



CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

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

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

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

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

COMMUNICATIONS	Disposition:
137 Request of Linda Bauer to address Council regarding acquisition of the Emmert and Gentemann properties (Communication)	PLACED ON FILE
138 Request of Jim Long to address Council regarding Blue Pages Telephone Directory improvements (Communication)	PLACED ON FILE
TIME CERTAINS	
139 TIME CERTAIN: 9:30 AM – Refer to the voters a corrected measure to amend the City Charter, giving legislative authority to a nine member council that does not include the Mayor, giving executive and administrative authority to the Mayor and giving veto authority to the Mayor (Ordinance introduced by Mayor Katz; amend City Charter Chapters 1-4, 7, 9-13, 15)	PASSED TO SECOND READING FEBRUARY 20, 2002 AT 9:30 AM
*140 TIME CERTAIN: 10:30 AM – Extend benefits currently provided to surviving spouses of members of the Fire and Police Disability and Retirement Fund on equal terms to gay and lesbian members’ same-sex domestic partners (Ordinance introduced by Mayor Katz) (Y-5)	176258
CONSENT AGENDA – NO DISCUSSION	
Mayor Vera Katz	
141 Confirm appointment of Larry Wade to the Workforce Investment Board for a term to expire January 1, 2004 (Report) (Y-5)	CONFIRMED

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<p>142 Confirm appointment of Eric Schmidt, Eric Watson, Paul Matera, Greg Munsell, David Roggenkamp and James Ellis to the Advisory Board for Special Inspections for a term to expire January 23, 2005 (Report) (Y-5)</p>	<p align="center">CONFIRMED</p>
<p>143 Confirm re-appointment of Renee Kajimoto, Patrick O'Day, James Mann and Joseph Higgins to the Advisory Board for Special Inspections for a term to expire January 23, 2005 (Report) (Y-5)</p>	<p align="center">CONFIRMED</p>
<p>*144 Authorize an agreement between the Portland Police Bureau, on behalf of the Tri-Met Transit Police Division, Tri-County Metropolitan Transportation District of Oregon and the City of Gresham Police Officer's Association for operations and personnel assignments and procedures (Ordinance) (Y-5)</p>	<p align="center">176253</p>
<p align="center">Commissioner Jim Francesconi</p>	
<p>*145 Authorize acceptance of a donation of property from Arthur Spada and Mary B. Spada Trust to the City for use as trail and open space (Ordinance) (Y-5)</p>	<p align="center">176254</p>
<p>*146 Authorize loan of hazardous materials response equipment to the City of Gresham, Oregon (Ordinance) (Y-5)</p>	<p align="center">176255</p>
<p align="center">Commissioner Erik Sten</p>	
<p>*147 Contract with the Portland Development Commission for \$9,955,364 for the implementation of affordable housing, neighborhood improvement, economic development programs and activities and provide for payment (Ordinance) (Y-5)</p>	<p align="center">176256</p>
<p>*148 Call for bids to construct the 16-inch, 8-inch and 6-inch Water Mains Terwilliger Mains Package Phase 2, authorize a contract and provide for payment (Ordinance) (Y-5)</p>	<p align="center">176257</p>
<p align="center">City Auditor Gary Blackmer</p>	
<p>149 Results of signature verification process for petition to amend City Charter to change form of government (Report) (Y-5)</p>	<p align="center">ACCEPTED</p>
<p align="center">REGULAR AGENDA</p>	

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Mayor Vera Katz

150	Approve amendments to Personnel Rules on appeals from classification actions as a result of the FY 2000/01 City of Portland Professional Employees Association Classification Study (Resolution) (Y-5)	36055
*151	Authorize a Memorandum of Agreement with the City of Portland Professional Employees Association concerning an alternative grievance resolution process for Classification allocations (Ordinance) Motion to amend to put an emergency clause on: Gaveled down by Mayor Katz after no objections. (Y-5)	176259 AS AMENDED
*152	Establish a new City of Portland Professional Employees Association classification structure (Ordinance) (Y-5)	176260
*153	Authorize Hydroelectric Power Revenue Refunding Bonds, Series 2002, Federally Taxable (Ordinance) (Y-5)	176261
*154	Clarify terms of district property management license (Ordinance; amend Code Chapter 6.06) (Y-5)	176262
*155	Authorize agreement for Downtown Business District Management Services with the Association for Portland Progress and Portland Downtown Services, Inc. (Ordinance) (Y-5)	176263
*156	Authorize Intergovernmental Agreements with Portland Community College and METRO for participation in the City Integrated Regional Network Enterprise (Ordinance) (Y-5)	176264

At 11:54 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF FEBRUARY, 2002 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Saltzman and Sten, 4.

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

		Disposition:
157	TIME CERTAIN: 2:00 PM – Appeal of Brentwood-Darlington Neighborhood Association against Hearings Officer’s decision to approve the application of School District No. 1, for a conditional use for the Green Thumb Project located at 6745 SE 60 th Avenue (Hearing; LUR 01-00269 CU) Motion to adopt the findings: Moved by Commissioner Francesconi and seconded by Commissioner Saltzman. (Y-4)	FINDINGS ADOPTED
158	Tentatively grant appeal of Sprint Spectrum, L.P., applicant, against the Hearings Officer's decision to deny a conditional use and design review application for a radio frequency facility at 4512 SW Kelly Avenue (Findings; Previous Agenda 136; LUR 01-00499 CU DZ) Motion to adopt the findings: Moved by Commissioner Saltzman and seconded by Commissioner Sten. (Y-3)	FINDINGS ADOPTED

At 2:40 p.m., Council recessed.

February 14, 2002

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

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

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

Commissioner Saltzman arrived at 2:10 p.m.

At 3:00 p.m., Officer Rick Miller replaced Officer Hurley.

<p>159 TIME CERTAIN: 2:00 PM – Appeals of Northwest Industrial Neighborhood Association, Northwest District Association and the Pearl District Neighborhood Association against Hearings Officer’s decision to approve a major land division with greenway review for the Riverscape 12-lot subdivision at 2100 WI/NW Front Avenue (Hearing; LUR 01-00618 SU GW)</p> <p>Motion to deny the appeals and uphold the Hearings Officer’s decision with the additional conditions that the southern easement pedestrian easement be improved to greenway standards: Moved by Commissioner Hales and seconded by Commissioner Saltzman.</p> <p>(Y-3; N-2, Francesconi, Katz)</p>	<p>Disposition:</p> <p>TENTATIVELY DENY APPEAL AND UPHOLD HEARINGS OFFICER’S DECISION WITH A CONDITION; PREPARE FINDINGS FOR MAR. 14, 2002 AT 2:00 PM</p>
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At 5:00 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

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Closed Caption Transcript of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

FEBRUARY 13, 2002 9:30 AM

Francesconi: Here. **Hales:** Here. **Hales:** Here. **Sten:** Here.

Katz: Mayor is present. Let's do our communications. 137.

Item 137.

Katz: I wanted to flag this to mr. Hillabrand. People don't have to sit and wait until the end of the council for communications.

Katz: Is linda here? All right, let's do 138. Okay. Jim.

Item 138.

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

Jim Long: Good morning. In I did deliver a letter to you all --

Katz: Identify yourself for the record.

Long: It is jim long. I live in rural Washington county. P.o. Box 33, north plains, Oregon. Yesterday I delivered a 3-page letter to your office with some attachments. I want to talk about telephone directory improvements.

Katz: You have three minutes.

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

Katz: You are welcome.

Long: I am working on this for 25 years.

Katz: You have got four minutes. [laughter]

*******:** That seems reasonable.

Katz: You have got to have a heart. Go ahead.

Long: The phone books come out every year. The Portland phone book, of course, the biggest one in the state, and concludes three counties. In fact, 25 years ago I started an effort to improve the phone books and they have been improved greatly and the blue pages do exist in the books and they have for 25 years in Portland but there have been cutbacks recently by the new phone companies, by both q west and verizon related to the blue pages, both -- not so much the alphabetical listings but particularly the classified listings. In last year's directory in Washington county, the new company, verizon, taken out a 25-page human services guide, which was part of, I thought, the best part of the blue pages. They took it out. They omitted it. And in talking with the, the Washington county sheriff, jim down at the state capital, he said that we should mandate that statewide, so I went up to representative williams' office and drew up some legislation, which is one of the blue sheets that's in your packet, and went through legislative process, and it got referred back to the department of human services, I believe, because the advancing government committee didn't really ask the tough questions and didn't really want to address the issue. It came out of there, and essentially, what the chair of that committee said was, well, if they double-cross us again, we will bring back the legislation next session. Well, verizon did put a 20-page human services guide in their books. You have the last page, I believe, in your packet there from me, has a model used in Washington county back in the '90s, and this is -- it's a different format than what q west is using. It starts out, the top of it is a box, which has 24-hour, 7-day a week emergency services. A 9-1-1

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Oregon poison control, rape crisis, a variety of homeless, or a variety of services important in emergencies. And so this is a different format than what q west is using. What q west is doing here for the Portland phone book, they have -- they have reduced -- this year they actually reduced the, after this legislation and all the effort to do something and they are saying that they would do more, they actually reduced what they -- the section they call community services numbers. It's put in the telephone customer information pages, 18 and 19, and down to a page and a third. It only lists about 90 agencies and it's not very well done. So, at this point, q west seems to be going the other direction from what we should be doing. And should be doing. Of course, my interest is increasing access to this information for citizens, for all types of citizens, but particularly, I am interested and particularly, but although I want to serve all citizens and the phone book should serve all citizens, I am considered with the information. Those who don't have internet access or the information elsewhere. The phone book is still -- the phone book data base is still the place that most people would find government offices or human services numbers. If they can find them. The problem is that they aren't classified. You find that, you know, I brought the phone book and here in your white pages directory, we have the blue pages section. Most -- there's two basic classes of telephone service. Home service, residential service where you pay one rate for, and business service where you pay 2.5 to 3 times more for it. It's the same telephone connected to the same network. The only difference sur supposed to get a lightline listing in the classified pages, in the yellow pages, so if you are a business customer in Portland where they have two books, you actually get three listings. One in the business section of the white pages. One in the alphabetical section of the yellow pages, plus you are supposed to be getting a classified listing. The city of Portland isn't getting all those listings. They aren't getting classified listings. There is this shortchanging that's happening on the part of the phone company. This has been going on for years. There are legal issues and financial issues with regards to this.

Katz: Sir, your time is up. Could you just briefly -- no, just a minute, I think we got the, the issue, could you summarize what it is that you would like us to do?

Long: On page 3 of the letter that you received from me, it has bullets as far as exactly what I would like to see happen. I would like to see the council work and request expansion -- we have an opportunity here to request expansion of the services, similar to what's in the gresham book and Washington county, where it is seven pages and 20 pages. Expand it. You put out a book reich this which only reach as handful of people. Whereas if it is in the phone book, it will reach a lot more people. I want to you support the legislation, if it comes up again, particularly if there aren't the improvements. And to monitor the compliance with the legislation.

Katz: Thank you. Thank you very much.

*******:** Any questions?

Katz: Does everybody have his, his copy of his letters or the points? Okay. Thank you.

Hales: We are going to take up the legislative program at some point between now and the session, so thanks.

Katz: Linda bauer did show up so let's read 137.

Item 137.

Linda Bauer: The gentenmann and emmert properties are both in pleasant valley and they are very special properties, and we want to thank all of you for all of the hard work that everybody did to acquire those properties. And sometimes I get so focused on trying to help that I don't step back and see the bigger picture so I also want to thank you for all of the little -- every day things that your bureaus do to make life better for all of us. Thank you.

Katz: That's very sweet. Thank you very much. All right.

Francesconi: Can I clap?

Katz: No, you can't clap.

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Francesconi: In case anybody is asking, we asked had her -- we asked her to come and say that. [laughter]

Katz: Anybody want to take off a consent agenda item for discussion? Hearing none. We will take a vote on the consent agenda. Roll call.

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

Katz: Mayor votes aye. All right. Time certain, 139.

Item 139.

Katz: Let me open it up by sharing with you how this got here. Once the proponents of this measure turned in the signatures for verification to the city auditor, I asked the city attorney to review the measure and provide me a report on its legal impacts. In doing so, they detected a technical flaw in the section of the measure that lays out the implementation of how the old and new government structures transition. We notify the sponsors of the measure as to the existence of these issues and in response they chose to request the city council, the referral of a corrected measure. And that's why we are here because I agreed to sponsor, correcting the ballot referral ordinance as a courtesy to over 40,000 people who signed on, on this initiative petition. And who requested that this issue be placed on the ballot. I also did it because I thought that this issue was important enough to have a full public discussion. So, with that, let me invite mr. Steve **Janik**, in charles hinkel and mr. Rob ball.

Katz: We will wait until after they are finished. Who are they?

*******:** I don't know.

Katz: Jeff, you will wait after -- is that all right? Okay. Go ahead.

Robert Ball: Thank you, mayor Katz, and council members. I am robert ball. 2083 northwest johnson, number 62 in Portland. We are here today to urge you to refer the corrected good government initiative to the may ballot. When the language was drafted, it was done so after very careful consideration and research. Over a year and a half of thoughtful discourse, traveling, great amounts of talking to citizens, business leaders, neighborhood activists. The attorneys drafted the language and reviewed the language carefully, including a former city attorney and when we turned in the initiative language, the current city attorney's office to write the caption and the question and the summary, and no one caught the data error at that time. Luckily we do have a built-in review system for this kind of an issue. Every ballot measure -- the city has the opportunity to refer a competing measure, an amended or an adjustment to those measures. Now, I understand that precedent is a concern of this council, but you are elected officials and you get to decide on each one of these if it warrants a referral or a correction, and you can do this on a case-by-case basis. Also, it's like the parks measure that was brought forth, good people draft those measures. Sometimes when that happens, as in the park's initiative, it had to be taken back and technical flaws fixed and brought back out. The same was true of the children's initiative. It happens. It's not uncommon in the drafting of this language, and we are just asking for a matter of fairness because we have to ask ourselves the question, is council referred initiative or any other initiative or measure more important than one that's initiated by 40,000 citizens of this city? This decision that we are asking to you make isn't about whether you agree or disagree with the measure, but it's about fairness and getting the best thing to the voters. As I said, 40,000 people sign this had initiative, but it wasn't on a street corner. It was us going door-to-door, knocking on their doors, having them get up off their couches or interrupt their dinner, listening to our signature gatherings, talk about the issue and then signing the initiative petition. Well over two out of every three persons that we talked to at the door signed this initiative, and it is a courtesy to those 40,000 Portlanders to refer this initiative. We developed broad-based support for this initiative, from business leaders, neighborhood leaders, and community activists, and the labor organizations. So, what we are asking is for a real public debate on the merits of this and you can help that happen. I've been in

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meetings all over this city, and it has become loud and clear to me that our citizens would like better representation and they would like their neighborhoods considered more greatly. They also want more access to their city council members, or better access. They want to be able to call them up more easily and be able to visit with them and see them more easily and tell them about their problems. In the end, what we are asking is for you to step back and do what's in the best interests of the voters, for what's in the best interest of the voters for this. That's done by insure that go they have a corrected version because of this support, because of the number of groups that are in the middle of studying this initiative, this is really the best and right thing that we have an honest debate and do what's best for this community.

Katz: Thank you.

Hales: Perhaps mr. Janik can answer this, too, but let me ask the question, now. From what I have heard, this was a mistake, and you are going to tell us, I presume, about the mistake, but you are asking us to place a second measure on the ballot. Because of the timetable, you checked your signatures. You did not ask the city for legal review of the measure prior to collecting the signatures. You apparently made errors in the measure, collected the signatures, submitted it. The timetable is such that because of that, if we were to grant this question, there would be two measures on the ballot, right?

Ball: That's correct. Except what we did before we went out and gathered the signatures, we did submit that city attorney's office when they reviewed it, they actually reviewed and wrote the question and the caption and the summary.

Hales: But I am saying, unless I am misunderstanding the mechanics of this, if we grant this request there will be two measures on the ballot.

Ball: That's correct.

Hales: In effect, if we were to grant this request, we were to give this political campaign the opportunity to take two shots at the same question, right?

Ball: I wouldn't characterize it that way.

Hales: Let me characterize it that way. But here is the question. And how should the city council distinguish in the future, given if we were to do this, it would be obvious that any future campaign, if they followed the same timetable, would get two shots at the same question, and I am going to grant that you did this in good faith and that your attorney made an honest mistake, but what if your attorney was either more careful or more devious than mr. Janik, and did this deliberately and put the city council in the position of cloning their measure, simply by insuring that the measure was dangerous or invalid, if enacted. In other words, once we do this for your campaign, won't this be the oldest trick in the book to have a mistake in the measure and then have the city council be forced to send out a clone, that's a little better, and, you see my problem.

Steve Janik, Attorney: Commissioner Hales, Steve Janik. First I want to apologize to the council for my role in this error. It happened. It was an honest mistake that no one caught. But in response to your question, commissioner Hales, I think it's fair to say that it is, perhaps, a liability to have the two competing ballot measures because many people have counseled us that the effect of that would be to dilute the support for each of the ballot measures, and cumulatively there may be 50% of the public that is in favor of these concepts, but if they split their votes and vote 25% for one ballot measure and 25% for the other, neither may pass so there is no political gain, as we see it, in going forward with having a corrected measure on the ballot. We are here because we think that is the right thing to do. And let me address the precedent issue. The specific error here made the amendments effective January 1, 2004. The problem with that is that the positions created, the district council members would not be filled until the elections of May, 2004 and November, 2004. So that's the crux of the problem. The implication of that is during that period of time in 2004 until November when the district seats were filled, the city council might not be able to function. So

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therefore, this error of the date goes to the very proper functioning of the city council. And to the extent the council is sitting there thinking about what the precedent is here, or how you differentiate this from other measures, I suggest that when an initiative, such as this, has an error in it that could lead to the dysfunctionality of the council, that that's the kind of error that should be corrected. You don't want a situation where the very process of city government might be adversely impacted by this error. It's not comparable to other initiatives that make substantive policy changes. Rather, this goes to the ability of the city to continue its proper functioning. Again, as Mr. Ball said, we don't think this is a precedent-setting situation. This is very rare. Very unusual, but to the extent you do, I think that that's the true precedent. The second point that I would like to make is also one that Mr. Ball made, and that is what's fair for the voters here. What should guide the council in making this decision? We think this date error will be, will become a distraction to the voters, and that is not a good thing. We think that what the public deserves and 40,000 people want is a reasoned, coherent debate on the substance, as to whether or not a strong mayor and district representation is a better form of government than the current form. We suggest that the, the date error would become a distraction from that debate, and we would ask that you correct it. Thank you.

