. But again, I was like, well, do you have some SOPs or something that tell me that, and that's where having more of an info flow would be helpful.

**Fritz:** Well, I expect we will get some testimony on this. When things happen in parks and there's an incident, my rangers are telling their supervisors, their supervisors, then the bureau director is in contact with me, and if there's a policy question I help make that.

**Hales:** A policy question, yes.

**Fritz:** No, a policy as in operations. So, I want to make sure that part of this discussion, we look at the appropriate connection of the mayor and the council in managing incendiary situations.

**Hales:** Well, I know it might be appealing for some people, for the Police Commissioner -- namely me -- to have more sway moment-by-moment over the operation of the police bureau in a situation like that, but I think in a democracy we might want to be careful about that in that that would cut both ways. Some Mayor might say, don't arrest those people,

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maybe I would be more inclined to say that; and some Mayor might be more inclined to say, go arrest those people. I don't think you want political officials, Mayors included, making moment-to-moment decisions involving who gets arrested.

**Fritz:** Not necessarily which particular people get arrested. However, I do see a role for the commissioner to be involved in, for instance, a decision about this has gone on too long, let's break it up. If it's just a matter of it's gone on too long rather than it's causing problems.

**Hales:** Right. I hear you.

**O'Dea:** The last one, number 12, ensuring property is released back. That one was a surprise to me. How we handle property is very strictly regulated. The state is very clear on the requirements for when you take something from somebody, you give them a property receipt. I think part of it may be based around convenience and part around changes at the jail on what property they will allow an inmate to take in. I think maybe stuff that historically had been able to be with somebody who is put into custody now ends up in the property room, and it's not convenient in its location. After our meeting earlier in the week and going through this feedback, I'll incorporate that feedback into the revised directive along with some other input that we got and put that back for the work group to take a look at.

**Hales:** OK. Other questions for the Chief? Or work group member or IPR staff?

**Fritz:** I just want to go back to the beginning, which is sound trucks. We've got the better equipment?

**Hales:** No, we don't.

**O'Dea:** We borrowed one on loan for a period of several weeks, and it was just a night and day difference on the clarity of communication. It addresses all the things the work group accurately brought up.

**Fritz:** So you'll either be prioritizing that or using your existing materials --

**O'Dea:** Now that there's good technology out there to work, that's something we have to look at.

**Fritz:** Thank you for the clarification. My question was also, have we done the training for the staff who are making the announcements in the proper way to make those announcements?

**O'Dea:** Yes, they have now specific sheets if you will, a script to follow so we meet all of the requirements for different dispersals or move outs.

**Fritz:** Have those been discussed with the CRC or other citizens to see if they think there clear?

**O'Dea:** I don't know if part of CRC's group if they had it at the time --

**Reinke:** We didn't see -- [inaudible]

**O'Dea:** I don't think so.

**Fritz:** That might be something to consider.

**O'Dea:** Thank you.

**Hales:** Good idea. Other questions or suggestions? Thank you all. Now, I know we have a number of people signed up to testify, and we're going to hear everyone. We have logistical bauble here, and that is in about 15 minutes we need to recess for 15 minutes because Commissioner Novick and I have a conference call that we have to participate in. So, we will take the first few folks then we'll recess at approximately 20 'til and then come back. Our apologies for that but stuff happens. We'll take the first three, please. Good afternoon, welcome.

**Dan Handelman:** Good afternoon, Mayor Hales and Commissioners. I was hoping to ask for six minutes -- I know you have a time constraint now, but since we attended all these meetings --

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**Hales:** Go ahead. Again, we'll be able to take the first three of you, I think, and then we'll probably have to take that break.

**Handelman:** Thank you very much. I'm Dan Handelman with Portland Copwatch -- oh, I meant to hand in our testimony.

We are extremely concerned that after hearing from demonstrators, lawyers, members of the public, and from us about the use of weapons and protests -- including batons, pepper spray, horses, and bicycles -- the crowd control report does not even mention these items.

The CRC had promised to at least mention the items in the other concerns raised during our process section. While many of the recommendations they make are on point and productive, it is the use of violence that most concerns our group and many people who have witnessed or been subjected to that violence over the many years that we have been active. We'd also hope that Tasers would be addressed because they're allowed by the current and proposed revised policies, and they should not be.

We raised the issue of weapons before the committee as a whole adopted the report. They did not remedy this problem, even though the vote came just days after the PPB deployed flash bang devices at a crowd, later kettling people for arrest -- which is not theoretical, it was real.

Also, it has come to our attention that when analyzing force data, the bureau and IPR may be considering all force used at one protest action as one use of force incident, which would be highly misleading. If one person is hit with a baton, and is another pepper sprayed in the mouth, and another hit by the bicycle, these are three distinct uses of force.

Our purpose in these suggestions is to alleviate a practice which has harmed members of our group and others in the community. Members of our group have been kettled and pepper sprayed, pushed up against the wall by a police horse, hit with police bicycles, and suffered and witnessed other abuses at protest. We have no interest in perpetuating police use of violence against unarmed peaceful protesters. We oppose the use of the current array of weapons, but we're not going to advise on ways to harm people. That's not our task as a group promoting police accountability.

So, about specific recommendations. The one about name badges -- we asked CRC to recommend that the bureau and the City work on a state statute requiring all law enforcement to display name tags on their outermost garments. It did not make it to the finalized report. We understand you finalized your legislative agenda last week, but we hope this can be added to the slate. We have other ideas, too, which are not related to crowd control.

The recommendation about training people from outside agencies -- we hope that it will be mandatory for any officer who comes into the city to do crowd control to take Portland police training. Otherwise, the response of the crowds will not be consistent and it will put the community at risk of harm and both the City and other agencies at risk of legal action.

About militaristic uniforms and equipment -- we support the recommendation to minimize the presence of militaristic uniforms and weapons. But the phrase "unless absolutely necessary" is too vague and it should be better defined. There is such a thing as too much discretion, and I think that phrase exemplifies it.

On the community relations recommendation, we appreciate the CRC add the sentence, the PPB should be aware that not all community members and or groups are open to police contact. We noted that there will always be member of the community who do not wish to interact with the police because of their militarism, violence, racially-imbalanced enforcement, and other injustices. While there is nothing wrong with

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recommending more contact, it should not be seen as a means to resolve problems in crowd situations per se.

Furthermore, we've received and heard of other people receiving unsolicited contact from the bureau ahead of protest actions, which doesn't feel community-oriented but comes off as kind of an invasive way to collect information on political organizations. Organizers who have had the PPB post to their Facebook page event were very troubled by that approach, for instance.

On the permitting process, we agree the permitting process is cumbersome and should be centralized, but we support organizing protests without permits as permits are not always required, and some would argue they are undue burdens on free speech. We believe strongly a first amendment event should not have to be cleared through the police. So, you know, I respectfully disagree with the suggestion to increase the amount of police involvement in that process. They have plenty of say right now.

On process issues -- the Chief mentioned -- and this is the first time that I heard the story about how they came to be hearing the crowd control directive in September when the CRC has been working on this for two years. So it may just be a case of left hand and right hand not knowing what each other is doing, but Captain Famous, who is the head of professional standards, attends every CRC meeting, and certainly he knew they were reviewing this directive. I think it was very strange that the bureau put this out while CRC was still working on the recommendations.

I'm glad that the Chief is waiting to hear the CRC's recommendations. I hope he listens to the rest of the community today, too, before making any changes to that policy.

In the section about work group activities, the CRC noted that the force complaints are sustained less often than other allegations, but there's no analysis why that should be so. I think they're trying not to draw conclusions, but I think when we reviewed the IPR's annual report, we noted there's less than one percent of all force allegations have been sustained over the entire course of IPR's existence.

I also wanted you to know, I brought an article that was written by the Police Chief from Nashville, Tennessee. I don't know if you read about what happened there after the Ferguson grand jury decision, but the Chief there let the citizens who were protesting get out on the freeway, told the people who were upset by it, well, you know, it could be a traffic accident up ahead. You have to wait in traffic from time to time. He gave them hot chocolate. And then somebody wrote in and complained about this and he wrote back a very compelling letter which I'll also enter into the record for you.

Finally, I want to point out there's always discussion about violence at protests, and most of the time, that violence is coming from the police. And nothing to me illustrates that better than the case of the Oakland undercover officers who were banging on windows and dressed in masks, and then they were unmasked by the protesters and drew their guns on them. I hope you all saw that in the media. So, bear in mind, often when you hear about a violence protest, the violence is being perpetrated by the police.

**Hales:** Thanks, Dan. One clarification and a question -- either I didn't say it well or people misunderstood me. I didn't kettling was theoretical. I know that was done at one of those Thanksgiving week protests. My thought about what was theoretical would be for me to be personally managing the question of when that happens. That to me seems awkward at best. Secondly, you talk about the "unless absolutely necessary" standard, what would you recommend?

**Handelman:** Again, we said we're not going to try to impose -- we'd rather not see these hard shells and weapons come out at all.

**Hales:** Ever?

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**Handelman:** Well, I think Chief O'Dea made the point that he thinks some people get intimidated by it and they don't do something bad. But there are other people who get intimidated by it and say, I'm never going to a protest ever again, there's military police there with these giant weapons, I don't feel like my kids are safe, I'm not going to come anymore. So, you have to understand that the presence of those officers is very -- it sends a very bad message.

**Hales:** I do understand that. My point is what's the standard when this gets used?

**Handelman:** I think that's something that the community and the Police Bureau should talk together about and making more specific than absolutely necessary, because what they think is necessary is different from what other people think is necessary.

**Hales:** Alright. Well, I'm interested in hearing suggestions for what that standard should be, because I share the sensitivity that as soon as that gear goes on, it changes the perception of the police if not the willingness of people to participate in protests. I get that. But there has to be a line at which reasonable people would say, OK, I guess they have to use that gear now. I want to hear what people think that line is. This is an attempt at drawing that line. Granted, it involves a lot of judgment, interpretation, possibilities, and what those words say, but I'm interested in what words you'd like better. And I'm going to take one question and maybe your testimony and then we have to break, I'm sorry.

**Novick:** Mayor, I was actually just going to suggest that -- I mean, sometimes you can save a lot of argument interpreting either law or policy by giving some examples.

**Hales:** Yeah.

**Novick:** So, maybe that we can't do much better in terms of an overall arching statement that is absolutely necessary, but if we add a couple of examples that people would agree to be appropriate would help.

**Hales:** Yeah, OK. Good suggestion. Welcome.

**Regina Hannon:** Mayor Hales, Commissioners, my name is Regina Hannon, and I am a member of Portland Copwatch. I sat in on the crowd control work group meetings starting in June 2012, and as part of the public provided input. When the work group report finally came out in September of 2014, I was absolutely dismayed to read there was nothing whatsoever in the report dealing with the weapons -- and I want to stress they are weapons and not tools, as is so frequently said -- that the police use against people exercising their rights to speech and assembly. And to me that was the whole main crux of the issue of crowd control.

I felt that my input was helpful in that I have personally experienced the use of some of these weapons. I have been pushed by a baton. I was pushed and intimidated by a very large horse. And some while back, I was kettled and was pushed into a wall with a group of other people and the police then brought out the pepper spray and indiscriminately sprayed the group. I've brought this up many times and I was always told, well, they don't do that now, but I guess that happened recently. I have also been subjected to conflicting instructions that the officers give to the crowd about where to go and where to move and where to stand.

I think that the use of horses in crowd control is unconscionable and inhumane, both for the humans and the horses. The horses need to be put out to pasture.

And it was very disheartening to recently learn that the police are now resorting to the use of flash bangs in crowd control.

And the report also referenced that hard gear -- and we've talked about this, can raise tensions and confrontations -- and I realize this so much because I happen to be present when Chapman and Lownsdale were supposedly cleared from people from Occupy. And I stood and watched as up the street marched many officers and they were all arrayed in their hard gear and their weapons and then following them was the mounted

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patrol -- a number of huge horses. And all of this in order to face a group of unarmed folks. Had it not been so outrageously inappropriate, it might have been amusing in that such a display might bring to mind the battles of Hastings and Waterloo.

We request -- as per our email recently to you and the report we're submitting -- that you not sign off on the report without addressing the police use of weapons and the other issues we have identified. Thank you.

**Hales:** Thank you very much. Questions?

**Fish:** Can I just clarify something? This is the Auditor's report. We'll be asked to accept it. It isn't that we're necessarily agreeing with it or disagreeing with it, it's just being transmitted. Are you suggesting that we should not even accept it?

**Hannon:** I am at this point, unless some of the issues that we are raising are addressed. And I think the use of weapons -- which is not in the report at all -- that should be addressed, because that's the important aspect of crowd control.

**Hales:** Thank you. Again, I'm sorry that we have to do this, but I want to recess the Council until 4 o'clock. I know, Mr. Walsh, sorry, but we have an appointment here that we can't miss. We will be back at 4:00. Thank you very much.

At 3:42 p.m., Council recessed.

At 4:15 p.m., Council reconvened.

**Hales:** I think we should probably resume as soon as we collect Commissioner Fish, who no doubt got frustrated with us being not back when we said we would be back. Let's see if we can get him here and get back to work.

**Fritz:** Is Commissioner Saltzman gone?

**Hales:** It kind of looks like it. Thank you. Our apologies, again, Commissioners Fritz and Fish. But we are back and we'll resume. Mr. Walsh, you were on deck so come on up. Good afternoon.