Katz: Thank you. Just a minute.

*******:** I can wait.

Katz: Let's wait for the questions until after he finishes. Go ahead. Identify yourself for the record.

Sho Dozono: 320 southwest stark. Portland, Oregon. Mayor Katz, I want to thank you for having the wisdom to put this on the agenda this morning because I think what you said in opening and what Mr. Ball and Mr. Janik said speaks to the real issue, honoring the 40,000 plus citizens who have asked that you take some courage and put this on the ballot and let the debate begin after it is on the ballot, and let's not really get into the politics of, you know, the pros and cons of this measure now. Let the voters really decide at the ballot box and in terms of precedent setting, I think if you vote this no, you are setting a precedence to say that even though a citizen has spoken, perhaps city council can override and deny that opportunity of a fair debate with the corrected version of the initiative.

Katz: Thank you, Sho. Commissioner Sten.

Sten: This is a difficult discussion. First, is this maybe a question for the mayor, as well, since you drafted this. It's been, at least alleged to me that there's more than one error in the initiative. There was at least purported in the paper there is an error about police powers. Does this amended version correct the date or are you asking to us correct others, as well.

Ball: We are going to go examining if there's more than one error, but we don't believe there is. But nevertheless, the corrected version before the city council insures there is no ambiguity in that matter.

Sten: Are any other errors being corrected or is that the only change that's being put before the citizens?

Janik: Commissioner Sten, we don't believe there are any other errors, but there were a couple of other very minor items that since we were engaged in the process of correcting this, the city attorney expressed a preference that those minor items be clarified but we do not believe any of those constitute errors.

Sten: Okay. And a couple different questions. Almost takes a bit of framing to make the question make sense. Basically I am looking at this as, you make a strong argument that the initiative was intended to have the right dates. The question I see is, do we get into the business of changing or amending initiatives and sending them out before the vote, or do we say, he wrote it, you got the signatures, if it has flaws and the citizens pass it, let's fix it after. And I think that there's a good argument on both sides, so I am trying to weigh both of those, and I think that you have a good

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argument. I think there is a very good argument that council shouldn't get in this business, and that if it was a different initiative, the oca had a technical error in the initiatives, and the initiatives, researched we hopes get tossed, two have been this year on different issues, and so they always go to court so I guess the question that I am leading towards is, if we were to pass this amended measure, are you comfortable, if I take the position that I will not support sending anything out after it passes and if you go to court, on this, you stand on your own merits because what I had assumed is if this thing passes, whether it had this flaw or not, even before this flaw came about, that this thing is complicated enough that implementing it is going to take a lot of work, and what I am fearing now is I will be in the position on one week's notice, fix the first flaw that's come up, and as soon as this thing passes and your opponents, who are very passionate about this, you are going to be back to me saying, fix it again. So are you willing to say, this is it, it stands on its own merit, it goes to court as is, because the city is, let's be very clear about this, has not done a thorough job at looking at what needs to be implemented on this, and I think that we are going to have to look at this again. And I would prefer to look at it after the measure but you are saying that you have got such an error that you create that had I can't, in all fairness to the voters, let you stan on your own merit. Will you stand on your own merit after this fix in? With the information we have, absolutely.

Katz: Further questions?

Hales: Question for sho.

Katz: Just a minute, go ahead.

Saltzman: Maybe this might be a question for our city attorney, as well, but I thought that this was dealing with a simple date change and I will have to confess this is the first time I looked at this, itself, and the last page deals with the date changes. There are several new languages here, which is more than technical errors. The mayor --

Ball: Commissioner, you may be looking at -- they moved some section just to move them but the language is the same. They struck our language earlier and moved it to the back, is that what you are looking at?

Saltzman: The bold language is underlined like section 2-40 7, if the mayor is incapacitated her chief of staff becomes --

Ball: That was still -- there's nothing new there. What they did is they just moved it around when they did it to a different position. But essentially, they just -- and the city attorney can answer to that but they just moved it to a different section so that was in the original language.

Saltzman: City council hiring council administrator?

*****: Yes, that was all there. Yes, there's been no substantive changes.

Saltzman: Okay. I am not used to looking at stuff. When I see new stuff underlined in bold --.

Ball: I saw it, too. I looked and saw where you struck, but if you look earlier you can see where they struck it out. All they did was move it to a different paragraph that was more, more to their liking so that it would more easily fix the date issue.

Katz: Go ahead. Commissioner Francesconi.

Francesconi: A couple of questions. First just a comment on something, mr. Janik said. On a personal basis, I guess is one, as one commissioner, I appreciate your apology or acknowledgement of the mistake, I guess. I guess I also want to say as one commissioner, that you are the same attorney that saved the taxpayers millions of dollars in negotiating with the rose quarter, the blazers and put us in a much stronger position over pfe, so I also want to acknowledge and thank you for that. In terms of the issues that we are here about, you have addressed my concerns about precedent. I mean, you have -- I am not saying that you have answered them but you have addressed that. On the question of process, you have, you know, you have talked about the need for debate, and any of you can answer this, I guess. It's not necessarily addressed to mr. Janik. A

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public debate and I think that that's right. I think the fact that 40,000 folks have signed this, I think that we do need a public debate, but when the council refers things, you know, there needs to be a public process involving our own citizens in that debate before we do things, generally. Can you address that?

Ball: Yes, I can.

Francesconi: Actually when, we are talking about the charter.

Ball: Jim, for two years, and council members, I have been talking to members of our community. This has been no secret. I talked to business leaders and people, employees that worked in city government and talked to neighborhood folks and activists. We were very actively seeking the opinions of our community, so we were out very, very publicly. In fact, I would argue that the work done to prepare for this initiative was well beyond the work that we see in most initiatives that come before us. The vast amounts of research that we did, talking to the people that, that I looked, the research, the travel that go we did to actually take the time to go talk to elected officials in other cities and appointed officials was tremendous. And so that was never a secret. Now that it has made the ballot, it is grabbing everybody's attention. But we have been out there talking about it actively. Neighborhood association meetings and everywhere else that we could be. Before we even filed it, as a matter of fact.

Katz: Commissioner Hales.

Hales: Sho, you have been involved in the chamber of commerce and you have been a leader in the issue of schools in this community. If we take this approach for this political campaign, I am trying to understand what defense we will have in the future, other than this point about well, this is charter stuff, as opposed to policy. I am not sure if that really is a good enough grounds, but let's say that six months from now or, in time for the november election an environmental group hires signature gatherers and goes on the street in the usual way with a generalization, business got a big break under measure a 5. We are going to impose a tax and use it for the environment. Or let's say a school's group does that, says, let's, let's -- you know, business got a big break under measure 5, let's raise business tax and is use it for kids. That's the usual kind of explanation that people get when signatures are circulated. And let's say they made a technical error in that. Would you recommend that we send out a second measure for them?

Dozono: I think you would have to address that on the merit of the case, itself, depending on is it an identical error in dating, and identical circumstance of 40,000 signatures and only change being asked to do is a technical date change. I wouldn't oppose you referring that back to the voters. That's really up to -- you are not voting on the initiative. You are only allow it go to be on the ballot so the voters can decide.

Hales: I am trying to understand and standard we would apply.

Dozono: Well, that's up to you, but, you know, if you are asking my personal opinion, I wouldn't object to that.

Hales: Well, if it is up to us, we might just support ones that we agree with and not send out second versions out on ones we disagree with. I would worry about that on a fairness and rights basis. So, again if, it is a cause that we, we disagreed with, see my point? What if it was the oca?

Dozono: That's the natural conscience to see whether there will be an impartial judge, you know, independently making that decision, so if you want to play politics and say, I would like this one. Therefore, I will choose, I don't like this. One, I won't. That's your own conscience. If you ask my opinion, I would probably prefer it to be consistent, look at the case-by-case. I wouldn't waiver one, just because of my liking. This is really a voter issue, not necessarily a city council deciding one with the other.

Sten: One more question. I try to stay neutral on this thing because there is a good argument throughout different sides of it, I do have my own personal thoughts but I have tried to look at both

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sides. As I have been out in the community, as well, I found passionate people on both sides of the issue and I think that we will hear more from your side today, but my read is that this is a very close call, and that people are very strong, and so I have tried to take the position that I should help nor harm either side, and you guys made a mistake, that's the bottom line. And it seems to me that if I fix your mistake, there's an argument from the other side that I am harming them by stepping into the middle of it how do you address that?

Ball: I think that we have seen clearly if you read the papers and the quotes that are coming out, the opposition, they have already sent the signal that they will use this date error to actually harm the true debate, and I think that that was the real signal to me that we do. So in effect, commissioner, your vote to refer a corrected version really is in the best interests so that we can take that piece out of it and do it truly on the merits so both sides can be equal.

Sten: Okay.

Katz: I think that we have a lot of people who want to testify. Let's see a show of hands. How many people want to testify? All right. We will start, okay. Let's take -- oh, yeah, right. We do extend courtesy to say our elected officials, and we have jeff merckley, frank shields, and steve march here.

Katz: Steve, we will start with you.

Steve March, State Representative: Thank you, mayor, and council members. A pleasure to be here. For the record, my name is Steve March. I reside at 842 Northeast 44th Avenue in Portland, 97218. I am a state representative, representing Center, Laurelhurst, Mount Tabor, South Tabor, Foster Powell and Park South. I hesitated to come here today but as a graduate student at Portland State, I studied -- I was actually surprised at Portland's system of government and studied a bit about it. And finding that Portland was one of the last council-type systems that was operating and I looked at some other type systems, and of course, you run a system that is probably the most difficult for minorities, for example, to get elected in. Not only do you run at large, but you run for a position, and that makes it most difficult. I would like to read from the article in the National Civic Review about mixed electoral systems, of which the proposal is. And it says, one, they are not unusual. They are commonly used alternatives to at large or single member district systems throughout the United States. Often result in higher levels of minority representation than the traditional systems which they replace. They increase the number of council seats, which can be captured and influenced by minorities, thereby, expanding their representational opportunities, and they enhance and protect the chances of electoral impact for geographically dispersed minorities, in addition, they promote representation of neighborhood areas and city-wide concerns, operating much like a bicameral body encouraging coalition building and encouraging broader discussion of a wider range of policy issues. Now, the matter you have before us today is a, a, considered a technical fix of a measure that would put that question before the voters. I think it's a minor technical fix. I've been in a situation in the legislature of voting for amendments to bills that I disagreed with but voting for them so that we would be able to talk about them on the floor and pass them out. Now, this is a slightly different session because it's a referral. I think it's the right thing to do. I was one of the signatories. Mr. Ball was the one who actually came to my door. This whole question has been residing -- the whole initiative has been residing in the auditor's office for over a year. The city attorney at any time or any one of you could have reviewed that to see if there was a technical problem there and brought it up, and I think had it happened at the beginning of the signature gathering stage, it certainly would have been fixed and I think that we all share in the blame that we didn't review that carefully, and I think that it is proper that we send it out to the voters.

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Katz: Thank you, representative march. Let me suggest that the discussion -- and I know you got there and I appreciate it. The discussion be on the issue of bringing it back, taking a support vote or -- to bring it back on ballot with the, with the less than substantive change, okay. All right.

Jeff Merkley, State Representative: Greetings, council members, and mayor. Representative jeff merckley from east Portland at 1351 southeast 114th avenue. I want to start by thanking the mayor for raising this issue before the panel and extending the courtesy to the citizens who sign this initiative. I am really here to advocate that that position of extending the courtesy is the appropriate one for the council to take as a whole. This is a very important conversation. There are three major pieces of the way we design our city government that are under discussion here. One is the commissioner system in which each of you has major responsibilities for the bureau. Second is the issue of whether as part of the council is elected by district or solely at the, as city-wide and finally, the appropriate role of the mayor versus the council, how strong should the mayor's position be. What should be the power of appeal or the power to override or the power to put together the budget and so on and so forth. These three items greatly shape the dynamics of the process and the process can shape the result, and I think the academic literature that representative march was referring to explore that is thoroughly. That the system really does have an effect on the product. I think all three of these key components are very arguable. I could point out the flaws in the current economics system. I think it absorbs each of your energies looking at a microcosmal going on in the city and districts from the broader examination of the city as a whole. In other words, it has a certain power to make sure that the commission does not get detached from the nitty-gritty of how things are operate and had in fact, that's one of the reasons put in place to begin with, and it is certainly common in smaller cities and smaller towns. The issue of being elected by district, much of the city does feel disconnected from the city council, and that's, that's not to say that it is the fault of anyone, but it is a reflection of the current system. I believe the statistic is that no member of the city council has ever been further lived while on the city council, further east than 42nd avenue. The city goes now out to as far as 172nd avenue. And that's a good number of miles of additional territory, and it is important to have a cohesive conversation to have people who have lived in and understood those other parts of the city, as well as just the downtown area. Then again, one can be concerned about parochialism and whether having people who represent individual districts creates a problem that they become too focused on their district and not concerned about the city as a whole. I will tell you from my experience as a legislator, I think it's a very minor problem. There are a few issues at the state level that affect your specific district and you bring your specific expertise to bear and that's a good thing but in general, your mind is on the state as a whole, and I think in general, the mind of commissioners elected under the new system would be on the city, as a whole. This isn't to say that the arguments are clear one side or the other. But that it's a very rich and important conversation for this city to have. I understand the reservations. I understand the reservations about setting a precedent. It is, however, really once in a very blue moon that this type of an initiative comes forward. And so I think the issue of setting a precedent is simply the issue of examining the public interest when one of these rare opportunities comes forward. I also think that there is a very narrow and specific concern here, which was that we have an initiative that should it pass, could disable the appropriate functioning of the city government. And that that is a very narrow area that you could choose on, under which you could choose to extend the courtesy of providing this technical amendment. This is a major that was responsibly -- a measure that was responsibly drafted. A tremendous amount of research and legal review went into it, and a mistake is still there. I will say that on sunday night the legislature voted on the amendment to the state of Oregon's constitution that was amended -- that was drafted in a couple hours, had not a single public hearing or a single public discussion. Now that was an irresponsibly drafted amendment. And if this amendment had come forward with that lack of process, I would be saying to you, let

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this thing just float out there on its own, but this has been the result of a long and extensive conversation. I think commissioner Hales, you raised the question about two majors on -- two measures on the ballot, and I do think that this is a problem for the measure. I think that in general, confusion leads to people voting against something. We are always much more comfortable, if you will, with the devil we know than the devil we don't. So confusion generally turns people off, and so having two measures will create confusion. I simply have to defer to the authors of the initiative who put so much work into bringing this conversation forward as to whether this is a wise strategic move or not. I think that it is questionable. But in their minds, it's better and more responsible and more appropriate and more honoring the issue of the citizens who have sign this had and wished to have this conversation to have a correct version, even if it length to confusion and ultimately hurts them at the ballot box so, I commend them for taking that position. I would like to, again, thank all of you for wrestling with what you have before you, and I hope that you will choose on the side of extending the courtesy of having an amended measure before the citizens.

Katz: Thank you. Senator shields? Before we go, what school is up there? I am sorry? Nice to have you here. This is an important discussion. Okay.

Francesconi: Representative shields, let me ask, if I could ask representative merckley one question. Whatever the form of government, why don't you run for the city council in that, east of 40, lack of east of 4 2nd. Why don't you run?

Merkley: Thank you, commissioner. Can I take that as a future endorsement? [laughter]

Francesconi: I am not sure it will help you.

Katz: Okay, frank.

Frank Shields, State Senator: Maybe I should start by saying, and I know that politicians are not supposed to do this, but I am never running for city council. I am frank shields, state senator. My residence is 10932 southeast salmon. Mayor, I want to commend for you your courtesy to the 40,000 signatures of this petition. I speak as one who represents 114,000 people east of interstate 205 all the way to the gresham citiline, most of whom are residents of the city of Portland. Those 114,000 people, as has been said, have never had one of their own elected to city council office. Now, whether that's because they still don't want to be a part of the city of Portland or whether it's because of the expense of a city-wide race, I am not going to speculate. I would just like to suggest to you very quickly because I have to leave in a moment that knowing my district, as I know my district, I would suggest that after you make the technical fix, if there were time to have done this before, you know, it was turned in and if they had to start all over again, in my district, if they were able to get to enough doors, 7 a -- 75 to 100,000 of the 114,000 people, I honestly believe would sign this kind of a petition. They are people who feel this enfranchised. You know the issues over which they felt disenfranchised over the years, whether it's the sewer issue or a lot of other issues, the rain, stormwater issue, a lot of issues. I think that this issue needs to be addressed kind of as the Oregonian did it with you asking yourself the basic question, of what's in the public's best interest. Thank you.

Katz: Thank you. All right. Let's do three, in support, three in opposition.

Katz: Let me just again for everybody here, since this is, does not have an emergency clause, the vote will be -- this is a first reading. The vote will be next week at a second reading. Okay. And you all have three minutes. We do give elected officials a little bit more time because we want them to listen to us when we go down to salem and lobby for the city of Portland. All right.

Greg Vickers: My name is greg vicker, reside at 3443 jackson lane, 93229. I've been a citizen of Portland for 27 years. Seen a lot of changes take place in Portland in the 27 years, and I also have a background in political science, so I am familiar with the various forms of local government, and their history and actually, their beginnings. And without going into the detailed merits that the representatives have on the different, the initiative, itself, it's obvious that there is a signature

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amount of support for this initiative, but even more important to me, there's a signature amount of people that would like to discuss and consider this issue, and as I said, i've been here for 27 years. The particular form of government that we are looking at now was initiated as I understand it in 1911. Portland is a much different city. Its character is much different. The scale is much different, and I would like to see this before the ballot, on the ballot as soon as possible so that we can have the discussions that we need to about where Portland is in 2002. Thank you.

Frank Dixon: Good morning, council, I am frank dixon. Live at 2205 northwest johnson in Portland, Oregon. Just a couple of brief points to address the substantive technical issue, I think that I would have a problem -- I am on basic rights, Oregon's board, if the council were to get into substantive changes at this stage, but a neutral technical fix, I don't think should be a problem in the future. If it was made in bad faith, I am sure the council could figure that out. They have done so in the past, and I just don't see that as a problem. I do see, having a defective measure going before the ballot in november, and then having to be rereferred back to the voters in november when the debate may get off into issues of whether the council was trying to frustrate this and get it before the voters in a, in a valid form. And I also think it would be better if we didn't go into the november election as a divided city, where we have a governor and a legislature at stake when we have school funding problems and other very important issues to the city. Thank you.

Bruce Broussard: 1863, north jantzen avenue, Portland, Oregon. Mayor, I commend for you bringing this issue to the table. It's something that should have been discussed years back. I can recall when I was president and publisher of the Portland observer that issue came back up most of the time. I can recall when I was a talk show host at northeast spectrum, this issue was an issue on the table. I can recall even to this day that access cable in Oregon, voter's digest, this issue comes up constantly. I can recall the fact that now I am on opb, all of a sudden, golden hours, speaking for the seniors, and I have gone around and talked to the seniors, many seniors in southeast Portland and elsewhere who have had concerns about the lack of, of getting to someone that could deal with the concerns so, my point is that I think that we are due. This is 2000. Year 2002 now, and we are due for a change. There's always been a concern about the fact that we don't have people of color. More specifically, blacks. There is a concern even to this date but I think that if the citizens of Portland were given the opportunity to vote on this issue, it would resolve some of those concerns. It would give the opportunity for people living in those areas who happen to be people of color, the opportunity to, to participate, I think that that's the way we need to go. I realize that we hear this business about the whole issue of minorities. I don't like the idea of being a minority, you know. It always talks to less than, I would like to be part of the mainstream. So I think that this idea of really giving the opportunity to districtize the city of Portland would really develop the diversity that I think this city is all about and actually bring the decision of roses to all, all citizens of Portland. Thank you.

Katz: Thank you.

Saltzman: Question for frank. So frank, you said as a member of basic rights of Oregon, you don't have a problem with this technical fix. Part of the issue we are wrestling with is the precedential value of this. So are you also saying that if the oca were to bring forward a measure with 40,000 signatures that, you know, just out of the blue were to prohibit the city from granting domestic partnership benefits or something like that and there was some technical screw-up, basic rights of Oregon be here on the same capacity or a board member --

Dixon: Well, let me, clear, commissioner, I am speaking individually not, not for the organization, number one. Number two is that yes, my opinion is that I think that a neutral, technical fix is something that, that is acceptable and in fact, if you don't, you essentially create a different debate the second time around, which is the council is trying to frustrate the will of the ballot initiative signatures, giving the, the potential opponents of the ballot measure a different argument that, that

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diverts from the substantive issue, in other words, we wouldn't be talking about the appropriateness of an oca measure the second time around. We would be talking about the city council or they would certainly be talking about the city council's attempts to frustrate the will of the voters. So I think to keep the debate honest, complete, and on track in terms of the pro and con issues of any ballot measure, I think making a technical fix at this stage, a good-faith technical fix is something that yes, I would be willing to live with as a precedent even though I know legally, you can't bind future councils but as a policy matter, yes.

Katz: Thank you.

Hales: Frank, I am struggling to understand that. I was president in Oregon cities last year, and measure 7 passed and the league of Oregon cities filed a lawsuit as did 1,000 friends of Oregon to challenge the measure and fortunately, we were successful. I assume that you agree with me that measure 7 probably wasn't good public policy or at least was going to cause big problems here in the city. But if somebody had come to us in advance with a local version of that and said, could you fix these glitches so that this thing goes into effect, you still want us to do that?

Dixon: You know, if you are talking -- you know, first of all, you have to talk about, we are talking about one date change. That's the first thing.

Hales: Minor item in 7, too?

Dixon: You are not a court of law, either, so not suggesting that we prevent anybody from going into the legal system. But yes, I think that letting it come back a second time, which it will, will create a different debate that will be off the substantive issue of the ballot measure. So, yes I mean, we have a disagreement there, commissioner.

Katz: Let me suggest you stay on the issue of the referral. This is a precedent right here, is it, larry?

*****: Yes, it is.

Katz: All right. Who wants to start? You start.

*****: Okay. All right. New experience for me in the last three years.

Katz: You do need to identify yourself.

Jim MacColl: Jim mac coll, Portland historians. I have studied city governments for the better part of 50 years, and I am not so sure what I have learned. I think this whole thing is a can of worms, myself. And I would ask you not to correct the initiative. I don't think that you have dignify a faulty measure. There are probably more faults in that measure than we have seen so far. This is a very complex subject. Much more complex than even a reformed ballot measure. And they need serious public involvement, in the same way that metro charter was put together. And there's got to be a big public investment. We probably do need some changes after something like this, 70,80 years. There's never been a popular matter, changes have come very slowly which is characteristic of Portland, don't change it unless you have to. I am just asking you to let the thing ride through. We may not consider this being a precedent, but people are going to consider it one. They will use it as an excuse. Thank you very much.

Katz: Thank you.

*****: My name is justin gotlieb.

Katz: Grab the mike.

Justin Gottlieb: Can you hear me now? I am justin gotlieb, a master's student in public administration at Portland state and I live at 2818 southeast colt drive. I'm here today to express my opinions regarding the good government initiative. This -- I am always a fan of good government, and this is an important issue. However, I have some grave concerns. Outside of the proposed change today. I believe that this initiative should be referred to the may ballot as is for a public refute of what I feel is a bad proposal. Having grown up in Portland, I was fortunate enough to attend school in hartford, connecticut, which has a similar form of government that mr. Ball is

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proposing for Portland. Let me see that this form of government in hartford led to mass chaos of a city that was once a hub of literature, art, and education. Housing the wadsworth athenium, trinity college and the place mark twain called home. The system of government in hartford did not have the ability to meet the needs of its system from the, from the fact that it was a weak government system. There was no real responsibility or control due to the fact that the council members could create policy but not implement it. Specific government services became few and far between, and there was no accountability. The mayor, which was a good thing, had too much executive and administrative responsibility overburdening even the most dedicated public servant. Although this is not directly in question today, the changes debated by the council and my fellow citizens are just a band-aid type solution to a significantly flawed piece of law. In closing, it is not your job to fix the problems of initiatives after signatures have already been gathered. If the council chooses to make these changes in the mist titled "good government initiative," it will significantly damage further initiative processes of well thought out legislative proposals that, in which signatures are gathered and collected by citizens and from what I understand, not paid petitioners. The council should not change the proposal's language so that it appears more viable through what could be considered nothing more than a quick fix.

Katz: Thank you.

*******:** Thank you very much.

Katz: Grab the mike. Your turn.

Larry Hilderbrand: I am larry, 935 southwest moss. I actually came here to talk about the benson fountains. [laughter]

Hilderbrand: I guess, I appreciate the tremendous effort these signature gatherers, petition sponsors went to, to circulate what they believed was a legitimate, flawless measure, but once I put my signature on that petition, that's no longer their petition. It's not yours, either, in my mind. It's mine. I didn't sign a corrected version. I signed that version. And I think that that's the version that should be on the ballot. Not a substitute amendment. Or, i'm sorry, an amended version. I think the integrity of the people's initiative is at stake here. I think that this is -- it was created to give people a voice. Now sometimes that voice is wrong. That's what happens in democracy. It's changed by evolution, not revolution. And we have plenty of government initiatives. We get them from you all the time, thoughtful, through a public process. This time we get a people's initiative. I think you should keep your hands off of it, frankly. Let the people have their initiative on the ballot. Now, that would happen but not as cleanly cut to the voter if you provide a substitute initiative or a substitute ballot measure. Also, i'm troubled by, by what has been referred as the band-aid approach here. If Portland's government needs changes, and many, many of us think it does, it should be done through a thoughtful, studied process involving a lot of people, not just signature gatherers, and the people who want specific changes should be able to advance those changes to a commission that would sort through all these possibilities and look at the pros and cons and then offer your, the government, the council's alternative. Council's form of government. But I really think you have to not defer here to the authors of this petition who say, oops, we made a mistake or we may have made more than one mistake. But defer to the voters, the people who signed this. You have to assume, I believe, that they knew what they were signing. And what you are saying is, well, you didn't. And I think that that's wrong.

Katz: Thank you.

Francesconi: Larry, you raised an issue that I hadn't thought much about so I appreciate the testimony. My question is about your main point. How would you -- as a close observer of the city council, for a lot longer than I have been, how would you change the form of government?

Hilderbrand: How would I change it?

Francesconi: Yep.

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Hilderbrand: Well, now you got me because I like the present form of government. I think it's directly responsive and responsible, and, I mean, accountable. When I think that there is something wrong with the roads in this city, I don't go to my, my district representative and say the roads are full of potholes, what do you do about it. And the answer is, he says, is nothing. I want a council of nine, I want to talk to the mayor and the city manager who talks to the department head, and by the time it filters down, I am approval moved out of the city to the suburbs. Today, when I think that there is something wrong with the roads, I can go to charlie Hales and say, charlie, the roads are full of potholes. Quit building streetcars. [laughter]

Katz: Thank you. I have asked the audience to stay on the issue of referral. I am asking the council members to do the same. Thank you.

*****: We don't have a strong form of mayor government yet, mayor.

Katz: Who wants to go first?

Jo Ann Bowman: Being a gentleman again. Good morning. Mayor, city council members, for the record, I am jo ann bowman. I live 3145 northeast 15th avenue. And I am here today to commend the mayor for bringing this issue in front of the city council and encourage you to support the referral to the ballot so that voters can decide whether or not they are being well represented by the city council they currently have. As I said in the audience listening a couple minutes ago, my blood got real hot because of some of the things that I heard. But the point that I want to make is as an african-american woman who has run for public office in this community, I can tell you how extremely difficult it is for people of color to be able to gain the resources and to be able to effectively run for public office in this community. The fact that you do have to run city-wide to be on the city council is an enormous hurdle that people have to get over. As someone who was, saying a few months ago when I ran for county chair, in a 60-daytime period for a race that should have taken 18 months, I raised \$45,000 for that race in 60 days. My opponent raised 240,000 for that race in 60 days. And so clearly, it was not that I was incompetent and being, in being able to raise funds but I just did not have the resources available to me that my opponent had the opportunity to be able to collect on. I commend you for considering this as someone who's been involved with many citizen initiatives over the years. I can say that this -- people don't normally come to the city council and say, we made a mistake and please, city council, correct it. This is one of those citizen initiatives that we should be proud of. As a citizen in this city who looked at the system decided that the system was not working. That citizen investigated, talked to many people across many jurisdictions to find out what, in fact, would be the best form of city council for our community. He talked to many people. He pulled in a lot of different people who rarely agree on issues around governance and they came up with a proposal for the public. As someone who has worked on other initiatives, I know how easy it is, even having the best certified smart people looking at initiatives over and over again, how easy it is to make a mistake. Your vote would not say that you support this initiative one way or another. It merely says that we have identified that there's a legislative fix that needs to take place before voters make a decision. And we are willing to make that fix before voters vote because let's face it, whether you do it before or after, you are going to have to fix it because it's going to end up being your problem once the voters decide. So, thank you very much for the opportunity to speak and I just want to say, the mayor and I disagreed a lot, but on this one, the mayor and I are on the same page, so thank you.

Katz: Go ahead.

*****: What do I say after a speech like that.

Katz: Identify yourself for the record.

Melvin Mark, Jr.: I will, I will. I am melvin mark, jr., and I have been a resident this fair city. That's been my privilege to be -- it has been a privilege to be a resident of this city for the last 50 years. I want to commend the mayor for wanting to refer this measure to the ballot. I want to

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commend the commissioners for all their hard work. It's very tough, I am sure, being up there as a commissioner, but I watched Portland over the years, and Portland has changed. And I think we have got to be aware of that change and modernize our system to go with this change. This city has grown. The system that we have has outgrown itself. There is many cities that have this system that we are talking about. Indianapolis. Minneapolis. Denver. The system we are proposing works. So, I think the people of Portland should debate this system. They should be more involved in their city government and I wish you all to consider very carefully to, to amend this -- make this minor change and put it on the ballot. Thank you very much.

Mike Garvey: I am mike garvey, I reside at 0305 montgomery and I am here as a citizen today, not in a capacity representing the Portland police bureau. However, I would like to use a couple of, or make a couple of comments with regard to my service to this city over, since 1973. And as a member of the Portland police bureau for that period of time, you know, we have gone through our ups and downs, a lot of controversy. A lot of controversy in front of this body. Most recently. One of the things that we have had to do is we have been pushed to make changes. Pushed to make changes in the way that we do business as police officers in this city. We are constantly being pushed to make changes. Many, much of that pushing occurs at the direction of this council. All of you. Sometimes you are not very nice about it. I have to say. I have watched some of the antics, and I am embarrassed from time to time about what some of my colleagues have to deal with. However, change is good. And the change that we have been involved in, I think, has made us a better organization. I think the reality here is that 40,000 people signed petitions that say, we want to look at change. And it's your opportunity now to stand up and allow yourselves to look at change. Whether this measure passes or not, today is not the issue. The issue is, whether or not you are willing to stand up and be counted and change the date, make the change as necessary. You know, none of you are perfect. I certainly am not. The Oregonian will tell thaw since 1996, I am not perfect. I've been in the paper, I think, as much as any of you. But I come -- I came back to my job because I love the city, and I actually enjoy working with each and every one of you. What's, what's four more. [laughter]

Garvey: I would ask you to remember one thing, and this is something that I do when I have an officer that's worked for me for a long time. It is important to remember how you felt when you first started. When you first became a commissioner. When you first became the mayor, and it was a great accomplishment for you. You have all done a lot of great things for this city. And I think that it is important to remember when you go back and you sat there and one of the things you thought about, is how am I going to best represent these people. And sometimes you stood out on the edge and did it and sometimes you didn't. You need to give the opportunity to the citizens of this city to make their decision as to how they are going to be represented. And this is a time when we need to refer this to the citizens so that can happen. Thank you very much.

Katz: Thank you, mike.

Katz: Are our students still here?

Hales: Some of them.

Katz: By the way, this is a conversation for all of you. You understand that? Okay. Who wants to start?

Jewel Lansing: Good morning, I am jewel lanning. I am a Portland citizen and former city auditor. Can you hear me now? I will wait until you get a copy of my written testimony. I am here to urge you not to refer a corrected version of the citizen petition to the voters. Referral would not only set a bad precedent but would imply your endorsement and to assume that this referral would be understood as something different. I think is naive because once it says referred by, that puts your brand of approval on that corrected measure. Fixing a few critical errors without scrutinizing the rest of the document overlooks mistakes not found. This charter is build around the form of

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government for 89 years, so they are bound to be conflicts and other uncertainty with such a structural change and we know that there are other changes, other things that need to be looked at and I will specifically mention those. There's only one thing that I would like to -- to mention about the petition, itself, and that is at the back of my testimony, the very last page, it shows on your last page, it shows that in 1995, the last year that financial world looked at cities, the 30 largest cities in the united states, Portland was ranked third in good management. The third best managed in the united states and the two cities that were used, apparently, as a model for this legislation, denver was rated 11th and san francisco 27th, 4th from the bottom. I will address specifically, though, some things that I think need to be corrected before this measure is worthy of being presented back to the voters and this is on page 2, item 13. It changes the effective date from 30 days after passage to ten days. Right now, there's a waiting period of 30 days in which citizens can refer things. This sum says that ordinances become law ten days if not signed by the mayor. The law, ten days after. I think that needs -- that's a serious problem that needs to be addressed. Item 16 says that the mayor, may submit his or her proposed budget to council as late as 30 days prior to the end of the fiscal year. That simply does not allow time for adequate -- by council members, much less the tax supervision conservation commission, as you know that, needs a lot of time. That's only 30 days that's given in this measure. Items 20, 22, and 28 are very confusing about what would happen in case of, well, what happened if the mayor were killed in an automobile accident, this is not addressed. It says that the chief of staff would be mayor in case of incapacity but not in case of vacancy. It says council would appoint a mayor, but it took five weeks in 1979 for the council to choose a new mayor. What happens in the interim? That needs to be addressed. Item 23 puts in five different -- specifies five councils, department heads that are based on the 1913 measure that simply do not represent present-day city functions and it would be a grave mistake to include those because that's how the mayor's salary is decided based on those. They are outdated.

Hales: I have a question. I know that we have got to deal with time limits, but could you just maybe briefly mention any other items that you think would cause a mechanical problem?

Lansing: I think those are all mechanical problems that I am talking about here.

Hales: Did you not cover any more, in other words, there is a bunch here that are substantive issues and I understand and I can read those later but any other mechanical problems?

Lansing: Those are the main ones because putting those five departments in there, to say that there needs to be a department of public affairs and a department of public utilities and public works, I mean, that's -- that should not be in a charter that's passed in 2001, and if you remember, to decide the mayor's salary based on department heads, those department heads, something -- that's not right. Thank you. Go ahead.