**Joe Walsh:** Good afternoon. My name is Joe Walsh, I represent individuals for justice. We would like to fully support everything that Copwatch said. We would also like to appreciate publicly the questions of Commissioner Fritz.

We believe that there should be no police officers at all at a demonstration. None. So, we take a very puristic line on this issue. It seems to me that if we started with that concept and then moved into well, OK, we have to have security, we have to do this. If we started with the concept that these people are exercising their fundamental right to protest and we should not interfere with it at all. No permits, no nothing. When you start with that concept and then you move into these guys over here are getting a little bit out of hand so maybe we need some police over there.

There's another concept that you should consider, and that's between getting a permit and not getting a permit, there should be something else. And in my 40 years -- I think I've said this before -- I never asked for a permit. I will protest and if you don't like it, arrest me. That's my attitude. If I do something wrong, arrest me. Or if I choose to get arrested, knowing that if I do something to be the catalyst of that, then arrest me. That's part of the protest. Being a pain in the neck is part of the protest. It's not a parade. So, you got that problem. You have to think about that part of it.

You should never have rifles at a protest. Never. You should never have bicycle cops beating people with their bicycles. Never. You -- and you asked for some suggestions, and I'm giving them to you. You should never have military-type weapons, whether it's bombs or it's grenades or it's tanks. If you do that, you are the catalyst for the violence. I've gone to thousands of protests over the last 40 years. I have never violently attacked a police officer. Never. Under any circumstances. And sometimes I wanted to, but



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I didn't. Ninety-nine percent of the people that you have at the protests are non-violent, and you have to believe that and you have to trust. You ask us to trust the police, you ask us to trust you, you have to learn to trust us. Thank you.

**Hales:** Thank you.

**Michelle Mundt:** My name is Michelle Mundt. Hi, Councilors and Mayor. What I witnessed about these events you discussed about -- sergeant O'Dea especially -- is very far what he's describing. And just one other thing. You kind of were saying they shouldn't do this or they should wait for that and thanks Amanda for saying when they want to go home that's when they break up our protests. It's not about what is happening. They just don't want to have a shift change during the middle of it. I might have forgot my second thing. Oh, they use us to train their militarization on, and that's not -- [indistinguishable] --

And one example besides the protest training of them practicing their weapons, seeing how it works, letting the corporations make money from selling the weapons and stocking them up everywhere wherever they hide their weapons -- besides that, they train people on the spot with no formal training, the Portland police train people out in the park by injuring my friends and bringing on the young new cadets and showing how to injure them, and that's what you are not acknowledging. They train to injure between each other outside of the training system. It relates with crowd control, because they use it again, making permanent injuries on people's arms, especially hands, especially hands, and special moves to injure people forever.

**Hales:** Michelle, we have some new guidelines about training --

**Mundt:** Guidelines don't work --

**Hales:** I hope you take a look at them.

**Mundt:** No. Guidelines won't work, because of the culture. There's a notion there should be a dialogue -- I'm just saying a one sided thing. They are not honest in any way to tell you what's going on. And it's OK, we're still talking and let's just keep talking about everything.

**Fritz:** Ms. Mundt, you were going to give us comments about belongings. Could you tell me your experience --

**Mundt:** I already said, we've been ripped off of our cell phones, computers. Many items, anything they want. Jewelry -- I've lost necklaces in the jail after the protest. They steal. They steal.

**Fritz:** Is that the jail staff?

**Mundt:** It's a repeated thing amongst numerous of my informants. I go to all the bum feeds, you could call it, the soup line, whatever you want to call it -- I hear it every week. That's what I say every day. And I've compared my notes with other people about the hospital injuries, and other people give me more incidents and it is every day. Because there's enough injuries by the police every day. I'm kind of counting the jail staff as police sometimes.

**Fritz:** For the belongings, is it --

**Mundt:** They're ripping us off, they're thieves.

**Fritz:** There's no record of them or they're too difficult to get back or what's --

**Mundt:** Just read the literature. Listen to the radio. Police are thieves.

**Fritz:** Thank you.

**Mundt:** I had a person tell me on the bus one day, a young Black man, very capable -- he wasn't joking with me, he said, I want to grow up to be a policeman so that I can steal other people's stuff. That's what he told me. He wasn't even joking. That is what they are training each other to do. I have more incidents. This isn't even the beginning.

**Hales:** Charles, welcome.

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**Charles Johnson:** For the record, my name is Charles Johnson. And it came up earlier about what is the actual procedure that we're dealing with here, accepting the report. I would encourage you to consider not accepting it in order to establish a good baseline for further specificity, because it doesn't talk about injuries that people have experienced from bicycles and it doesn't address the equestrian policing to which the best solution is simply to disband the equestrian police. It doesn't I think give broad enough look into the fact that individuals suffered from excessive crowd control. There's probably still pending litigation going back then, and I know that policies have been revised and rather than detailing, you know, we all know that the City Attorney successfully showed the world that it's OK to shove pepper spray, spray pepper spray down the throats of college-age women and found some jurors that would uphold that. So, Portland is probably not as great as we think it is. But under the new guidelines, after Thanksgiving with the Mike Brown -- the failure of the grand jury to return a true bill in Ferguson, we've had a flash bang deployed in downtown Portland. And I think you are all on the ball enough that we're going to try to have higher standards for so that it doesn't happen again unless there is a more eminent threat of danger.

Senator Ron Wyden left his leftist house in Southeast to go to the Southeast campus of PCC, and protesters following the tradition of Dr. Martin Luther King felt they needed to be in the street, and a member of Veterans for Peace and a mom from Salem were targeted by the police. I was in the basement of the jail to greet them when they were released. And just recently -- this will connect with the fact that on the 5th or the 6th, the District Attorney's office or the judge decided, oh, those people -- we have been giving them the bureaucratic run-around for so long we can't provide them with fair trials, never mind the legal shenanigans we've been pulling for three years.

So, I think that way too much of the City and the County and DA's office resources is being wasted because the police are escalating. So, I hope that this conversation we had earlier about the mayoral discretion or the Police Commissioner discretion about getting involved -- that you will look and say it's not a good use of policeman hours to be arresting people at protests that have not caused injury. Period. And also to have some conversations about good use of public resources in cooperation with Mr. Underhill about wasted time at the DA's office. That victims of sex trafficking, victims of violence aren't getting their cases due attention because you're doing these public policy things against people doing constitutional expression.

So, I hope that your office will look at both not having these arrests and hard gear staff deployments -- but also, you don't need to send police officers to testify to prosecute people who are part of traffic control for civil rights march down 82nd Avenue. And those people do have counsel, but I really think that the best use of public policy is to tell the police department that it is not a priority for those people to participate in these prosecutions. Thank you.