Corinne Paulson, League of Women Voters: Do I do this, this way? My name is, excuse me, careen paulson and I am representing the Portland league of women voters. I am not speaking to the initiative at all. I am speaking to the process. And we are now in the process of evaluating the initiative by interviewing proponents and opponents, so we haven't taken a position on that. But, we are opposed to your intervention in the process. We encourage you to allow it to play out to its conclusion before addressing the errors. Referring the amendment would be a precedent-setting mood that you and future councils may live to regret. It's not unusual to find flaws in citizen initiated measures. By doing this, petitioner and his supporters a favor, an exception will be establish that had may be difficult to manage in the future. What criteria will you use to determine which measures are worthy of intervention? What's the bar that you are going to have to meet to change? In the normal course of events, the initiative process is citizen-driven. And an individual with an idea drafts an initiative, as mr. Ball did, complies with the prescribed requirements, gathers the number of signatures and is placed on the ballot. At this point, voters evaluate the proposal on its merits and vote it up or down. Only after a measure passes does the government take ownership

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of it by defending it in court or rewriting the flawed measures. The league does support instituting mechanisms for review of initiatives so this thing does not happen before the signatures are gathered and would favor adoption of such a requirement. If you remember, placing a second measure on the ballot will cause voters to be faced with two versions of the same proposal. This will certainly lead to confusion and in fact, the proponents of the charter amendment will be placed in the awkward position of campaigning against their own initiative. And for the measure referred by council. It may appear too many that by taking this extraordinary step council is endorsing the charter amendment. If you, as a council, and I think that mr. Hidlerbrand discussed this point, decide to refer a measure to the voters for the purpose of restructuring city government, a wider discussion should take place and all ideas for reforms should be entertained. The league, along with others concerned with the workings of the government would welcome the opportunity to make suggestions for your consideration and by considering all viewpoints, council will refer a pleasure that flex the best thinking of a wide range of citizens. Thank you very much.

Chris Smith: Chris smith, 2343 number of the pettygrove street. I won't hide the fact that I am opposed to the initiative. I believe it is going to provide less, not more representation for neighborhoods and mr. Ball might have a sincere disagreement back I think. But what I want to focus on here today is the initiative process, and how I think this is an inappropriate way to intervene in the process. We enjoy in this city, state, and country a representative form of government that's deliberative that allows for debate and amendment, allows law to be shaped on its way to an action. In this state and in the city, we also enjoy the initiative as a check and balance on that government that if for some reason the representational government becomes unresponsive to the citizens, we have a way to get around that. But, in doing so, we are using a very dangerous tool because all you get is a yes or no vote, up or down, you don't get deliberation, amendment, careful debate, other than yes or no. And I think what mr. Ball is trying to do here today is have it both ways. That he's launched the initiative to go around, representative government to achieve something that he thinks it can't but now he's looking to representative government to fix his mistakes and help him get through his ultimate goal, and it just doesn't work that way. Much has been made of, you know, extending the courtesy to the 40,000 citizens who voted for this. I guess I would ask you to also think about citizens like me who are offered the opportunity to sign this and declined because I don't think it's good law, and if you refer this, you are putting your imprimatur on something you haven't asked me about and I think if we are going to open this up to deliberative government, we should open up the whole thing, not just small technical corrections and then finally like to address what I think is one of the major flaws in the system in Oregon, which is the fact that the ballot title plays so important a part in what the voters see and ultimately -- how they ultimately decide. I think there's a big distinction on the ballot from having this sponsored by robert ball versus referred by city council, and I know that your legislation needs to make the correction, states that you are not making a recommendation for or against the merits, but, you know, that piece of disclaimer will not make it to the ballot. All it will say on the ballot is referred by Portland city council, and I think that's a disservice to those of us who did not sign the petition.

Katz: Thank you. Karla. Go ahead.

Ted Blaszak, Democracy Resources of Oregon: My name is ted blazak, and I am the owner of democracy resources of Oregon. The company that gathered the signatures, or many of them for this petition. And with me is charles chamberlain, who was one of the canvassers, and we wanted -- or I wanted to briefly clue you into the fact that rather than hocking a petition in front of a fred meyers with a quick buzz phrase to get people to sign, we went door-to-door and we engaged in detailed conversations with voters. We really informed them about what the initiative was. The language and that we got overwhelming support at the door. A lot of people just don't want to talk to you because they don't want to talk to anybody at their door whether it's about their aunt matilda

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or a good government initiative but those willing to engage in the conversation, we found eight to nine, out of ten would sign the initiative. There is a lot of support for this, especially on the east side of the river.

Katz: Thank you.

Charles Chamberlain: My name is Charles Chamberlain, 5275 Southwest Scholl's Ferry. I gathered the largest number of signatures on this initiative of anybody else that gathered signatures, a little under 2000 signatures, and I think I would like to address what Commissioner Hales said about precedent and changing an initiative. I think that the question of precedent is really important, perhaps, when you are talking about making substantive changes to the initiative, itself. But this is an initiative that we went door-to-door, talked to people and explained the major changes, which is local district representation, checks and balances. Things that -- structural changes that had to do with representation. It had a city ballot title and summary that was created from the city that never said anything on it about, about a date problem making it so there wouldn't be any in there. The people, when they sign the initiative, sign it had based on the concept of, the idea of looking at local district representation, the idea of, of looking at checks and balances is a good enough idea to have that put to me as a voter. If he don't refer a new version of this initiative, also, because no one is suggesting that the old version be thrown out, both of them will be there. If we don't refer it, then the discussion becomes about the fact that there is a date mistake. A technical error. T's not crossed or i's not dotted. Instead of it being a discussion about district representation. Instead of it being an issue about checks and balances, which is what people signed it for. So I think that rather than setting a bad precedent, what you do instead is you set -- you purely give the ability for Portland citizens to have their voice be heard on the actual concepts, the actual ideas, the actual changes that the public wants, the 40,000 people that signed and not, and not an issue of throw it go out because, you know, there's a date mistake.

Katz: Thank you.

*****: Let him go first mayor i'm the mayor.

*****: If I may go first, I have --

*****: Sure.

Mark Kirchmeier: My name is Mark, 7320 North Hurst and I am a long-time Park Neighborhood Association board member. The idea of a single district council has appealed to me. We North Portlanders haven't are a council member in one of our neighborhoods in more than 30 years since Terry Shrunck was elected in 1968, and this ballot measure might hypothetically increase the chance of electing a commissioner from North Portland. But more important to me than merely feeling good about having a commissioner living in my neighborhood, is whether that commissioner is actually doing some good. For example, the Interstate Corridor Urban Renewal Advisory Committee has the charge of helping PDC build at least 3000 largely affordable housing units in North Portland. Needing affordable housing in neighborhoods is always a tall order. And this measure shifting from an at large council system to a single district one, where commissioners will have less reason to look at city-wide interests, like affordable housing, and more pressure towards parochialism will make placing housing anywhere in the city harder than ever. Please project the proposal. Thank you.

Bud Clark: Good morning. I am Bud Clark, and I would like to clear up a few things first about people, elected officials living in different parts of the city because prior to being elected mayor, and growing up in the city of Portland for over 65 years, I lived in virtually every part of the city of Portland from Columbia Villa in North Portland to the other side of Mount Taber to Maplewood to whatever, and also, this minority issue, I think that Dick Bogel was elected a minority, and in the current form of government, and also Dorothy Lee was one of the first, I think, maybe Oakland was first, woman elected mayor in the city in the United States. So I think this government has been very

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good to the city of Portland in its broad spectrum of elected officials. I am against this referendum which would change Portland's proven form of government. This proven form -- this proven form has made Portland, as you call it, the city that works. The council that corrected the errors of the initiative and forward this referendum would create the impression that the city council endorses the referendum and I do not believe that is the council's intent. Therefore, I ask you to vote no and defeat this referendum to change Portland's unique and proven form of government. Keep Portland, Portland. We don't need bigger and costlier government. Thank you.

Dan Steffey: I am dan, live at 2795 northwest upshire, number "b". I wanted to point out that I like the 40,000 people who signed this petition to refer this matter to voters. I didn't choose to sign it. The issue now, I respect the mayor's attempts to try and keep the issue today focused on whether or not the council refers it. The issue is just that. Should the council refer a corrected version. It is flawed. But, I voted for all of you and if you announced your attention in advance, welcome a public debate op the form of government. But not -- I would not favor you having a week to consider whether or not to refer a flawed measure to the voters. We should have a public process about something like that. The sponsors have a right and a responsibility to be accountable for their work. They should get this to the voters, let the voters pass on it, up or down, and from that point, let's engage a debate about whether or not we want to change the form of government. And do that in a public forum, rather than have an individual and his associates come up with a measure that they want to see embraced. This is about the door-to-door and everybody support it go. I suspect that there wasn't a lot of discussion about the cost of this measure when these petition gatherers went from door-to-door, and if they had talked about the cost, the outcomes might have been different. We don't know what they said to the voters to get their signature and I don't think that that's a valid argument. Thank you very much.

Katz: Thank you.

Jerry Watson: My name is jerry watson. I am just a poor person, community activist. I have spoken against this initiative at a number of community meetings. Unfortunately, the debate has been very limited because as was today, the first three people came up here and spoke and supported the manager and then there wasn't equal time given for the, for everybody else was limited to three minutes after that. There's been sort of the same way in the community, as this discussion has gone forth. There really hasn't been time given to opposition to have a true and open discussion on this, and I am surprised because this, this was done by rich people, who had high powered lawyers to write this. These were not incompetent people. So if a poor person came in, I would understand it, they are not lawyers but this is different. So, I don't understand how they can came that they made mistakes, and plus, even when it was going into the community, we clearly spoke about these flaws and they dismissed us as trying to scare people, so now there's been exposed to the public light. They want to come out and say, we made a mistake, you know. They have heard about these mistakes for months. They haven't done anything about it. They could have withdrew the initiative and started over, but they decided not to. And for the young people here, they need to know, this is basically transforming our democracy into a dictatorship, and you are here to witness t you can tell your grandkids.

Katz: Thank you.

Chris Thomas: Members of the council, chris thomas, 2611 northeast 12th. I've been interested in the initiative process ever since I started practicing law in Oregon, doing government-related work 30 years ago. I think the issue in front of you should be addressed in terms of its relationship to the initiative process as the mayor has tried to direct the discussion, rather than the merits or demerits of the particular measure in front of you. I think how what's proposed for you to do relates to the nature of the initiative process is far more important in terms of good government, than the issues raised by the specific measure. There's a big difference between a referendum process and an

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initiative process. The referendum process there is, in the city of Portland, for example, there is in deciding whether to refer a measure to the ballot, a very structured debate in which opposing points of view can come together. They can beat on each other. They can knit-pick each other's language, and the product you get is a result of that. That process is not part of the initiative process. The group of people draft the measure and they decide to put it on the ballot. They may have their own structured debate but it is not the same kind of debate that you have in front of the city council when you are talking about referring a measure. So what are the checks then on the initiative process? Well, it used to be that a the big check was you couldn't have paid signature gatherers so you had to have people who had jobs who were willing to go out and spend all time, and it takes a lot of time, to gather the signatures to get the measure on the ballot. That check is gone. What is the other check? The other check is you know that you don't have the kind of knit-picking, beating on the measure, going through all the issues kind of debate that you have in a referendum, and you know that because of that, you may miss something and that may be something that then becomes part of the election campaign and gets exposed in that process. I believe that is an extremely important check on the initiative process, is the initiators knowing that because they haven't been through this other kind of process, there may be flaws in the measure. I think that it is absolutely critical, certainly today and in today's world with all the initiatives coming forward, more than ever that you not remove checks on the initiative process. Keep the dampening effect in there. Let people run the risk that they are going to have the kind of problem that this measure has. To the extent that you engage in the process of correcting those kinds of flaws, you actually remove one of the dampeners and now the only dampener that there is on the initiative process, and I think you absolutely should not do that.

Irwin Mandel: Good morning, mayor Katz, members of council. Irwin mandel, 1511 park avenue. Let me apologize for my appearance. We don't usually come over like this but we were in our gym workout watching on tv, so we decided to move over.

Katz: Did you make other people watch this?

*******:** If I the power, believe me, I would.

Mandel: What you have here is sponsors, have set up a misguided missile, guaranteed to do a lot of collateral damage if it lands and they are asking you to hop aboard in mid flight and collect the errors that they built into it. That bird doesn't fly, either. I don't know how I feel about the concept behind it. It is a major change, almost a revolutionary change in Portland's government. I haven't had enough information, really, or time to think it through. But I know that I am against the process that have that is being proposed here, that the council step in to correct errors in this initiative, or any future initiative. It isn't that you can do this on a case-by-case basis as has been said without sequelai. As commissioner Hales said, what happens if the oca comes up with a real doozy but you don't like what they have come up with, and it is flawed. If you then, if you refuse to correct that one or any one other initiative that comes before you are going to be playing politics, whether you mean to or not. That charge can be raised at any time. So you can't convince me that by changing this, you don't set a precedent. You do because you will suffer the consequences of any future refusal. And if you don't want those consequences, then you put yourself in the position of assuring anyone, oh, go draw up your measure. Don't be too careful about it. If it doesn't seem to work out, just bring it forward and we will correct it, and you will have to spend your time correcting future flawed measures. This should not happen. You have the opportunity if this passes by the voters after a lot of discussion and debate, you can correct it post-hoc, and that may be what is necessary. But do not set the precedent of correcting flawed measures when they come before you. You don't have a case-by-case basis. You have a precedent that you all may pay for. Thank you.

Lili Mandell: Lili mandell, 1511 southwest park avenue. A mistake has been made. Now, if you continue, you are going to make a mistake. But people who are going to read what you refer are

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going to say, well, now all mistakes have been taken care of. This is also a mistake, so I suggest you don't do this. Thank you.

Katz: Thank you.

Betsy Radigan: I am Betsy, 37 northeast Morgan is my residence in the piedmont area I have been a neighborhood activist for the last 12 years, and I think that we have good government in Portland already, and I asked you not to attach your name to this initiative because that's what you would be doing, and I ask that out of respect for all the citizens like myself who devote so much time -- so much of their time and have demonstrated their commitment to our government as is. A government predicated on citizen involvement. Your referring any proposal to the voters as a referendum carries an implication that it is a necessary action. In this case, reforming government, our local government, being necessary. It also implies a public process was followed, one more thorough than Mr. Ball's. I have only heard of this initiative in the last four or five weeks. I've been on the board of the piedmont neighborhood association for the last 12 years. In the last two years, I've participated in the north Portland chairs round table. This issue never surfaced in north Portland. I don't understand that. What I understand that Mr. Ball wants the advantage of the referendum process, now that he's discovered the disadvantages of the initiative process. If you are going to refer or use the referendum power, give us the whole package. I want the public debate. I want the study. I want the best proposal possible. I don't think you have it. Please, do not refer this initiative to the voters.

Katz: Thank you.

Robert Schielly: My name is Robert Sheely, live in northwest Portland. I'm a physician. I don't pretend to understand the intricacies of the political process. I only work on the brain. But what I would like to say is -- [laughter]

Schielly: In my position as a physician, I sit on a couple of high level administrative boards at a large hospital in the city, and we actually wrestle with these sorts of issues all the time. Believe it or not, medicine is not an exact process and we are constantly wrestling with the exceptions to the rule. And one way we try to handle it, is everybody single time it comes up, we, we face the issue, do we make an exception in this particular case or do we not, and the way I propose it as chairperson of one of these commissions is, if we are not going to wrestle with this issue, we should remove ourselves from the power of having to make this decision. So I think that the idea that you can't set a precedent is possibly incorrect. You should either work with the idea that you can set a precedent because our body with some deliberative power or remove yourself from it in my particular case I support referring the referendum but I think that people have been trying to address the issue from different angles but I think the particular issue today is whether you should set a precedent or not. Thank you.

Hales: I can't resist, would you except a liability claim for somebody else's brain surgery?

Schielly: Would I? I just get a really good lawyer. [laughter]

Hales: A good lawyer, yes.

Katz: Everybody, as I said, did you want to come? All right. This is the last call. Anybody else want to testify? Jada Mae, come on up. [laughter]

Katz: I will let her go first.

*****: She's more prepared than I am.

Nancy: I am Nancy and I live at 12587 northeast Linwood, way out. I just graduated from Portland State University. I was a political science major, and you know, one of the important things that we had to do was read the voter's pamphlet, which I don't know if most people do. If you refer it, you make the first statement in the voter's pamphlet. Can't you just say in the voter's pamphlet, listen, we are not saying that we oppose this. We are not saying we are for it, but all the problem with the

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old one was, there is a date. How many people screwed updates. Everybody screws updates. You know. I can't even remember my own anniversary. It's either the 2nd or the 4th.

Katz: Don't go there.

Nancy: It's the 2nd or the 4th. It's a date. A lot of people wanted the thing to go through. Give them a chance to look at it. Give them a chance to read the voter's pamphlet on it. All you have to say, we don't endorse it. Say you don't endorsement. It's a precedent that, you know, you are going to represent the people of Portland. Represent the people of Portland. Let them choose. You can do it. You have the power. I think you do, at least I study that in school.

Katz: Thank you. Jada Mae

Jada Mae: I would like to say I have the least power of all because I am the very poorest candidate that's ever been recorded in the history of candidates. I prefer not to buy votes or ask for money and this makes me public enemy number two, but with this particular thing that's going on right now, changing the, the things, I was told through the grape vine, I might have a chance of getting elected if we get this new form of government in, and I don't know if that's good or bad. Would you give me an answer to it, if I got elected it would be a really bad thing? If I wanted to, a new form of government? I heard it was written up by a whole bunch of rich people, which I do not fear rich people and I don't fear poor people. I worry about the middle class. They fear -- they fear the most because they don't want -- they want to be rich and they are afraid to be poor. I prefer being poor. I am much healthier that way, and by the way, cost \$1,000 to get in the voter's pamphlet if you are running for governor so you can just assure everybody that there is a terrible, horrible war on the poor because they don't want any poor candidates. Maybe if I borrow some money from the landlord I can run for city council. It's only \$30 that way. And I also need your recommendations of whether I should -- let's see, if I run, if I should run against Saltzman and for Sten, or run against Sten and for Saltzman, I don't want to run against anybody but it's stated I have to run against people, and I don't like t I just like to go along with --

Katz: You have been running against me for years.

Jada Mae: I never believed that. I never run against anybody.

Katz: Have I ever pointed a finger --

Jada Mae: Have I ever pointed a finger at you and scolded you?

Katz: You have been wonderful.

*****: Thanks.

*****: Spread it out to your friends.

Katz: As I said, we will vote on this next week, so I invite all of to you come next week. All right. Let's go to item 140.

Item 140.

Katz: Let me say at least again, explain why this is here and how it made it here. I'm a member, actually, I am a chair of the fpd and r board, and officer potter approached our office to address the fact that survivors of domestic partners of Portland's fpd and r system did not get the benefits, and I then turned to lawyer kiss, who will talk with you in a few minutes, and ask whether the tannor decision really addressing this issue, as well. And susan from fpd and r board and karl kiss and others looked at it and you have the documents in front of you that says that yes, it does and what we can do with advice and consent, actually, it's only advice from the fpd and r board is bring an ordinance to you to pass, which is exactly what I am doing. So let me invite karl, katy, come on up. Susan, did you want to come, okay. I want to thank everybody, especially members of the fpd and r board and susan for taking on this issue and bringing it forward, as well as karl and katy for flagging this. Karl, katy, why don't you start.

*****: I was prefering to start with attorney kiss if you don't mind.

Katz: You want to do that? Go ahead. Karl, go ahead.

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Carl Kiss, Attorney: Good morning, your honor, and members of the council. My name is Carl Kiss. I am a resident of southeast Portland, and I am the lawyer who handled the trial on appeal of the Tannor versus OHSU case. None of us should have needed September to remind us of the risk that every police officer and every firefighter faces willingly, each and every day when they report to work. Every one of them puts their life on the line each time they are down in the uniform. Every one of their families lives with fear and faces potential disaster whenever their loved one is at work. And the risks that they face and that their families face, they take for each of us putting their lives and their families' welfare on the line to keep each one of us, each one of our families safe and secure. Today, our city will recognize the duty it has to provide each and every one of our extraordinarily brave and heroic police officers and firefighters with an equal opportunity to provide for their surviving family if they should make the ultimate sacrifice while protecting each one of us. Today, our city council members will live up to the oath each has taken to uphold the Oregon constitution by correcting an unconstitutional section of our city charter. We should be proud to live in a city that values an individual's contribution to society, to our city, based on their work and based on their honor, alone. We should be proud to have a city council that instead of choosing to ignore or to hide an unconstitutional inequity within the city charter, welcomes the opportunity to correct that inequity. You know, I do mostly litigation, almost all litigation. I write an awful lot of letters telling people that there is a problem here and here's how they should correct it. I think that this is the very first time that I got a response back saying, okay, you are right. Let's do it. And it's a wonderful thing. Our city comes closer today to when every man and woman will be judged based solely on the content of their character. Until then, the city's work won't be done, but I want to thank each and every member of this council and especially you, Mayor Katz, and your dual role as chair of the funds board for bringing us closer to that day. Thank you.

Katz: Katy, grab the mike.

Katie Potter, Portland Police Officer: First, thank you for letting me be here to speak. I appreciate that. My name is Katie Potter and I have been a Portland police officer for 13 years. My partner has been a Portland police officer for 19 years. Together, we are raising a 2.5-year-old daughter. I would like to tell you how the proposed ordinance will affect me and my family as a member of Portland's fire and police disability and retirement fund. If I am killed in the line of duty, my partner of 11 years, the woman with whom I am, I am sharing a home and raising a family, would be emotionally devastated. What also is true is that she would be financially devastated. She would not be entitled to the \$100,000 federal benefit or the \$25,000 state benefit or any assistance with mortgage payments, health care premiums, higher education, tuition or any other benefit afforded the spouses of married officers killed in the line of duty. These benefits are available to spouses of officers to help stabilize the family financially after the death of their loved one. There are no benefits available for my partner. Although our daughter would be entitled to some benefits, financially both their lives would change dramatically. They may not be able to continue living in our home. After I die, if I die, after I retire, but before my partner dies, she is not entitled to the spousal retirement benefit that I will have earned over the course of my career, working to keep the citizens of Portland safe. My daughter will be an adult and therefore, not entitled to any benefit. I have no one who will receive a benefit after my death from my life's work that is available to the spouse's of my married co-workers. We do not may into social security to be eligible for a benefit. Even if we did, we would not be eligible for any spousal benefit. All of these benefits currently available to married people I mention to underscore the need to take this action today. It would be the only retirement or death benefit available for our families if we die. Whether in the line of duty or after retirement. But money isn't the only issue at hand. Nor is it the most important. My family should be valued as an entity worth protecting, as much as any other family. We know that we are all created equal, but we also know that we are not all created equal -- treated equally. If my

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partner and I could marry, we would. Police vote today to pass this proposed ordinance, showing Portland's sexual minority community that our families are valued, too. Please tell our daughter that her parents are as deserving as other families in Portland. Thank you.

Katz: Thank you, katy. Okay. Karla, anybody else? Anybody else want to come up and testify? Come on up. While you are coming up, I also want to thank Tracy from the city attorney's office for drafting the ordinance and working with us to make this possible, as well.

Roey Thorpe, Executive Director, Basic Rights Oregon: My name is Roey, the executive director of Basic Rights Oregon, which is the statewide lesbian, gay, bisexual and transgender rights group. I want to thank you. It is really an honor to be here with people who have not only been supportive of the issue of equal rights, but who have exhibited leadership and certainly a basic rights of Oregon, we are grateful not only for your support but especially for your leadership on these issues.

We certainly support the extension of all benefits that recognize same-sex relationships, and I agree with Karl that it's especially unfortunate that so much awareness has been raised in the wake of such a tragedy on September 11. I wanted to tell you a very brief little story about something that happened to me a few years ago that I think, you know, kind of underlies some of the emotion that goes with all of this. I was, at the time I was an openly gay city council woman and deputy mayor of Ithaca, New York, and I was at work at my other job, and there was a woman there who had tragically lost her husband and they were both in their late 40s. Their kids had just gone off to college, and her husband was in an unfortunate accident just at this moment when all of their children had left the house, and, you know, they were talking about what they were going to do with the next part of their lives together. And we had a lot in common. We were both Jewish. We shared a lot of the same values. And so she came to me in this time when she was feeling so devastated, and for weeks she came to work and every day she cried and she talked about it and I listened and was often moved to tears, and after, I'd say four or five weeks of her talking about this loss and us really being much, much closer, she said to me, Rowy, you know, there's been something I have been meaning to ask you, do you people feel bad if your person dies? And you know, I have to tell you I am a pretty tough cookie but it has been a long time since something hurt me that much because it made me realize that what underlies so much of the unwillingness to extend recognition and rights to our relationship, is a belief that somehow our feelings are less equal. That they are less deep. That they are less meaningful and enduring, and that somehow at the base of that, we are just a tiny bit less human. And I think what I want to say is that the thing I appreciate most about your willingness with very little fuss and bother and very little debate over our worthy as citizens and as humans to extend these benefits shows that you really do understand that and I appreciate it very much. I look forward to working with you in the future.

Jada Mae: When I first came to Portland, I used to hang out at a place where they had beautiful dancers that were cross-dressers and I used to spend a lot of time because I loved to watch people dance, I am a dancer, myself, and when I did make the rounds when I was back in the days of drinking, as soon as the fellas got too drunk, I just run away to the gay clubs and never feel scared, you know. By the way, I am a celibate, for 13, going on 14 years, so if I move in with a man, they are going to think one thing, if I move in with a woman, they are going to think a different thing, and if I stay by myself, it's still going to think something. So, I think anybody who gets together and gets along should be blessed by the whole community. Whether male, female, or wanna-bes. I prefer the company of gentle men. As you can see, I am a macho female chauvinist pig, and that's what Portland is, a whole bunch of really strong women and gentle men, although a few of them get their roles mixed up once in a while. So what it's an enlightened area.

Katz: Anybody else want to testify? If not, roll call.

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Francesconi: Thank you all for providing us this opportunity to uphold the constitution, and the Oregon constitution and to show that in this city, all of our officers and all of their families are valued. This is the right thing to do. Aye.

Hales: Well, I think we heard some comments from the city council and the mayor's efforts on this front, and they are appreciated but I think that actually the fact that this is being done as a routine item with no controversy in the room says at least as much about the 525,000 people we represent as it does about the five of us up here, and I think that that's a cause for even greater celebration, that we have arrived at a day where something that might have had, you know, in other places, in other times, you know, huge controversy and protest and is anger and posturing and finger pointing is done as a routine ministerial action on a wednesday morning just like contracts and buying sewer pipe and fixing a street, and that's just the way it should be. Aye.

Saltzman: Well, I thank the mayor for bringing this forward and the attorney for writing to the mayor and raising this issue to her attention and thanks to officer potter for your very eloquent testimony, and I know that you have worked a lot on this to bring it before us today, too. I am thrilled to support this. I think that we are a city who prides ours on being family friendly and we should be bending over backwards wherever possible in whatever avenue to encourage families and regardless of sexual orientation or gender, and we should encourage all families to have children, adopt children, there is many children that need adoption, that need stability and this is certainly one source of doing that, and, and this is very good legislation, and I am pleased to support it. Aye.

Sten: I agree with what's been said. It feels very good to vote for this, and I appreciate all of you bringing this forward and the manner in which the mayor handle this had and got it done quickly. Unfortunately, even though I think this town does have this right, rights are not equal at this point. There's a lot of, of structural inequities starting from the fact that gay and lesbian couples can't marry and extending a bunch of places and I think that every time we can fix one of those we ought to do so forcefully and quickly and I am glad that we are doing it aye.

Katz: Thank you to everybody in flagging that, and thanks to the fpd and r board for bringing it forward to the council, as well. You know, i've been honored by a lot of the gay lesbian and transgender groups for supporting legislation, even as early as 1973 in the Oregon legislature, unfortunately, never passed. And people asked me, you know, oh, you are so brave and oh, you have done this, and I look, and I say, I can't understand t it's the right thing to do. There is no question about it. There's no debate. It is the human thing to do to members of our community, to the human race, so this is an easy one, it's always been easy. Aye. Thank you. All right, 150.

Item 150, 151, 152.

Yvonne Deckard: Good morning, mayor, commissioners. For the record, I am yvonne Deckard and I am the director for the bureau of human resources. In 1999, the city council approved the memorandum of agreement between the city of Portland and copea to deduct the copea classification compensation study beginning no later than march 1st of 2000. The bureau of human resources has been engaged in the process since that time. We are here today actually to introduce to you three items on the council calendar which is item 150, 151 and 152. And we would like to talk about all three of them together, even though we will ask you to adopt each item individually or one at a time.

Katz: And we do need to put an emergency clause on 151. Is that correct?

*******:** Correct.

Katz: Do I hear any objections hearing none so, ordered.

*******:** Item 150 is a resolution amending --

Katz: Let me interrupt you again, if you are going to deal with all three together why don't we read 151 and 152.

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Deckard: 150 is amending the city, personnel rules concerning the appeals for classification actions resulting from the study, and 151 is actually setting in place a grievance process by which to deal with the appeals that will result from the study and then 152 is actually adopting the structure. They have erased the city classification and compensation manager, will cover the details of these items and then once again, at the conclusion we will be asking council to deal with each item individually.

Katz: This is for copea only.

*******:** Yes.

David Reese, Bureau of Human Resources: David reese with bureau of human resources. The first item is a resolution that amends the personnel rules, and this is necessary in part because we are creating the, the second item, the ordinance, an alternate means of addressing appeals that would occur from the copea classification study. The resolution changes the rules and limits people from the normal, what they would usually have available to them under the personnel rules. Limits the kind of hearing that they would have primarily because the ultimate means that we are developing is one that will expedite those hearings, will allow them to have a, bodes a management, a neutral and a copea representative on the board that would be able to process those appeals. It's a much more expeditious way of doing it. So, the resolution changes, the personnel rules limited to copea and this, this one classification study. And that's the first item. Do you want me --

Katz: Go ahead.

Reese: The ordinance, ordinance item 1 a 51 -- 151 would adopt a memorandum of agreement between the city and copea to amend the contract and provide this alternate appeals process. We believe the majority of appellants will choose this process. It is designed to be swifter and to have a labor advocate representative on a panel along with a management advocate representative and paid neutral hearings officer. Unlike the civil service board appeal process, the decision made by this panel is binding on both parties. This is an agreement that employee relations led by lisa bledsoe, in this association, and copea have agreed to, it is subject to ratification by the council. The third item various as bit more -- requires more explanation. It is the classification portion of the study for the copea classification study. What council will be asked to do under this ordinance, item 152, is to adopt the structure of classifications for copea. You will recall back in march of 2000, we began a study into classifications of copea, and the result of that is we have a new structure. We have broken out classifications that were under the technician group, for example. We did this via the kind of involved process that you would normally have in the classification study. We got information via questionnaires from employees. We conducted interviews. We used an outside consultant for a large portion of this work. We obtained input from management, and we conducted a review, an ongoing review of the process and of the result through an advisory committee that was comprised of both copea representatives and management representatives. During this process employees have been notified of their tentative allocation, the classification that they would be in. And through that notification or as a result of that notification, they had the opportunity to informally appeal both the language of the classification and where they were headed, what the allocation was. Those appeals were reviewed, about half of them were granted. And I am sorry, about 36% of them were granted. And at this point, we have concluded most of the work on the classifications. The structure is what you see in front of you today. There are some language issues that we are continuing to work through with the committee, and by bhr review. There is one classification that we are still working with the consultants on, and that may result in us returning to council, the environmental specialist classification is one where the bureaus and employees feel that there might be a higher level. We refer that at a late date to our consultants and we are expecting some information back. If it results in a change to what you have before you today, we would need to refer, refer that back to the council am we are not sure that will be the case. The reason we are

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bringing it to you at this point is the work of the classification structure is complete, we have an interest in going ahead with completing and beginning the appeal process, and we need to have the structure in place so that employee relations can continue and finalize their bargaining over wages. With this structure the wages are part of negotiation. It is not something that you will be voting on today. The contract is something that you are not voting on today. What you have before you is the structure of the classification that allows employee relations to finalize their bargaining, to work with these classifications for purposes of bargaining wages, and then allows us to give formal notice to employees about their proposed allocation so that we can conduct the appeal process that is contained in the second item of this process. So those are the three items. Questions?

Saltzman: Do these classifications reflect the entire copea?

Reese: Yes, they do.

Katz: Did you want to add anything? Anybody else want to testify? Come on up.

Doug Bloem, President, COPEA: Good morning, mayor Katz, members of council. I am doug bloom, president of copea, and with me is bob haley, vice president. We want to speak to you very briefly about the proposed new classification structure for our employees. Item 152. We first want to say that we really appreciate the hard work that the bureau of human resources staff and the advisory committee put into developing the new class structure and the job specifications. We however have some concerns about the process that was used to get there and one issue with the final product, and I think that david mentioned that before. Our concern over the process was the, with the amount of time available for us to review the final job specifications. Copea members put a lot of effort into reviewing the previous draft of the specifications and through the advisory committee, the copea representatives on the advisory committee, that is, suggested quite a few improvements. However, neither the advisory committee nor copea have seen the provisions of the specifications that are before you today. The advisory committee was briefed on the final changes made but human resources was not able to rewrite the documents in time to allow them to be posted for employee review until this morning. And our concern over the content of the classification structure is with the environmental series. Particularly, the environmental specialist classification. Although the other large professional job series within copea, the planners and the engineers have multilevels that allow professional development within a series of job classifications, there is only one level of environmental specialist proposed before council today, the environmental field is one where we see there will continue to be an increasing need for professional expertise in the city, and limiting career development in this field is probably not in the city's best interest in the long run. We would like to continue to work with the bureau of human resources to address this in the near future. Again, we want to thank human resources staff for all the work that's gone into this project and would like to continue to work with them to improve it. Thank you. Anybody else? All right. If not, let's do roll call on 150.

Francesconi: Can I ask one question of staff?

Katz: Wait a minute. We are in the middle of roll call. I withdraw the roll call. Staff, come on up.

Francesconi: The question is probably because I wasn't paying close enough attention so I am sorry. But you mentioned the environmental specialist, which was just raised, so are you going to look at that later?

Bloem: What we have done is a bureau brought it to our attention there was some issues after the appeal, after we had indicated back to bureaus and the employee that we didn't believe that there was a higher level, that there could be a lower level environmental specialist and so we met with the affected bureaus. We sat down with them. We looked at their issues. We have, based on that meeting, asked for specifics that we hadn't received before, specifics about the differences in the top end of environmental specialists. We have arranged with our consultant to review those, that

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information and on that basis, we will be making a decision as to whether there is a second level or not.

Francesconi: Got it, sir. Sorry I wasn't listening.

Katz: Roll call.

Francesconi: Thanks for your work on this and your patience with certain commissioners. Aye.

Hales: Maybe all the commissioners, aye. **Saltzman:** Aye. **Sten:** Aye.

Katz: Mayor votes aye. 151.

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

Katz: Mayor votes aye. 152.

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

Katz: Mayor votes aye. Thank you. 153.

Item 153.