**Hales:** Thank you. Next? Good afternoon. I think you are first, Mr. West.

**Robert West:** Alright. I wanted to bring up the fact --

**Hales:** Just put your name in the record.

**West:** My name is Robert West, and I want to bring up first of all that I was there when they flash banded. In fact, three of them went off really close to me. And later on, I was involved in that kettle where they arrested 10 people. I was one. There were two people that were with Film the Police and one other media person that was arrested. And they had us in the East Precinct holding cells for over two hours in which I had to be taken out by ambulance. And the hospital said that I was dehydrated. They have water and stuff there that just when you are handcuffed behind your back, you can't drink it. The officers decided that we were such a threat that they couldn't take the handcuffs off of us. How

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they came up with that, I have no idea. I'm 48 years old and I got arthritis in my back and for some reason the police felt unsafe about me being out filming stuff so they hit me with flash bang grenades. And they felt unsafe about me being into the East Precinct so they wouldn't take off the handcuffs.

And to me, for the Chief to come in and say what he said, we're still missing a Film the Police riot shield that we know the police recovered. There was people that said the police recovered it. But the property room doesn't have it. Central Precinct doesn't have it. East Precinct doesn't have it. And officers that I know that was there that I talked to said they would try to find it, and they can't find it. And the riot shield only stands from the floor about this tall and about that wide. So, it's not something that you just put in the corner.

And like I said, I was injured when they took me over to East Precinct. They made sure that when I sat there and said that I want to take my Fifth Amendment rights and not say anything, they made sure that I wasn't going to be dealt nicely. In fact, when I first sat there and said I need medical assistance, they sat there and said I took my Fifth Amendment rights, they can't talk to me. And about five minutes later, I go, hey, I need medical attention, and finally an officer came up and goes, what's wrong? And when they took my blood pressure, it was at 150 over 120. And the fire medic or fire paramedic or EMT or whatever that took the blood pressure said he need to go to the hospital now. And the officer tried to argue saying, we're releasing him right now. We can walk him right out the lobby and they can take him from the lobby, and I said no, I want to be taken from right here. I was feeling dizzy, and I wanted to make sure there was reports that -- I'm sure that wasn't reported to you guys. I'm sure there was no injury reports put down on that. And I've asked the police department for a copy of the police report, and they're dragging their feet.

**Hales:** Well, thanks for coming today. Appreciate you being here. Thank you.

**Fritz:** Do you have the records from the hospital from when you -- were you taken to the emergency room?

**West:** Yes, I was.

**Fritz:** Do you have those records by any chance?

**West:** Yes, they're at the house.

**Fritz:** If you'd be willing to -- I'm trying to think of how I can get them so that they're still confidential. Let me think about that. Because Mayor, I would be very interested to know if there was documentation at the police, you know, what -- thank goodness you are fine and that you're here to talk to us. If there had been an incident, how would we have looked at that? So, thank you for coming to talk to us about that.

**Hales:** Thank you. Ms. Cooper, I think you're next. Welcome.

**Trudy Cooper:** Hi, I'm Trudy. Hello, Mayor and Commissioners. I'm from the Elliott neighborhood in Northeast, and I feel very supportive of the report and the work group as far as it goes.

I'd like to talk a little bit about how -- you know, basically I agree with the people who have said that if you don't approve it today because it needs more refinement, that's what I would like to support.

But there's two things in particular that I wanted to focus on, and the assumptions behind them. And that's the issue, the recommendation of the hard gear, and the recommendation about publicizing more about approach and in particular, constitutional rights. And I would like to talk about the assumptions behind that and the relation between the two.

First, I've been a protester for a very long time. I've been attending protests, if not organizing them. And it wasn't until 2011 that I saw the kinds of things that we're talking about today with the hard gear, with rifles being visible, with the kind of response. For

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example, I went to almost every Jobs with Justice rally and march that existed. And at that time. Rosie Sizer was on horseback and she knew all of us by name -- or many of us by name. It was a whole different feeling.

And I don't know if all of that stuff was there at that time and I just didn't know it, or if it was in the background out of sight, like the work group has said, which would be good. Maybe it was there the whole time. But what I really wonder is, when did that happen? And what are the assumptions behind it? Because as much as I support the issue of keeping it out of sight -- definitely, keep it out of sight -- because it bothers protesters, as they said in the analysis. But what bothers me most is the assumptions about having it in the first place. Because it seems that in a democracy, there can be no higher value than protecting the citizens' right to protest, to get a redress of grievances, to assembly, to freedom of speech -- as many have said. And other than life and limb, that's the main thing that they should be protecting.

I think a very different message is sent just even having that gear, whether it is out of sight or not, and the standard you mentioned, Mayor Hales, of when is it necessary? And I think that we really need to look at that. When I think it's necessary is that the standard should not be related as it seems to be to is there a threat of somebody throwing something through a window? It should be the standard of when it's necessary should be is there any life and limb kind of danger involved here with protesters or anybody else?

It should be people-oriented, not property-oriented and not just-control oriented. And maybe they are making all of the changes in that direction that we need to go in, but just in case they aren't, I think the assumptions behind it very much sends a message that we don't have the right to be there. I mean, when you see that, when you see that response -- whether they've got the gear on or not -- it very much sends the message that you don't have your constitutional rights. Protesting is criminalized, we're expecting a riot. And that's not I think the message that the City of Portland wants to send. If that's the Police Bureau culture, which we've talked about a lot, changing Police Bureau culture, I think that is something to look at. I would like to see that reflected in the report. I would hope that they would bring up more of those kinds of cultural issues. Thank you.

**Hales:** Thank you. Ms. Raiford, welcome.

**Teressa Raiford:** Thank you. My name is Teressa Raiford, for the record. Just wanted to say hello again this afternoon to the commissioners and to the mayor. And I wanted to make a statement also just to say ditto everything that Dan said. I trust him impeccably -- his research and advocacy. And I also want to say that I'm very disappointed that Chief O'Dea left this conversation, considering he had an earlier appointment with the people of Copwatch that really do keep us on the streets informed on what's happening here. At least if he missed that appointment to come here, I would think he would want to stay here to listen to the voices of the people. And I'm not saying that he won't watch the stream or this video later, but I think it would have shown considerable leadership on his end as our new Chief.

Two more statements I wanted to make, and one was regards to the provision -- Amanda and I -- had spoken to her about it before you guys came back in. But in consideration to the time when the police or anyone in a commanding position decides or deems that it is necessary for a protest to end -- a protest is freedom of assembly by the people who have a constitutional right to do so, I don't think it is at any point an obligation for a police force to end that opportunity for those people to freely assemble. And so to be directed into a kettle because there's a shift change or for any other reason that they deem that our time should be up is a very unconstitutional violation of our civil liberties.