Katz: There is a scrivener's error in there. It's a name referred -- she referred to debt manager, talks about the director. We will make that correction as a scrivener's error, go ahead.

Eric Johansen, Debt Manager: Thank you. I am Eric, the debt manager in the office of management finance. The ordinance in front of you authorizes the refinances of the city's 1979 hydropower revenue bonds if you were of reducing the debt service and to increase the operating efficiency of the -- bonds for the purpose of reducing the debt service to the increase the operating efficiency of the product. The agreement provides that Portland general pays for all power produced by the project in an amount that covers all debt service on the bonds as well as paying other amounts to the city based upon project output. Since pge pays the debt service on the bonds, they are the primary beneficiary of this refinancing. However, there is also the case of the, the city will stand to benefit from this refinancing, as well. We are proposing several amendments to the power sales agreement that will improve the economics of the project and those economic benefits will then be shared by the city and pge. The actual amount will not be known until we sell the bonds and will be dependent on future output from the project going forward. These particular power sales agreements will come back to council next week in a separate ordinance. A final comment on this particular refinancing is that it is very dependent upon getting a commitment of municipal bond insurance. Because of the financial situation with pge's parent company, Enron, this deal will not go forward unless we can get a third party guarantee of the debt service on the bonds. We are in discussions currently with the bond insurers, we hope to have an answer by the beginning of next week. If we get it, and the insurance is available at a reasonable price, the deal appears to be able to go forward. If we don't get it, it probably will not go forward at this time, and may come back in about six months.

Katz: Thank you. Questions? Anybody else want to testify? Roll call.

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

Sten: Good job. You have been working on this for a while. It's a good step. Aye.

Katz: Mayor votes aye 154.

Item 154 and 155.

Katz: Do you want to do 155 at the same time? Yeah, let's do 155 at the same time.

Katz: All right. Anybody want to testify?

*****: I have some questions.

Katz: You have questions. Jim, are you here? Come on up. We have questions.

*****: This is on 155 and I would appreciate a simple, as simple an answer as possible. [laughter]

Saltzman: It says in the writeup that we are charging pdsi a fee of 1% and this is considerably under the, our usual billing practice where we bill for actual cost. So it says this is in violation of city cost to service principals, and if I read this correctly we are making up that difference with

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general fund money. Can somebody explain to me why we're billing pdsi under our cost of service? And what the litigation going on is, too? It talks about --

Francesconi: I can explain it. I helped negotiate this. Here's the thought, and let me, maybe I am arguing -- well, you want a simple answer. The cost -- what they are doing is they are providing us, in my view, these business districts, i'm not only concerned about app, but I am very concerned about the lloyd district, hawthorne, st. John's and others so, what we are trying to do is this is the charge that we provide to other districts for added services that's arguably, maybe it would be nice if the city provided, so it's added security. It's added street maintenance. It's added public services that app provides, and so we want to charge for our time, but the problem is, I haven't looked at the details with app, but I have looked at the details with lloyd district and hawthorne, and what it does is it prevents us from actually forming these districts, and so what this is, is an attempt to get a cost recovery back but do it cheaper in a way that we can actually get the services for our citizens in these areas. And so there was some negotiations between actually very extensive negotiations, and I wasn't a part of, between jim wadsworth and chris thomas representing app, so I don't know if you want to elaborate on it. But that's --

Saltzman: Are you saying the fee of 1% processing cost would prevent the --

Francesconi: No, not 1%, but beyond 1%.

Katz: This is specially an issue at lloyd district --

Francesconi: And it is really hawthorne all across the city.

Saltzman: So it's a policy decision here to, in essence, subsidize the fee processing cost. In order to encourage formation --

Francesconi: Right.

Saltzman: What's -- it's in reference to the city -- what's the litigation going on? City cost related to fee litigation will be billed to pdssi?

Jim Wadsworth, Director, Bureau of Licenses: I am jim wadsworth, director of the bureau of licenses. Commissioner, that refer to say any litigation that we take against a nonpair, someone who would not pay their bill, and it follows the process that we have right now.

Saltzman: There is no pending litigation?

Wadsworth: No.

Francesconi: In terms of the cost, at least maybe you should -- obvious question of the council is how much are we talking about here, and it's 25 to 30,000, including both app and lloyd district, is that right? Are my numbers right?

*****: Yes, sir.

Francesconi: I tried to cap it at 25.

Saltzman: That's the total for both.

Francesconi: For both.

Saltzman: That was a fairly simple answer. Thanks.

Wadsworth: Commissioner, as we would bring on additional business improvement districts, then that would reduce that amount because we would be charging for services from those other districts at 1%. So, we gradually pull that down.

Katz: Chris, did you want to add anything?

*****: No, unless commissioner Saltzman had more questions on that.

Katz: Thank you. Roll call on 154.

Francesconi: Council and commissioner Saltzman, I am sorry I didn't better explain this earlier. Aye. Thank you for your work on this. I notice the mayor of new york, the new mayor of new york is loosening up business improvement districts throughout the whole city as a result of their fiscal crisis and they are actually going further than we are in this ordinance, in order to try to get businesses to help contribute more to services. I actually think we need to figure out a way to have

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more business districts in our smaller business districts. That is just, just a step in that direction.
Aye.

Hales: Aye.

Saltzman: Appreciate the explanation and I agree with commissioner Francesconi, we need to find ways to encourage t it is a successful mechanism, also very pepful mechanisms in times of tough budgets, aye.

Sten: Aye.

Katz: Mayor votes aye. 155.

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

Katz: Mayor votes aye. 156.

Item 156.

Katz: All right, does anybody have questions of nancy? All right. Roll call.

Francesconi: Just keep up your good work there. Aye.

Hales: Aye.

Saltzman: Two more customers, good work, aye.

Sten: Aye.

Katz: Tomorrow the entire city, aye. All right.

Francesconi: State, state.

Katz: State. Thank you, everybody. We stand adjourned until 2:00.

At 11:54 a.m., Council recessed.

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FEBRUARY 13, 2002 2:00 PM

Francesconi: Here. **Saltzman:** Here. **Sten:** Here.

Katz: Here. Commissioner Hales is on personal business. Let's take 158 first.

Item 158.

Katz: Commissioner -- we are in the same position we were last week. But commissioner Francesconi was kind enough, he will explain his vote, kind enough to get this off our calendar.

Francesconi: I thought you were going to give up your personal conviction and vote for this. That was a joke.

Katz: Go ahead. Did you -- do you want to say anything?

Kathleen Stokes: No, I am just here to hear your vote and answer any questions that you may have.

Katz: All right. Karla, is there a motion here? This is on the findings to accept the findings?

*******:** You need to adopt the findings, which were distributed about ten days ago.

Saltzman: I move to adopt.

Sten: Second.

Katz: Roll call.

Francesconi: I am going to vote for this, and the reason is just procedural. It's not fair to the applicant. He has three votes for this. We should pass it and move it on for his sake, so I am going to vote aye. Reason that I would have voted know if commissioner Hales had been here is because it is in a design guideline area, it is just my feeling that given the technology and the fact that I think you are building a large network, I found that more, the staff's position more persuasive, that given the area, there could have been an alternative site and that this other's found a way to do it, and that I thought on the scheme of things, in a close call, you could have found the ability to do it, as well. But, having said that, I am going to vote aye.

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

Katz: Motion passes. Thank you. All right. 157.

Item 157.

Katz: Okay. Kathryn.

Kathryn Beaumont, Sr. City Attorney: Good afternoon. Normally, this would be an on-the-record hearing, and I would read the opening statement for an on the recording hearing but I understand that you will be asked to reopen the record for the purpose of hearing an agreement and revised proposal, that the parties have worked out so, with that in mind, I will read an abbreviated opening statement, as if there were an evidentiary hearing. This is a limited evidentiary hearing.

This means you may submit new evidence to the council. Your evidence may be in any form, including testimony, letters, petition, slides, photographs, maps, or drawings. Anything you show to the council -- any items you show to the council, you should give to the council clerk at the conclusion of your testimony, so they will become a part of the record. In terms of order of testimony, we will begin with a staff report by opdr staff. The appellants will follow. Principle appellant, and anyone who supports the appeal. The applicant will then have an opportunity to address the council and anyone in support of the applicant's position. Finally, the appellant will have an opportunity to rebut any testimony. The council will then close the hearing and deliberate.

After the council has concluded his deliberations, the council will take a vote on the appeal. If the vote is a tentative vote, the council will set a future date for the adoption of findings and a final vote on the appeal. If the council takes a final vote today, that will conclude the matter before the council. And I understand that you have a proposed set of findings reflecting the revised proposal

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prepared for you to adopt today, if you so choose. Final statement is, just several guidelines for those presenting testimony and participating in the hearing. Any testimony and evidence you present must be directed toward the revised proposal and settlement. The applicable approval criteria for this land use review or other criteria in the city's comprehensive plan or zoning code which you believe would apply to the decision. And the opdr staff will identify the applicable approval criteria as part of the staff report. If you fail to raise an issue supported by statements or evidence sufficient to give the council and the parties an opportunity to respond to the issue, you will be precluded from appealing to the land use board of appeals based on that issue. And that concludes.

Katz: Okay. Conflicts of interest. Declaration of those interests?

Francesconi: I have had several conversations. One was with debbie menache when this came from the schoolboard, and I have had several conversations with staff. That's t I don't recall anyone else.

Katz: You have ex parte contacts but no conflicts of interests. Anybody else with ex parte contacts? Anybody want to challenge us? Okay. Let's have the staff report for ten minutes. Then the appellants for ten. Their support is for three. Principle opponent, 15, their supporters for three, and then the appellants have five minutes to rebut.

*****: Thank you. This is the appeal of land use --

Katz: Do you want to speak up into the mike. Thank.

Kathleen Stokes, Staff, Office of Planning & Development Review: 01-00269-cu, the green thumb project. The Portland public school district owns this property and it is a school site. They have sold 7.3 acres of the property that is now used by the green thumb program to the city of Portland.

Katz: Hold on. It's not on our screen.

Saltzman: We are not seeing anything.

*****: You do have paper copy, if need be. There you go.

Katz: We will follow up with the paper. Keep working at it, though, karla.

Stokes: The original proposal included a request for reduction in the size of the site and waiver of a requirement for a master plan, which was -- the proposal was approved by the hearings officer. The request to waive the requirement for master plan was appealed by the brentwood-darlington neighborhood association because the neighborhood didn't want the requirement for a master plan to be waved as they felt that the future use of the site and the projected impacts were undetermined. Neighborhood also stated in their appeal that reducing the site size to concentrate the effects in a smaller area and they felt that that could produce more impacts on neighbors. This is, this appeal is still pending and that's why we are here today. But as a result of talks that were held by representatives of the city of Portland and the neighborhood, the Portland public schools was the applicant is now requested that the record be reopened in order to amend the original proposal. And this amended proposal requests that the use be allowed to continue on the entire site and to reduce the size of the use to 5.5-acre portion owned by the school district at some point in the future. So, it gives them some flexibility and for the time being, it would maintain the status quo. But, if parks, who I understand is going to be taking over the portion that the city has brought later has an alternative use for the site, then that could happen without the school district having to come back for an additional review. We proposed that the three-year limit that normally is tied to an approval of a conditional use not apply to this so that in case they continue to use the site for three years and then they want to reduce it, they won't have to come back for another review. The amendment reflects this resolution --

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Katz: The master plan, I am sorry --

Stokes: The master plan requirement would go away, and this resolution is deflected in the proposed final decision that was presented to council.

Katz: Do we still have an appeal, technically?

Stokes: There is still technically an appeal, which is why we are here. The city attorney determine that had we could not go back to the hearings officer for resolution of this because there was an appeal pending. As I said, the proposal is for a change to an existing conditional use, which is a school in a residential zone. And that's why it requires approval through a conditional use review. The school district's also recommending deletion of a formal condition of approval of a conditional use, and so for both of these reasons, because the potential change in the size of the site would be greater than 10%, and because the previous condition was placed through a type 3 procedure, we now have to go through a type 3 conditional use review to approve the proposal. In order to be approved, the proposal has to meet the conditional use approval criteria that is for institutional and other uses in our zone. The code reference for that is 33815105 a through e. The proposal has to be found to comply with the relevant policies of the transportation element of the comprehensive plan, and that includes goal 6, policy 6.1 through 6.25. District policies and classification descriptions and maps, and also has to be found consistent with brentwood darlington neighborhood plan and the outer southeast community plan. The next slide shows the zoning map on the left, and the overall site plan on the right. You will see two parcels on the zoning map because technically, the site has to include all of the property owned by the applicant, which in this case would include a school, which is across the street to the south, but the, the, actually the green thumb property is on the west side of 60th just south of duke. This view shows the existing development on the green thumb site in the portion of the site that will remain in the school district ownership. The entrance to the green thumb project is from southeast 60th. It's across the street from brentwood park, and as I mentioned, the other properties shown on the zoning map is joseph lane middle school, which is seen in the distance in this slide south of the park.

Saltzman: That's not part of the property transfer --

Stokes: No, I was not. However, it is closely linked to the program because a large number of the students involved in this program are students at lane middle school. There's parking on-site for 32 vehicles. The north entrance to the site continues onto the green thumb grounds to allow access for staff and maintenance vehicles. This program, in case you are not all familiar with this, is a program which is designed to introduce both middle school and high school students to various horticultural activities. Gives them hands-on experience. The view is the two-story administration building. That's landscaped area that separates this building from the parking area and the classrooms. There are five classrooms on-site, and these include a classroom that has facilities for floor -- creating floral displays or learning florist techniques. Sometimes the students make projects for events that are going on at local area schools. The view here is an archway that the students were designing for an event at one of the local schools. There's also a laboratory where students learn to use computers to create -- to do cadwork per landscaping. This shows the view from the school district portion of the site toward the portion that is purchased by, by the city of Portland. It's less developed in that area, though. There are lot of tree and is horticultural areas in it. There is an arboretum area in the portion retained by the school district, and that's a woodland setting with a lot of native tree and is flowers. Southeast 58th avenue, dead ends into the property on the north end. You can see this, in this view here -- this is -- there are two stumps that are marked with blue paint that's pretty much the property-line between the east and west portions of the site, the east portion being the school district's and the west portion being the city's. Now, we

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are looking at the portion of the site that the city has purchased, and I should mention that currently, as I understand it, the entire site is in joint ownership because a land division, which will divide this into two properties, is pending resolution of the conditional use approval before it can go forward. But on the part that will be a separate parcel, belonging to the city, there is currently a small orchard area shown here. Also a metro experimental garden, and the Brentwood Darlington community garden. There is also an area that has been previously used for planting crops, such as a pumpkin patch, corn. There is a cellular antenna that was approved through land use review in 1990. This portion of the site fronts onto Southeast 57th Avenue, which was recently improved. There's a mix of newer and older homes in this area. The portion that the school district will retain has adequate green space for the program, and it continues a feeling of green space in the neighborhood. It will also include a number of the facilities that are part of the program. There are raised outdoor gardening beds, a nursery area, greenhouses, and all of these facilities will, are proposed to remain at this time. The proposal meets all of the relevant approval criteria. It won't increase the proportion of nonhousehold living uses in the area because it is going to maintain an existing use. Physical compatibility will be retained because the use still will include large amounts of landscaped areas that are aesthetically pleasing and also provide a buffer for the adjacent residential uses. There will be no change in the impacts of the surrounding area due to noise or glare from noise, odors or litter. There are no late-night operations on the site. The latest activities are some evening classes that Portland Community College holds at about, that end at about 10:00 p.m. There will be no impacts on privacy or safety, and because there are no changes proposed in the program, that are served by the site, there will be no impacts on public services due to the proposal. The proposed use is mentioned as a community asset in the Brentwood Darlington neighborhood plan and as the use will continue, it is supportive of this adopted area plan. Because there's no impact on the transportation system, the proposal is found to be consistent with the transportation element of the comprehensive plan. And because the use will not be increasing in size to the extent of the type of institution where there is a requirement for conditional use master plan, at this time, the master plan requirement should not be triggered. There is a recommended condition that should the program ever grow to the size that would automatically trigger a conditional use master plan in the zoning code, that then that should be required. Because there are no changes proposed to either the green thumb program or the development associated with the program, the conditional use request to reduce the size of the site can be approved, and the requirement for the conditional use master plan can be waived. So there are three alternatives before council. The first would be to deny the appeal of the neighborhood association and uphold the hearing officer's decision of the, of the original proposal, which is sort of a fine point. The original proposal was to reduce the program to the 5.5-acre site and to waive the master plan requirement. The second thing that council could do would be to uphold the appeal, which would overturn the hearing officer's approval and then require Portland public schools to go through a conditional use master plan process. The third alternative, which is supported by Portland public schools by the neighborhood association and by staff is to allow the applicant to reopen the record so that council can consider the revised proposal, which would allow the flexibility to use the entire site or the smaller portion without further review. And then considering that to approve that, thereby overturning the hearing officer's decision and hopefully adopt the revised findings and decision that has been presented as a final decision of council, so that we won't have to come back for a second hearing.

Katz: Okay. Questions? All right. Appellants? Come on up. I was just checking in with commissioner Francesconi. You recall that part of our condition of giving Portland school district

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some money several years ago was the purchase or getting something back, and this -- it took a while. To say the least. But, we now have a piece of property that everybody seems to be happy about it, and potential, a good use for the neighborhood. Okay. Go ahead.