Also, when we are dealing with protesters, there is a difference between protesters and rioters. Freedom of speech, freedom to assemble, freedom to take and occupy the

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streets because you're impassioned about something that is a world event and which we know now is a global event -- that is our freedom also that a lot of people have fought for and we've all worked to protect -- our parents before us, and even our children after us we would hope would have that type of integrity to protect that.

We have to think -- a protest of people, moving about because they're feeling a certain way is different than a riot. We had a riot the other night after the Ducks game. People were burning couches. We didn't burn couches. You had a riot during Halloween out on the east coast because of a pumpkin patch thing. That was a riot, that wasn't a protest.

And so, I think when you talk about deadly force or some type of riot gear and things of that force, you have to look at exactly what's happening. Is it a riot or is it a protest? Is it deadly assembly? Is it going to injure people not property? And then you make your assumptions based on that.

Specifics to this issue that we're dealing with -- one of the things we have been dealing with since August when we had our first protest -- people from the Black community and communities of color were so scared to take to the streets that they didn't. They did one time. And then after that they wouldn't anymore. We had problems internally with our white allies and our Black community members fearing for their safety for being in the streets. Fearing for their safety to be in front of the cops. That is a continuous fear.

If you haven't, check out the movie Selma. Research stuff that's not on the Hollywood version that happened to Dr. King and other people before us who fought for our rights. Look at how they were treated and think about what we're seeing when we are freely assembling and why we don't come together to use our voices, and then think about the outcomes that happen within our city and our nation when we don't speak out. And give yourself the opportunity to change that culture because you are in power.

**Hales:** Thank you. Thanks very much. Than you all. Anyone else after that? It looks like someone is not still here. Come on up. Hang on. Welcome, good afternoon.

**LaQuida Landford:** Mayor, good afternoon. Good afternoon, Commissioners. My name is LaQuida Landford, and I'm really thankful to be able to sit before you. I've never been able to take this opportunity to do this. I've always sat in the background and paid attention to what was going on. But what has really got me coming to visit with you guys -- and I've met you several times, Mayor, over the last month and a half -- and I feel like I'm comfortable enough to speak to you about some of the things that I've been experiencing.

One, moving back to Portland last year, 2014. And I'm not a native of Portland, but I have lived here for 10 years and so I really believe that this city is my city because it taught me a lot of good values when I was about 19 to 28 years old when I left.

One of the things in that first segment in my life was about the culture and these words of diversity and these different things. I left to expand on -- you know, just to grow as a woman, to grow as a person, and have all of these different experiences in life.

After going through that, I had been thinking about moving back to Portland. I have family that later on moved here when I was here or my mom is here now, and so those were things that I think I really needed to do. So, I made that decision.

I think within the first week that I was here, I felt like I was in another world. I felt like -- I moved from Houston, Texas. I was in California prior to that and I had spent six months in Central America in Belize. My family is from Central America. But I just felt like the culture had really changed of the people. You know, like, no one is speaking to anyone, everyone is like going to work and no one is paying attention, and I'm like where -- the city has grown. It is a beautiful city to live in, but I felt culturally we had been separated again as people.

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And so, as things develop -- I kept asking questions and I want to say that I did come down as a concern and speak to the Police Chief after something -- he is not the chief, and I don't have his card. I have a couple of people's information that I gathered. But I was concerned because I live in the downtown Portland area, and there are a lot of homeless people that live in the area that I live in, and I think I proposed for you to come out there on the streets and hang out with me for a day or two. It's just really rough.

And so what I had been seeing in Portland -- which is public information -- Portland mugshots and I started to see a pattern of people. One time I had worked for Central City Concern, and some of the people not getting assistance are still living on the street and I've been gone for 10 years. And I'm like, what's going on around here? I utilize services from Transition Projects as well. I've never been in jail or on drugs or anything like that. But I'm a community-minded person and advocacy for things of human rights and when it affects me, I put myself in that arena to have an understanding about what is going on. And that's what had led me to this conversation.

Really thankful for Teressa Raiford and all the other members that have come as members of Don't Shoot Portland, and I stand really strong with that mission and the community action plan. Because that's what we're doing, we're taking action in the community that we live in and want it to be better.

It's not always about protesting. The night that -- the first time that I actually had -- I really didn't protest. I just kind of showed up afterward by the Justice Center and I was standing on the block and I saw the protesters coming from around the back side. So, I walked over and I wasn't in no means -- I was there for supportive reasons, but I was standing around just like everybody else. And after 20, maybe 15 minutes of that, I started to see the riot police box us in.

You know, you're not thinking about it when it is happening. Well, like, OK, maybe this does happen, I don't know. I started to look at it and like 15 minutes after that it was announcement of everyone in the street is arrested. Everyone that's in the street is arrested. Like several times. And the riot police or the police officers start to push us in. Everyone that's in the street.

So, I was standing next to a car and I got on the sidewalk because I wasn't really like -- there were kids there, there were older people there, there were news folks there. I was terrified. I really thought I was going to go to jail that night. I'm like, I just got a new job, you know. I don't want to like be, you know -- not a part of that because I am here. And there was some information that came about -- I'm speaking a little bit, I'm just trying to get off of my chest.

I came down that Monday morning. After being arrested and everything they did allow us to leave. I was just -- I was scared but then I was also empowered by the younger people that I saw, the young Black women and men that were there. We were all there for a reason, in solidarity with Ferguson as the indictment that happened. And it was just so fresh to us, it was everything that was going on. And Laurretta, she was there -- I didn't know this young lady from like anything. I had never seen her before. But I was so inspired by her message. And inspired by what it was that she was doing for young Black people of color and for myself that didn't get that opportunity when I was 20 years old like her.

And we got let go and I had to use the restroom -- I was so nervous. I went to Pioneer Square and when I was coming out of the door, she was kneeling down like she was frantic herself with the bullhorn in her hand, and I comfort her and we just talked. And I don't think -- I think everything happened for a reason in this life. If I had not been there for her and her being there for me, I wouldn't still be here because she was the person that encouraged me to continue to keep going with this movement.

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And as I've been a part of it, it has just been so many touching factors to what's going on with the population of people of homelessness, of mental illness, and all of these different things and Portland and it's just so hurtful, collecting data, I'm advocating for homeless people at this point. I'm setting up a space for them to come, because they're not going to come down here with all of their luggage and everything that they have to talk to someone that they don't know that really haven't done nothing for them.

On my way here this morning, Leah -- she gave me her citation -- this lady sleeps outside, she used to work for Multnomah County. She's 40 years old, and there were some things, some traumatizing things that happened on her life. And now she's on the street. She wasn't an addict when she was on the street but she has been in a position to put herself -- to make herself comfortable.

And the police officer this morning gave her a citation for her sleeping outside underneath the bridge. A woman that's 120 pounds that's a white female and that has already served the state of Portland many, many years and she put in a lot of time and efforts and her energy, and she is willing to talk to anyone. She gave me the card. And I brought that in. As it happened. I have also been in connection with Sisters of the Road to get that safe space with them.

Also talking to Eric Berry who works down in the Independent Police Review from that first initial conversation that I had to have with them to make a statement myself because, like I said, I had never been in the process. Thankfully for Teressa and that follow-up, I was able to get that done and on the record and now I know what to do. There's several pictures. I'm compiling a documentary about the homeless people -- the hiddenness behind homelessness. It is not always about a person being an addict. People want help in this city. If they happen to be out on the street and women have to get with a man they don't know just so they have a pallet to lay down, and I get to go to a warm bed every night, Mayor, that's just not right for me.

**Hales:** Thank you for being here and for coming forward and being an advocate.

**Landford:** Thank you.

**Laura Vanderlyn:** My name is Laura Vanderlyn, and I just want to thank you for letting us come here and speak. Thank you, Commissioners, and Mr. Mayor. I have been an activist for a while. I have been streaming live and following Don't Shoot Portland.

I'm disturbed by the disparity that I see every day between Black people in the Black community. I have witnessed the police here in Portland treat -- for instance -- I'll give you an example. We were out one night, and there was an incident where a young woman took out a knife and she threatened us with a knife. We were walking. It was a small group of us. We weren't protesting, we were just walking from one place to another. We were going to go eat. And young woman took a knife out and threatened us with it and then she was the one that initiated the call to the police. The police showed up. The police showed up, and they don't seem to -- they just seem to be very -- I'm sorry, I'm just at a loss of words.

**Fritz:** Describe to us what happened, just keep telling us what happened.

**Vanderlyn:** What happened, this young woman -- she was just wanting to -- I'm not really sure what her agenda was, but she ended up calling the police and it was really not a big deal. However, when the police got there, the police treated us with such hostility that it just kind of shocked me a little bit. When the police officer -- and I have it on the stream -- when the police officer spoke to me, he called me ma'am. When he spoke to Ms. Raiford -- and he seemed to know her by name. He didn't call her Ms. Raiford, he called her Teressa and he rolled his eyes and he wouldn't let her finish an entire sentence and seemed completely agitated when he hadn't spoken to her. He was agitated by the time he came up to speak to her.

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They were under the assumption that we were protesting, and I don't know why they were under that assumption, because none of the officers really spoke to any of us. They only spoke to the young woman and then they took all of her information, and it -- I was just a little shocked because -- because my skin color -- I've never had that type of experience. Most of the time when the police officer approaches me, it's with some sort of respect. But to see how police officers approach my Black sisters, it's -- it disturbs me -- as my children are black, you know, and it disturbs me because I know -- my daughter -- I have two daughters that are Black and I know that they have gone through a lot with police officers. One in particular -- this is in San Diego, not here in Portland, but it's not that different, you know. And what is happening here with the police department in Portland is parallel to what's happening in our nation. It's parallel. I think if you really consider what is happening and really have consideration for your citizens, you have the power to make the change along with us. And that's all that I have to say.

**Hales:** Thank you very much.

**Vanderlyn:** Thank you very much.

**Hales:** Thank you. Good afternoon, welcome.

**Lauretta Austin:** Hi, good afternoon, Commissioners and Mayor Hales. Would like to put my name on record. My name is Lauretta Austin. I would also like to put on record that I deserve more than three minutes because personally I am targeted by the color of my skin. So, I'm not going to be running on any time frame or anything. I'm going to say what I have to say, and hopefully you guys will listen with an open heart and open ear.

I would first like to say that it is not the fact that Black people are complying unbothered, it is the fact that they are fearful to come out and protest. Fearful of violent arrest and unnecessary brutal behavior. We know this because there is a history of oppression when it comes to African American people.

Also, I would like to specifically talk about the kettling in incident that happened whenever -- I can't remember -- we have had a lot of protests happen, but it did happen. Specifically speaking the night of the kettle in and the mass arrest, police commanded people to get on the side -- get into the street, and that we were all under arrest. Without rights being read or a reason why we were all arrested, we were all mass detained, and illegally arrested.

As I encouraged people to get on the sidewalk, the police officers arrested only people that were in the streets. So, whoever gave them the command, that we were all arrested and to get on to the street, it was very -- it was -- I don't know what the word would be, but specifically when we got on the sidewalk, we were not arrested. Or were not thought to be touched or to be put in the back of the truck and taken away. But they only arrested the people -- the people that were arrested were the people that were in the streets. So, definitely that.

And also, I would like to speak on the flash bombs and basically Portland protests in comparison to Ferguson protest have a reputation of a non-violent and peaceful marches and protesting. However, the practices of the Portland Police Bureau are very much hostile and brutal. In no circumstance should police officers reflect a militaristic appearance and approach to peaceful protest.

When I say that -- we just led a protest on 82nd in Southeast Portland, and as the protest and the march started, and we started off with one police consider on duty or following us down the street. And literally two minutes after, we had 10, 12 police, and it got hostile very quickly. However, nobody was throwing anything, nobody was -- it was a peaceful march and it should have never gotten that hostile. Never should have got that hostile. Also, they were grabbing people and -- I just -- it kind of just blows me how hostile these police officers can get, especially because we are practicing our rights, you know.



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We're not doing anything wrong. We're just -- we were practicing our rights. I just feel as though with the absence of the Chief O'Dea, I feel as though what is the purpose of us coming together and putting our concerns on file if he is not here listening to these concerns?

**Hales:** We're here, we're

**Austin:** OK. I just wanted to make that known that he should probably be here next time that we do this just because they do have a direct --

**Landford:** And also he said in the recent -- he got sworn in last week and he also said that he is here to make a change, make a difference, and we all have to do that together. And you're asking for community involvement, and we the people of the community sit here -- we're not like all have been a part of protests -- I'm only 38 years old. I mean, I've had a lot of issues going on in my life but this is the first time I'm exercising and have an understanding of what it is that is going on and that type of hopefully energy we can get him to participate in our community as he said he will.

**Hales:** He will. Thank you very much. Thank you all.

**Fritz:** I'm very proud of the women in our community. Thank you for doing this. [applause]

**Hales:** Please come on up. Thanks for waiting. Go ahead, Mr. Stylze.

**King Bishop Stylze:** I'm King Bishop Stylze, I represent the three kings of Portland. Happy to be in front of you guys again. Thank you very much for your time. Forgive my ignorance, but I just need to ask a question. As far as this report is concerned, your acceptance of it is basically an acknowledgment of communication --

**Hales:** It's the work group -- the independent work group from the Auditor's Office and citizens put this report together. When we accept a report like this, it says we have heard you. It doesn't necessarily say we endorse every last piece of what you have provided and in fact, in this case, in my opinion, and we'll talk more about this later, there are things that we need to talk about beyond this report.