Martha Richards, Brentwood Darlington Neighborhood Association: I am martha richards. I am the brentwood darlington neighborhood association's land use chairman. We originally filed this appeal because we were concerned that, that the proposal was not being given the careful consideration that it really deserved. The green thumb program is a tremendous asset to our schools and to our community. As you can see from the pictures, it's really amazing area and quite unique in the city of Portland, and also in the country. The neighbors of brentwood darlington are committed to seeing the green thumb remains a strong and vibrant program and to insure that the public continues to benefit from the land that surrounds the -- now smaller green thumb site. And throughout this process, I have talked on the phone to a number of people and I would like to thank kathleen stokes and the commissioners and all of your aides, as well as the Portland public schools for being willing to work with us on this issue and to revolve it in a way that seems like it will help everybody and be beneficial to all of us. As you heard the appeal deals with two issues. The conditional use issue and the conditional use master plan. In terms of the conditional use permit, the neighborhood association does agree that the revised recommendation about allowing the kind of flexible conditional use size is really the best solution possible. We like the flexibility that it length to the site and we hope that it allows the green thumb program to continue to offer its superb horticultural programs. In terms of the conditional use master plan I do have a request. Last summer when the city decided to purchase the portion of the site, section 5 of ordinance 185675 from that meeting stated that the council will make a decision about the final disposition of the site based upon an extensive community involvement process. I recognize that this appeal and the events that have transpired since last summer and especially with all the city budget cuts have forced you all to change some of the plans, and you know, it's still up in the air. I recognize that. But, the reason why we are concerned about the loss of the required master plan is that the site is important to the neighborhood. It's future has the potential to enrich our community, bringing in innovative partners and creating outreach opportunities in horticultural, sustainable gardening and creative landscaping. We don't want to lose the potential and we do want to be involved in the planning for the future of the site. My request is that you assign a contact person for this site, someone who we can talk to, the neighborhood association, and work together to plan its future. I know of numerous neighbors, teachers and gardeners who are willing and interested in actively planning the future of the site. Many people, myself included, have volunteered hundreds of hours on, to work on this appeal. And we are willing to work hundreds of hours more to figure out how we can all use this site and have it benefit the neighborhood and benefit the city of Portland, as well. All we need is the signal to go ahead and the contact person that we can keep in touch with on the city side. In our appeal, we referred to the brentwood darlington neighborhood plan that was approved. Policy 3, the education, recreation and cultural section is to, quote "promote educational, recreational and cultural opportunities. Objective one, within that policy is to develop parks on publicly owned land and support development of other recreational and cultural opportunities. We don't actually need a conditional use master plan to achieve the goals, just a supportive city government who is willing to listen to our concerns, our hope and our ideas. ." I see the potential to use the green thumb site and the city-owned site around it as a place to bring together programs like the osu's extension services, master gardening program, metro sustainable gardening, pcc's landscape programs, and Portland parks and recreation department. All of these programs could work together to strengthen each other and also to improve the green thumb

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program. And we want to see this work. In conclusion, the Brentwood Darlington neighborhood association is pleased with the way that this appeal is in the process of being resolved. We support the revised proposal regarding the conditional use permit. We are willing to lose the requirement regarding the conditional use master plan in exchange for gaining a contact person for the site. We have worked hard on this appeal but recognize that this is only the beginning of an exciting planning process for the future of the rest of the site. And I thank you again for listening to our appeal.

Katz: Thank you. All right. Anybody else from the neighborhood. Questions? 8.

Saltzman: Do you have anybody in mind for this contact?

Richards: No, that's why I am asking you to do --

Saltzman: What bureau would they be appropriately located in. Let's put it that way.

Richards: Probably the park's bureau. Originally it was supposed to be pdc, but that seemed less appropriate.

Katz: No, no, no. It's parks.

Francesconi: We are going to give you a contact person, I promise.

*****: And you have my number, so. [laughter]

Katz: Okay. You know that we, we're not going to be able to do any master planning on any of this some.

Richards: And that's what I am saying, is that the community, you know, you have got a bunch of volunteers ready to work on this, and we just -- and we are willing to lend a lot of support and legwork to get this to be planned for.

Katz: Okay. Thank you. Thank for you all your effort. Anybody else want to testify? On the appeal?

Kerry Hampton, Portland Public School: Kerry Hampton from Portland public school, 51 north -

Katz: No.

Hampton: Thank you. I would like to stop and say first I bought some beautiful bouquets from the Green Thumb Kids this morning for Valentine's Day, and they are lovely and will we love that program, and secondly --

Katz: Did you bring them to us.

Hampton: No, I am afraid that they have been delivered to my kids. [laughter]

Katz: Okay.

Hampton: Secondly, I would like to thank Commissioner Francesconi's office for providing a forum and helping us facilitate the discussion between us and the neighborhood and other groups that are interested in the future of this site. I think our revised proposal provides the flexibility to come up with the best use of this site in the future. So we are enthusiastic about the revised findings and I would like to thank Kathleen Stokes for working with this diligently to put to go the revised findings that will provide for better opportunities of the site in the future. Thank you. Anybody else?

Francesconi: Can you give us a two-minute summary of how parks and the vision for this? I am not sure that we have an overall picture, exactly.

*****: This is really off the cuff.

Katz: Identify yourself for the record.

Kathleen Murrin, Portland Parks: Kathleen Murrin, Portland Parks. I oversee the horticultural services division. And several years ago, I heard that the Green Thumb site might become available as part of the parks, Portland Public School trade, and I got very excited by the prospect because I

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was familiar with the program. And wrote a memo and tried to get parks interested in this piece of property. And that's, that seems to be where we are at now. This property is a gorgeous piece of property. It's an oasis in the middle of southeast Portland. There aren't a lot of big open spaces like it. And it can support horticultural well. It has great soil, sun exposure. It's the kind of thing that we look for. The green thumb program is a wonderful program. You have no idea what an asset we have in that program. It's one of the finest training programs you will find in the country. And we have it here. We are so lucky. And here we are, Portland parks, one of the biggest landowners in the city, you know, I think close to the biggest, if not the biggest, and we have great needs and great staff. My program includes the plant production, and among other facilities, I oversee the community gardens program. And so this is a wonderful opportunity for Portland parks, I think, and Portland public schools to come together and grow plants together, use plants that are growing at that site throughout the city. For interns, to come into my program and get employment, or internship opportunities with Portland parks. There's just so many directions that this can go. This morning, I spent about an hour talking with a really great volunteer I have, John Long, who wants to donate the nation's largest clematis collection privately held, and I think it might be the largest in the nation. They are looking for a site for it and I wish that we could master plan the green thumb site at this time because that's just the kind of thing that we should have there, you know. A series of collections that the community can come in and participate in and enjoy and work on and that we can share a horticultural partnership and center. Gardening is the most popular past time of Americans. The nursery industry is the biggest in the state. We should have some kind of center, in my opinion. Of course, it's always possible that people will want to have, you know, other uses for the site, but that certainly, I think, would be a great use, and I feel very supportive of it.

Saltzman: What is clematis --

Katz: It's a climbing vine that has these beautiful colors, and some leaves fall, some leaves stay on all year. It's -- some bloom twice. You ought to grab that collection.

Murrin: I would love to. I want to. We have got to find a place for it.

Saltzman: You have a yard, don't you?

Murrin: 500 plants.

Katz: 500 of them?

Murrin: That's the largest collection in the country. And it's housed here, a man who had it is getting older and he's looking for a place to, you know, put it. So that's the kind of opportunities that come to us that I think we could, you know, would find a place at a site like this.

Katz: We can start working with Brentwood Darlington on that.

Murrin: I would be happy to.

Katz: Absolutely.

Murrin: Thank you very much.

Katz: Thank you. I don't think we need to hear any more, do we, technically, we don't. I will take -- anybody have any questions? You want to come and talk to us again?

Stokes: Thank you, your honor. Kathleen Stokes, OPDR staff. Just as you discuss this and you make your decision on whether to adopt the final decision of findings, I want you to tell me whether you wish to have them amended because I made my best guess on what the hearing was going to be and we have had testimony that's not described in the hearing, and also whether the request for a contact person is to be made part of the decision or whether that's an agreement that does not need to be deflected in the decision, so those two things I need to have clarified. Thank you.

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Katz: Okay. Commissioner Francesconi I will let you make the motion with all the clarifications.

Francesconi: Well, on that last question of contact, I mean, I would just -- there's going to be a contact person from parks, and it could be Cathy, but rather than me continuing to micromanage parks, I actually want to check with Charles. So but we will get -- we don't need to make this part of that because we have contact people all the time. So, on that one I guess that we could strike -- we are going to just disregard any testimony that wasn't reflected in the findings. Can we do that? We can do that. How do we do that?

Stokes: I think probably the findings are adequate to reflect much of what you have heard today and to explain the basis for the council's decision.

Francesconi: Okay. So that's what we are going to do so therefore, and help me, Kathryn, if I make this -- do this wrong. So I am going to move that we reopen the record, revise the findings as deflected and adopt the findings that we have in front of us -- as reflected and adopt the findings that we have in front of us.

Stokes: The findings are adopting are the findings prepared labeled findings and conclusions and dated February 13th of 2002.

Francesconi: That's my motion.

Katz: Do I hear a second?

Saltzman: Second.

Katz: Roll call.

Francesconi: Thanks, everybody, for their work on this.

Katz: These are final, right? We are not changing any?

Francesconi: This was a lot of work on this, but the result was a triple win, I think. There is a win for the district in the sense that, well, two wins for the district. One is money. This was part of a way to get some resources to the school district who needs that, and more resources. But it was also a way that the district is very concerned about this program to make sure that it survives for the benefit of the students, the staff, the neighborhood, so I think that the district benefits in all those ways. It's a benefit for the neighborhood to preserve this green space and to use it in a way that the volunteers and advocates have really cared about to the point where they are spending a lot of time and effort in this. And it's a win for Portland parks because this becomes part of our system and a very important part and has great potential as Cathy has explained. But, I think above it all, it is a win for the city and particularly, for the children because I really think with us, partnering with you, parks, partnering with Green Thumb, we can enter better integrate the plants produced into all of our parks, so that people can see the great work that you are doing because we are a good pipeline for that. We can also incorporate a school-to-work element, which, with the district's help, where kids are meeting in this arena, and it can really help it. We can help educate the students on public process, how you organize, coordinate, do master plans, all those kinds of things. And then also we can help with maintaining this property. And so it is going to be a wonderful addition -- I'm sorry it was so painful getting here but the result will be worth it. So thank you all. Aye.

Saltzman: This is a great deal to be worked out and I know that Green Thumb is a fantastic operation. Particularly when you consider that the nursery industry is the largest agricultural sector in our state, this seems to be a great way to provide a lot of work opportunities. Aye.

Sten: I think you have done a good job of getting this worked out, and with that, even without a master plan I hope that we can keep master planning this in the way you are doing it, so good job. Aye.

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Katz: I recall somewhere in the discussion with the school district years back on budget cuts, this was on the cut list. And I had met with some folks and oh, I said no, this is never going to be cut, so the school district maintain it had and then we had an opportunity to purchase a part of it, and I am glad commissioner Francesconi that you worked hard with the community and everybody in the school district to get to a win-win. I would suggest, so this is not part of the recommendations, that you do think about 500 clemetous plants. They are absolutely magnificent. It would be a wonderful addition to the neighborhood. Aye. Thank you, everybody. And we stand adjourned until 2:00 tomorrow.

At 2:40 p.m., Council recessed.

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FEBRUARY 14, 2002 2:00 PM

Katz: Good afternoon. Happy valentine's day, and the council will come to order, and karla will call the roll.

Francesconi: Here. **Hales:** Here. **Sten:** Here.

Katz: Present. Commissioner Saltzman is not here [arrived at 2:10 p.m.]. Let's read 159.

Item 159.

Kathryn Beaumont, Sr. City Attorney: Good afternoon. Before we begin the hearing, I have several announcements to make concerning the type of hearing, the order of procedure, and some guidelines for testimony. First, this is on the record hearing this, means you have to limit your testimony to material and issues in the record. You can only talk about the testimony exhibits and other evidence that was presented at the other hearing before the hearing's officer. This hearing is designed only to decide if the hearing's officer made the correct decision based on the evidence that was present to him. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded you must limit your testimony to the record. In terms of order of testimony, we will begin with the staff report by erik henkstrom of the office of review for 10 minutes, the city council will then hear from interested persons in the following order. Each of the appellants will go first and will each have ten minutes to present they are case. Following the appellants --.

Katz: Let me make it clear. Each of the appellants will have ten minutes, there is three of you, you will have a half an hour. Ten, ten, ten.

Beaumont: Following the three appellants, persons who support the appeal will go next. Each person will have three minutes to speak to the council. The applicant will have 30 minutes to address the city council and rebut the appellant's presentation. After the appellant's presentation, those persons who opposed the appeal will be heard by the council and again, each person has three minutes. Finally, the appellants will each have five minutes to rebut the presentation of the applicant. The council may then close the hearing and deliberate. After the council has concluded its deliberations the council will take the vote on the appeal. If the vote is a tentative vote, the council will set a future date for the adoption and signing of the final vote on the appeal. If the council takes a final vote today, that will conclude the matter before the council. If you wish to speak to the city council on this matter, and have not signed up on the list located outside of the council chambers, please sign up at this time with the council clerk. Finally, as to guidelines for testimony, again, a reminder that this is an on the record hearing. It is not an evidentiary or de, or de novo hearing. You must limit your remarks to the arguments filed by the hearing's officer. In presenting your arguments it is permissible to refer to evidence previously submitted to the hearing's officer. It is not permissible to submit new evidence today that was not submitted to the hearing's officer. If your argument includes new evidence or issues the council will not consider it and it will be rejected in the city council's final decision. If you believe that a person who addressed the city council today improperly presented new evidence or presented a legal argument that relies on evidence that is not in the record, you may object to that argument. The council will provide a time at the end of the hearing for anyone to offer this kind of objection. Finally under state law only issues raised before the hearing's officer may be raised in this appeal to city council. If you believe another person raised issues today that were not raised before the council, you may - were not raised before the hearing's officer, you may object to the council's consideration of that issue. Finally, the failure of the applicant to raise constitutional or other issues relating to proposed

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conditions of approval with enough specificity to allow the council to respond to the issues, precludes an action for damages in circuit court. Those are the end of --

Katz: Okay. Declaration of conflicts of interest by the council members. Declaration of ex parte conflicts by council members?

Hales: I need to declare ex parte contacts. I am sorry I neglected to bring the dates but I will get the dates of the meeting into the record, but I met with mr. Ralston and his attorney and also with some city staff during the course of the city's consideration of this project with an eye towards possible revisions of the design of the streets and the project. Those meetings resulted in no, no changes in the design of this, but I did meet with the parties and discussed possible alternatives, none of which have been brought forward.

Francesconi: I have a couple. Parks, zari santner talked to the applicant and she talked to me. Darlene Carlson, I think, was briefed by the applicant. Darlene talked to me. I think anne gardener talked to michael harrison -- actually, michael didn't talk to me, I just saw there was a note. I have several e-mails. The only one I read that I recall is sandra kalard. Tom tried to talk to me but I cut him off, and sharon fleming barrett tried to talk to me but I cut her off, so that's it.

Sten: I did tour the site a while back with the previous owner, so I did not with the current applicant, and I met with the applicant and their attorney to talk about their plan for this, but we actually didn't discuss any of the issues that are being appealed in terms of what the appellants think. We just talked about the plan they were thinking about. So those are my contacts.

Katz: Let me issue a declaration of ex parte contacts with some people, not the applicant. Many years ago I met with john carol at the time that he was thinking of developing, of developing the property and on july 23rd, I did a tour of the industrial area and stopped at the terminal to try to understand the site, the configuration of the site and potentially, what might be there. Although none of that information was directly given to me by the applicant nor did I speak to the applicant. Okay. Does anybody feel that the information -- do you have the ex parte contacts? Conflict of interest?

Saltzman: I read the randy greg column in the sunday **Oregonian**. Is this the right time to disclose that? That was the advice of counsel.

Katz: Well, I read it but it was not quite accurate. [laughter]

Saltzman: I read it.

Katz: Thank you. Anybody on the council feel any of their contacts in any of their conversations precludes them from dealing with this issue with an open mind?

*****: No.

Francesconi: You may not like this form of government, but it's clean.

Beaumont: Mayor Katz, I think we august to make sure that there is no one in the audience --

Katz: I better do that next. Is anybody in the audience to want challenge our declaration of ex parte contacts, our declaration of no conflicts of interest or the fact that we will not be able to have an open mind after we hear the discussion on both sides?

Eric Engstrom, Office of Planning and Development Review: Good afternoon, mayor Katz, commissioners I am with the office of planning and development review. I am the staff person assigned to this case. I will be presenting the information to you hopefully within the next ten minutes and I will go fairly fast so if you need me to stop and explain something, feel free to jump in and tell me so. This is a hearing to consider a 12-lot subdivision, case number 0100618, su-gw, otherwise known as terminal one redevelopment. In addition to the lots being planted, we are also creating a couple new public streets and some public walkway and is easements. And this will be developed in three phases. Also I filed mention I have a stack of hard copies here of my

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presentation if any of prefer to look at that copy, or for that matter, anyone in the audience, too. A the criteria include the following, 34.40, improvement guarantee, 34.50, principles of acceptability, 34.60, subdivision design standards. 34.70, improvements. 33.440.350, that's the greenway chapter of the zoning code, and that includes the willamette greenway design guidelines. And then the transportation planning rule is a mandatory approval criteria in this case. With regard to the greenway guidelines, there are a number of them listed on the screen here, including issues related to the relationship of structures to the river, public access, riparian habitat, river bank stabilization, lapped escape treatments, alignment of the greenway trail, viewpoints, and view corridors. I want to point out that a number of people have raised concerns that, about various policies and adopted plans, not referenced by the zoning code. It was the hearing's officer's determination with staff concurrence that policies and planned documents not referred to by the approval criteria would not be relevant in this setting. As you know --

Katz: Flashback. Okay.