**Stylze:** Right.

**Hales:** So, this is a communication. Maybe I'm restating what your point was, but this is a communication from this citizen work group to us.

**Stylze:** Right.

**Hales:** And we're taking it in with your comments.

**Stylze:** I just wanted to make sure that I was completely clear about that. It seemed like there was not a complete understanding.

**Hales:** This is kind of an unusual situation. So, it's reasonable question. We don't do this that often.

**Stylze:** Thank you. Another question that I have is that in the acceptance of this report, will you ask for more specificity within the report?

**Hales:** Yes, we have the opportunity to do that and I think you'll hear several of us do just that.

**Stylze:** OK, great. So, moving forward, I just really appreciate your questioning, Commissioner Fritz. Awesome. I think that it's very important for us to know exactly where we stand, and what we will and won't accept, especially in this sensitive area of law enforcement and exercising rights.

I would like to comment on the fact of a little something that Chief O'Dea was speaking about. I was at the protest where the flash bang happened, and there were three people that were agitators of that flash bang happening. I was pretty much like right there on the front line. And myself and the two other kings were actually working throughout the protest to make sure that those people were known and that they were dispersed of without getting into any kind of physical confrontation. But it seemed that the police officers that we connected with didn't necessarily have an interest in making sure that they left.

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One of the things that spurred that flash bang on was an individual who I caught on camera dancing on top of a police cruiser. And the kings, the other kings and I actually had a discussion with this gentleman about, you know, how we were to proceed within the protest and that exactly what he was doing wasn't appropriate for exactly why we all gathered. So, I think that that's important information for you guys to know.

On top of that, with a lot of bad information that you guys have coming to you, just to give you some good information and to the fact that that night, when the flash bangs went off, I located myself in a position where I could be seen and perceived as non-threatening and contacted officers that assisted two separate people in being able to retrieve their cell phones that were in a space that the officers cordoned off. So, you know, it should be known that there are those officers that are there that are respectful and they are there and they are serving and protecting.

With that said, in the vein of kind of this culture topic that has come up, it's something that we really get to look deep into. There is a statement that comes across that no matter where we come from, but especially in the issue of dealing with law enforcement that there shouldn't be blanket statements put across as all officers being bad officers. But I think that it is imperative that we take a look at the fact that while there may be quote, unquote "good officers," if there aren't procedures and definitive actions to be taken, put in place, that we all on both sides can hold each other accountable and see things as being transparent -- if we don't have those things in place, no one is going to be able to see the good that's coming out of the policing that's happening and that we're wanting to have. So, that's all.

**Hales:** Thank you. Good afternoon, welcome.

**Michelle Arata:** My name is Michelle Arata. Thank you for being here to listen to us. I am actually here to read a testimony from a community member who is not here. But first, I would like to speak on my own experience.

I have a 14-year-old daughter, she's freshman at Lincoln High School. And her and her friends have -- we've been to many protests together. And they want to participate. They are vibrant, they want to see how the -- to use their rights to free speech. And I have to call mothers and I have to call fathers and I have to beg and I have to explain, they're not afraid of the protesters, they are afraid of the police. They're afraid of us getting arrested. Afraid of how it might ruin their child's future.

When I tell my parents I go to a protest, my parents are not afraid of the people I'm protesting with. My parents are afraid of what the police are going to do. We created this climate that protesters are evil. And they are not. Any violence I have ever seen has never come from my comrades, from my people who sticking up for people who are oppressed, don't have a voice, who have been marginalized, where social injustice has occurred.

What we are there to do is bring about knowledge and awareness, and we have been labeled as something to be feared when in reality, the only fear I've ever seen the actions of the police. If I'm not able to go to a protest and my 14-year-old goes, I'm still afraid for her for her safety, not because of my friends standing together but because of how the police treat us. That being said, I'd also like to read this testimony from a community member.

I was at the Saturday demonstration where there was a confrontation with the police. I positioned myself between two planters where I watched so I could have a safe vantage point to watch the police from. From my spot, I saw a gap between the police and the crowd as they withdrew. One member of our community was encouraging people to maintain the police line as they moved back. A small fringe group on the left-hand side of the crowd began to advance. Within moments, the police threw concussion grenades at

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the ground, two clearly targeting the leader attempting to get the crowd to follow police instruction, and one of two which were thrown at provoking the group.

I continued to watch the police as the crowd went into a panic and I was knocked off my feet by two panicking civilians. I today back up to look back at the police to make sure no one was injured or in need of help. I watched as the police waited for the crowd to settle before charging the trampled and confused crowd. As I stood on the sidewalk being mindful of the policy's request to vacate the street, keeping my arms non-threateningly placed at my sides, I watched a group of police throw two members of the protest who were also were standing on the sidewalk who had not been provoking anyone get thrown into the wall and two of them forcibly restrained against the wall by a group of about five officers.

As I continued to stand and observe the situation, I was approached by six officers in formation. When they reached me, mind you, standing on the sidewalk with my hands exposed, I was immediately struck with a baton. The second time I was struck, I began to turn around. When I had rotated almost all of the way around, one officer discharged pepper spray in my face. I was continuously struck in the back as walked away from the police, made my way away from the police, and then handled the pepper spray situation.

Additional comments here. In all of this experience, there was very little logic. The police did not effectively disperse the crowd. The use of force was unwarranted, and the application of crowd control weapons was ineffective and seemingly misplaced. The police use of unjustified application of force caused more injury than the protest created. One person as a result of being trampled had their shoulder dislocated. Many others were injured and many more were placed in danger. The police in this instance represented the only danger to civilians downtown that night. The police on that day were responsible for virtually all injuries that night. To call any methods they used form of crowd control is laughable. Crowd control exists to prevent disorder and rioting, and in this instance were nothing but provocateurs.

I agree with that statement. And I would like my child's opportunity to protest to be protected and not a fear.

**Hales:** Thank you. Thanks very much. Anyone else? Thank you all. I think it's an order that -- [applause] -- we'll take a motion. If there is a motion to accept the report?

**Fritz:** Move to accept the report.

**Novick:** Second.

**Hales:** Further discussion on that? Then roll call and we can make a statement as we do.

**Item 76 Roll.**

**Fritz:** Thank you, everyone, for testifying and for the amount of time that you put in to clearly documenting your concerns. Thank you especially to the Citizens Review Committee who put in hours and hours of oversight and good work. And so I appreciate that good work in accepting this report.

I think I have learned a lot this afternoon. And I've learned that it certainly doesn't go far enough. I want to start out by stating very clearly that of the Community Oversight Advisory Board, the application deadline has been extended until Friday. And we're particularly looking for people of color and young people to come and apply for that position. We've gotten over 80 applications so far, and we are still very much encouraging more. So, if you or somebody that you know is willing to put in your application, the choices are made by a citizen selection committee, they are not made by the City Council, except for one each. So, there is that opportunity to participate very actively and intensively -- it takes approximately 10 hours a month. So, it's a lot of work. And yet, this is the most important thing that we're doing right now. And I appreciate all of the testimony. I

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am looking forward to getting the report from Mayor Hales about the policies that we discussed.

The use of the concussion grenades, or whatever else they're called, is new information to me. I was not aware that that is becoming a standard practice and I'd like to get a briefing on what the policy is, why we do that. And we need to be clear that people do get express themselves. They do get to assemble. We get to assemble. I have been to many protests in my life, and I want to be able to continue to do that. I want everybody to do that because it's part of who we are as Portlanders, it's part of who we are as a nation. And we need to recognize that we are doing some things right here. Or at least we're not as awful as some of the other things that we've been reading about in the news. So, there's that.

We have recognized that we have problems and we have committed to addressing them and we're having this extended conversation. I appreciate you being here and the mayor allowing people to have their say and that the involvement of the Independent Police Review in the independently-elected Auditor's Office is crucial, and we need to make sure that the appropriate checks and balances between the now independently-hired compliance officer and the community oversight board, IPR, CRC, and citizens at large to figure out what the questions are, figure out what the answers are, and make sure that we get it right. This report is part of that, and I am appreciative of all of the good work. Aye. **Fish:** Well, I want to thank everybody for spending the afternoon with us. Our day started at around 9 o'clock and Council started at 9:30. We're approaching about eight hours, but we're paid to do this. Each of you has taken time out of your schedule, your life to be with us, so thank you. And I share what Commissioner Fritz said about the powerful testimonial and the information you shared with us and I thank you for that.

A couple of times, the question has come up about what is our role in accepting this report. And I want to offer a qualification. There are some reports that we commission as a Council, and if we don't think the report addresses the question that we've presented, then we have the opportunity to reject the report. And that's really telling our team to go back and do it differently.

When it's a report from an independent body that is giving us advice, I think it is better form to accept the report, which is a ministerial act. It essentially means we are taking it and putting it in the record. But I'm not satisfied with this report. And the mayor is the Police Commissioner, and I'm looking forward to his comments about his areas where he would like to see further work. But I think the record is pretty clear about the areas that need additional attention. And so, this report to me is just the beginning. It is not the end. And I think it's incomplete. But I think it would be bad form to reject the report. I think the more respectful thing to do is accept the report and state our reservations and make it clear that this is a ministerial act.

Commissioner Fritz mentioned the COAB and my head is spinning these days with acronyms, but the Community Oversight Advisory Board. This is a big deal, and we spent a lot of time and we have had a lot of hearings over the DOJ settlement and what we're trying to accomplish. And so, it's very important that we get people deeply committed to this reform work. It was my honor about 10 days ago former Senator Avel Gordly had agreed to be my appointee, and she brings a lifetime of work around civil rights and justice and mental health issues. And I think she will be a superb participant in that process and I hope we get additional nominations and suggestions of people willing to make the deep commitment to that work. It has been quite an extraordinary hearing and I appreciate again everyone's time and commitment. Aye.

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**Novick:** I appreciate everybody's testimony. I appreciate the report. I think that although -- I mean, there could be more detail in [indistinguishable] the report, I think it raises a number of interesting issues.

I just want to touch on a couple of them. One referring back to the previous conversation I think between Mr. Handelman and the Mayor. I think the mayor has actually made it very publicly clear that he's concerned about using hard gear and military-style clothing and equipment, unless it is absolutely necessary -- and I realize that the phrase absolutely necessary might seem vague to some people, but I think that to lay out some specific types of instances and say here is where it might be necessary would be a useful clarification.

One thing -- a recommendation I thought was interesting was number eight, publicize crowd expectations. PPB should publicize information about how it respond to crowd conduct by utilizing social media, internet sites, and other outlets to reach the community. The work group believes this information might help avoid possible future conflicts if it's clear and available ahead of time. That strikes me as a very reasonable proposal, and I would imagine it might be -- if they haven't already done this, maybe even if they have, it might be useful to revisit it. It might be a good exercise for the Police Bureau to go through, saying, what do we want to tell people about what we do in terms of managing crowds? And I don't know whether anybody who -- it might wind up part of the crowd would read the information distributed, but it would be nice to know that it is there. Again, I do think that these are high level recommendations, but I really appreciate the work that went into them. Aye.

**Hales:** Well, I appreciate folks' testimony very much. I've now been Commissioner-in-Charge of the Police Bureau for a little more than two years. During that time, I've seen some wonderful things that I go out of my way to praise officers who've talked to somebody in off of a ledge or pulled them off a bridge when they were suicidal or officers that have bought somebody groceries after they were arrested for \$6.60 worth of shoplifting by a security guard in a grocery store. I've seen some great work by Portland police officers and I go out of my way to praise that.

I've seen some things that I have questions about and I've seen things that I know I should change. And that list -- what's on each of those lists changes over time, because things happen. People do great work. Things don't go well. People make mistakes or violate policy. So, I'm learning as I go along.

Part of how I learn as I go along is I listen to the community and I just want to thank you all for being here. I also want to thank you, Ms. Raiford, for organizing a good forum on Saturday. So, I want you to know that you are being heard, and I hope you feel that and know that that the council is hearing you, and the Police Bureau is hearing you because I'm the Commissioner-in-Charge and I will make sure of that.

Secondly, some of my values as Mr. Novick just mentioned that are already pretty clear. I share some of the concerns that have been raised here. Some of the things in this report that I think we all say, yes, we should do that. And exactly how we do it, what is absolutely necessary. I will try -- and I like your suggestion about situations. Here's a situation where it appears to me that using hard gear would be absolutely necessary. So, we'll try to clarify that. Because I think -- I do believe that reasonable people would agree that there are moments when police officers need to protect themselves, and there are moments when by wearing that gear they would intimidate people from exercising their first amendment rights, and that there's a line between those two somewhere and we should try to find that line.

This report doesn't go far enough, but I appreciate the good work. And there are other areas where we need to do more. And I've written down notes about a number of

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topics here, including the weapons issue and exactly what basis there is for ending a protest, or is there one. So, you've made some excellent points both in the formal presentations and in the individual testimony. You've got my commitment to keep following up on these issues and also to get back to the members of the council that raised questions about things that need to be followed up on here.

One thing that you will see from me and Chief O'Dea is that we'll keep trying to develop good public policy in the light of day, out in public, and that's why you will see policy proposals on the website and up for people to debate and to give me as the Commissioner-in-Charge and us as the council who makes the rules good guidance about how we do this.

I think this is very helpful. I want to thank IPR and the volunteers that worked on this. More to come, and I look forward to hearing more from all of you as well. Thank you very much. Aye. And we are adjourned.

At 5:16 p.m., Council adjourned.