Engstrom: As you know, the hearing officer's division was to approve this subdivision with a number of conditions. There were quite a number of conditions and that's partly a reflection of the complexity of this site. It's approximately 16 or more acres and has been used as a marine terminal for a number of years. There are existing warehouses on the site that will be demolished to make room for the subdivision. There's an existing pier that would be incorporated into the design, and there's an existing wharf that would be removed from the river bank there. I want to just orient you briefly on the south, or downward on your page or on the screen there is front avenue that runs at a diagonal. The intersecting street running into the site, about the middle is 17th avenue and you will note the angle that it intersects with front avenue, that's an issue that will be discussed, I am confident, at some length. The fremont bridge is to the right of the proposal on the plan there. And then towards the top left of the plan, you will see a -- the bank of the river curves southward and there is a small cove between this site and the adjacent marine terminal. There are also some existing rail lines that will be removed as they cross front avenue onto the site. I will run through a few slides here. This is the pier that would be retained and incorporated into the project. This is a photograph of the cove, and in the cove, there's actually a floating sheriff's facility there that would remain and potentially be incorporated into a later development. A view of the interior of the site. Almost 100% of the site is currently paved or in buildings at the moment. This view looks southeast, and in the background, that's few buildings which are on the other side of front avenue there. This is the view to the northwest on front avenue, and you will notice that front avenue is two lanes in each direction at the moment with a turn lane in the center, and there are sidewalks but they are quite narrow, relative to the speed of traffic there. Just looking the other direction. This is a picture of the 17th avenue intersection, which will be a topic of discussion, for reference the dockside is at the corner there. Existing buildings. This is further south on the site. This is the 15th avenue intersection with front avenue taken from the site. And then I am going to turn around here and that's the view of the other direction. This is one of the view corridors of concern. Here's the -- this slide shows a plat plan of the proposed subdivision in the 12 lots. What I have outlined in yellow are the public streets that would, the system as it would exist should this proposal be approved. The public walkways that would bisect that system to create more of a street grid, and those would be 60-foot wide walkway corridors so they would be the same dimensions as many of the streets that intersect with the river throughout downtown Portland. The green shows the greenway trail alignment, so taken together, it creates a gridded street system, essentially, although cars would not be on all those. I want to back up just quickly and emphasize that this is a three-phase plat when, we refer to the different phases, phase one is just the first lot. Phase two is lot two

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and three, and then phase three is the remainder of the project, including the bulk of the public streets in the project. This is a drawing of the proposed greenway improvements on the site and we have a color version of that here on the podium if anyone would like to look at that -- on the podium if anyone would like to look at that. I will point out a few things about the scope of this review. There's a lot going on here, and not everything happening on the site is subject to this review. This review is the subdivision proposal, which means you are considering the location of the lot lines, and easements and public rights-of-way. We are also approving through the greenway review the site preparation, ground stabilization and grading that would occur to make room for the subdivision and prepare the site. The greenway plans, themselves, are only reviewed to the extent that we need to determine whether the walkway and its trails are in the right location. We did not review the specific details of the design of that greenway plan in terms of where each tree is and where each plaza or viewpoint is. That would have to go through design review, at some point in the future. But they did present us with that plan to show us what's envisioned. The -- I have tried to narrow down the appeal issues to basically four subjects. Front avenue improvements is one concern. Greenway setback and trail alignment is another. View corridor and its street alignment is an issue, and the overall design vision is a concern. With regard to frontage improvements, the city has been exploring a local improvement district or lid to convert northwest front into a boulevard treatment as was done near union station. Conditions were developed to accommodate that and allow for the possibility that the lid -- the lid would happen or not happen so there's an either-or wording in the conditions there. In the event that the lid does not happen, the conditions would require 8-foot sidewalk along the front angle and restriping of front avenue with one northbound lane, two southbound, and that would be on street park -- onstreet parking on the side facing this development. With regard to the greenway setback and trail alignment, the existing greenway code requires at least a 25-foot setback from the top of bank, except for river-related uses. The greenway also allows the city to consider how the trail should be aligned with the site. The applicant is proposing larger than the minimum required setback of 50 feet except for on a portion of lot 12. That portion on lot 12 was the subject of some discussion at the hearing officer's level. Partly that's because the code abutting lot 12 was considered an important environmental feature by staff and in my report, and then the hearings officer agreed with that. I recommended a condition of approval to place the trail 25 feet further back from the top of the bank than the applicant had proposed. Based on concerns about that cove. The hearings officer modified that and kept the intent, but changed the way it would be done by giving a bit more flexibility as to how that would be done. This shows you where that area of concern is along the, the northwest side of lot 12. With the corridors and the street alignment, northwest 17th has been discussed as a possible view corridor. Suggestions have been made to continue northwest 17th along the alignment that it exists into the site to continue that view corridor the city engineer did not agree that that -- determine that that would present a problem and on their advice, the applicant did not propose an angled street in that location. On top of that, title 34 generally requires new streets to intersect at right angles with very few exceptions. This map shows you that, that alignment that's been discussed. The view from the end of northwest 15th was also a concern, and that yellow area there on the screen shows you where that would be, that would primarily affect lot 1. On the screen now is, is a previous proposal that was discussed earlier in the process before the application was actually made and a number of the appellants have raised this plan as something to be considered.

*****: Who brought this previous plan forward?

Engstrom: Associated with the port of Portland's initial scoping of the project, and the bidding at that stage. The view corridor in question are not specifically identified in the greenway plan on the

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map, at right, you can see some arrows done closer to downtown there, and that's an indication of an identified view corridor, so there are no specifically identified view corridors here. The greenway code, though, does have a general guideline in terms of, of responding or placing structures in alignment that take into account potential view corridors from existing rights-of-way. One of the things in responding to that criteria and the staff and hearings officer considered was whether or not this plat would preclude that view corridor and one of the things we looked at was whether it was possible to get a view corridor there, even with the street being at a right angle as the city engineer preferred, and our conclusion is that that might be possible. The biggest hurdles to that is what happens on lot 9, which is in the middle of that view corridor. With regard to lot 1, the same issue. But in this case, the one issue is that the floor area ratios allowed in this area would allow us to move building footprints around a bit in a way to put a building on one portion of the site and theoretically could be preserved that view corridor with this plat. With regard to the design vision issue, as I said, the land division process establishes streets, property lines and easements. Does not lead to a specific building approval. There is a criterion is title, in title 34, that's actually a typo on the screen there, it should say 34.60678 the lots must be appropriate for the location of the land division. In considering that criterion, the staff made a number of findings. One is this is in the rx zone, with greenway overlay, and in the central city plan district and we walked through findings as to what's allowed in that zone. We looked at the size of the lots. We concluded that high density residential development would limit commercial uses, most likely multistory condominiums, townhouses or apartments would be the type of development that you would be contemplating here. The height limit is normally -- 100 feet with the far, without any bonus provisions, two square feet of building for every one square foot of lot area. And in total, over a million square feet of floor area is possible on this site. We concluded that the proposed lots are similar in size and shape to downtown blocks that have been successfully developed, including in the design overlay. And that was kind of a fundamental finding in terms of appropriateness of lots. I am about done here. We also determined the buildings would be subject to both greenway and design overlay requirements as each lot developed. And a unified master plan development approach was suggested bay number of people, but the hearing's officer did not find the zoning code required it specifically.

Katz: But it could be one --

Engstrom: Could be done, but the hearings officer was not confident of his authority to impose it.

Katz: Got ya.

Engstrom: That's what I have.

Katz: Questions? Okay. Let's have the appellants, we have three chairs. Okay. We have got nina, pearl, and northwest.

Katz: Did you decide who wants to start?

Gret Tyson, Northwest District Association: Yes. My name is greg tyson, with the northwest district association planning committee. My address is 22p4 northwest --

Katz: You have got ten minutes.

Tyson: Okay. I wanted to check in with you first on is patti and I are sort of presenting together, so --

Katz: You have got 20 minutes, you can divide it however you want.

Tyson: Okay. And then nina will follow. Thank you for the opportunity to testify before you on this matter today. We feel this is a rather historic and unprecedented effort on the part of the three neighborhoods to come together and work towards resolution of what we perceive to be a difficult

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situation with a very unique piece of important. Approaching this issue we find that there is one concept that underlies the debate over this appeal, and that is connectivity. In the case of t-1, we are talking about connectivity in relation to place and processes. The connectivity to place, in this case, is primarily physical, but it also involves the perception of accessibility. The connectivity to process relates to planning for the development of t-1 and that relationship to land use plans, completed or primary, for nearby neighborhoods, subdistricts, viewpoints and trails. With that in mind, patti is going to spend time talking about various parts of the comp plan and title 34 and title 33 that has to do with the criteria specifically related to conformance with plans and is there another one or is it --

*****: That's all.

*****: Conformance with plans.

Patricia Gardner, Pearl District Neighborhood Association: Patricia gardener, pearl district neighborhood association, chair of the planning transportation committee, 1116 northwest johnson street, Portland, Oregon. I am honored, commissioner and is mayor. I am going to talk law, as much as this nonlawyer can talk law so, the lawyers amongst you, pay close attention. Okay. That's you. That's you. So, very specifically, I want to speak about section 34.50.010. This is exactly how it reads in code today. 34.50.010, conformance of plans. A land division, whether by subdivision or partitions shall conform to the comprehensive plan, take into consideration any preliminary plans made in participation thereof and conform to the principles of acceptability and the design standards established in this title. The arrangement of streets shall either "a," provide for the continuation or appropriate projection of existing arterial or streets in the surrounding area or be conformed to a plan for the neighborhood, approved or adopted by the planning commission to meet a particular situation where topography or other conditions may continue in conformance to existing streets and practicum. We believe this particular section of title 34 has not been met, specifically because the comprehensive plan has not been met. And these are the findings regarding that. He writes in his findings after the hearing's officer, the city attorney has advised staff that ors 197.195, paren sees one, required the city to incorporate into the zoning code any references to policy plans that we want to enforce by a quasi-judicial decision, see attached materials from Kathryn. And this is what Kathryn beaumont sent to erik. Here the statutes regulating limited land use decisions. The first statute, ors 197.015,12, to claw final decision approving or denying a subdivision. The second statute, ors 197.195, paren sees one, gave local governmenting until september 29, 1993 to incorporate into the land use regulations any comprehensive plan standards that apply to the review of limited use applications. If local governments failed to do so, comprehensive plan provisions may not be used as a basis for decision on a limited land use application. Please let me know if you have any questions. We did have a question. Let me read the code again for you. Conformance with plans, a land division, whether by subdivision or partitions shall conform to the comprehensive plan and shall take into consideration any preliminary plans made in anticipation thereof and shall conform to the principles of acceptability in the design standards established in this title. Did you hear as clearly as I heard what plan is very specifically referenced that a proposed land division must conform to? Kathryn would argue the code so, let's argue the code. By september of 1993, a plan was incorporated into this section of the code, in fact, it's always been part of this code. That plan is the comprehensive plan, itself. And 34.50.010, very specifically states that a land division shall conform to the comprehensive plan. Now Kathryn would argue, I am speaking for you, Kathryn, that that means zoning, but you must look to the entire code for your answer. In no other section of the entire code is there a conformance of the plan section and moreover, there is no other part of

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the code that requires conformance specifically with the comprehensive plan. Nowhere. Not in title 33, not in title 17. Not in title 15. Not in any title. I have looked through it. This section of code goes so far as to put in the definitions exactly what the comprehensive plan is. 34.16.015 comprehensive plan, comprehensive plan is the map of goals and policy statements which constitutes the plan for the physical, social, and economic development of the city of Portland and which has been adopted by the city council pursuant to state law. Kathryn is probably going to pull out goal number 10 of the comprehensive plan. And it reads, goal 10.9, land use approval criteria and decisions, the approval criteria stated with a specific land use review reflect the findings that must be made to approve the question. The approval criteria are derived from and based on the comprehensive plan, a proposal that complies with all the criteria is in conformance with the comprehensive plan and will be approved. A proposal to comply with the criteria with mitigation measures or limitations will be approved with the necessary conditions, a proposal that cannot comply with the criteria will be denied. If we follow our argument, I hear goal 10 say a proposal that complies with all the criteria is incomprehensive with the comprehensive plan -- in conformance with the comprehensive plan and will be approved. If one of the criteria, and I will read it just once again, land division, whether by subdivision or partitions shall conform to the comprehensive plan, strikes me we have got rather circular argument. And the comprehensive plan and the goals are part of the criteria, itself. We have got the title, pointing to the comprehensive plan, the comprehensive plan turning right back to the title. Doesn't exist any place else in the code. So, when this code was written, there was never the intention to not see the force for the trees, you know. They have meant for the plan to be taken into account. It was clearly written into the goal by calling for conformance with the comprehensive plan, not just the maps but the goals, too. Not just the zoning maps, but the goals. We have a proposal of trees before us, and that proposal does not meet the goals of the comprehensive plan. Specifically, goal 12, urban design. And I will read you from that, too. Goal 12 says -- the goal of goal 12 is to enhance Portland as a livable city. Attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy, quality, private developments and public improvements for future generations. And very specifically, to the design in 1.1, Portland's character, is, number "f," it says encourage innovative design solution and is private development projects that add diversity and depth to Portland's character. New development is an opportunity to add to Portland's character giving themes. "g" of that same section, extend urban linear features such as linear parks, park blocks and transit malls, celebrate and enhance naturally occurring linear features such as rivers, creeks, sloughs and bridgelines. "h" of that same section, as new development occurs, take advantage of new views. Of Portland rivers, bridges, surrounding mountains and hills, and the central city skyline. So -- there's probably one more. Yes, there is.

Katz: Keep an eye on the time. So in essence, the key thing is we think that the comprehensive plan is part of title four because it specifically says that it is. And that's, that's about as clear as you can get. And we will let you go from there.

Tyson: Patti discussed process issues and I would add a bit to that in that t-1 has not come close to the plans processes upon other river front developments and that's a frustrating issue for the neighborhoods to deal with when we see other parts of the city related to waterfront park, east bank esplanade being subject to very thorough planning processes and it hasn't occurred here. Additionally, what has occurred --

Francesconi: Keep a straight face, anne.

Tyson: She has been great. Additionally t-one has been planned through a very fragmented public process and from our perspective, further undermined by the applicants's fragmentary approach in

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terms of a subdivision review and what follows, development and design review. If you remember, the hearing's officer decision further this is fragmentary approach as patricia has stated by refusing to acknowledge the relationship between plans such as the river district plan, the transition area plans, the northwest area plan --

Patricia Gardner: And I do want to say something about that quickly. Which is that, the hearing officer uses the central city plan to basically say, oh, that's a good lot size. I will read you that, of course. The proposed block size, from his findings. The proposed block size lots are appropriate considering the central city location of this site. And then I guess I would say how can the hearing's officer use part of, part of the central city guidelines, number a-3, respect the Portland block structure and ignore all the others, and he uses the central city plan and the river district plan to justify things throughout his, his findings, and I would specifically state, if you want to flip to his findings that you look at, at pages 26 and 27, and page 25 and page 23 and you will find that all throughout it, so how can you use a-3, respect the Portland block structures and not use a-1, I want great the river, and not use c-1, enhance view opportunities. So things like that.

Tyson: That's great because I was going to make this leap to the physical connectivity to this place, what this place is all about. And those elements are some of the things that patti just touched on in terms of the size and shape of lots and where the streets are, sidewalks, bike lanes, the river, docking facilities, which exist, all of these things have influenced the subdivision and development of t-1, so in addition to the principles of acceptability and in conformance with plans criteria that patti addressed, we take issue with the following criteria outlined in the hearings officer decision. Patti just mentioned design standards in relation to lots and parcels. And streets, nina will cover some of the issues related to front avenue and the design of front avenue. This is in particular 34.60. What I would say in regards to northwest 17th is that we object to the hearing officer's findings and pdot assessment of options at the intersection of northwest 17th avenue and front. The findings, ignore the provision in the code for a special intersection design as erik alluded to in his prior testimony to you, or presentation to you. Additional, additionally, pedestrian and vehicle connections are inadequate at 17th for access to identified docking facilities, and that's at lot 12. And we have discussed among ourselves and you saw on your screen before you some of the options that could have been pursued in terms of providing access to the dock, and also interesting to note the hearing officer's decision on page 25 and 45 mentions the remaining dock as likely to generate additional pedestrian traffic. And we would maintain that it not only would generate pedestrian traffic but might also maintain -- generate bus traffic and vehicle traffic, if, indeed it is used as a docking facility. Second issue has to do with where the greenway applies and this is 33.440.310-e where greenway applies. The general layout and location of access points fails to address connectivity to the 40-mile loop and the interim greenway trail at the southern end of the subdivision. As quoted in 33.440.240, excuse me, in addition, the public trail standards of 33.440.240 applied to all lands designated on the willamette greenway plan with the recreational trail symbol but outside of the greenway zones. See map 44.1. Erik showed that you map, and I included it for you in your packet from the northwest district association. And it clearly shows a trail entering from 15th, or they were at the south end near the fremont bridge crossing front avenue and moving onto the site. At the site as presently planned to be subdivided as you saw from erik, that connection, as a public recreation trail as required in title 34 and then in title 33.440.240. It is impossible to make that connection. 33.44/240, I don't want to read all of this. You have got it in front of you but has to do with recreational trail symbols on the official zoning maps. Provide connections and implement the city's comprehensive plan, and where it is applicable, is when there is new development and when easements are required under 33.272.202

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and when streets are constructed in a subdivision industrial park. In regards to the greenway trail the decision fails to address the above issues, even as they are referenced in title 34, as per page 26 in the hearing officer's decision where it says, location, the site is also subject to greenway and design overlays and the public recreational trail designation. Finally, in terms of greenway approval criteria, 33.440, let me pause for a second. Do you have a question for me there on any that far?

Katz: Keep going.

Tyson: 33.440.350, greenway approval criteria, issue (a), as mentioned in the hearing officer's decision, relationship of structures to the greenway setback area, page 43 of the hearing officer's decision fails to address structure design and structure design may mean in terms of accessing connections, and again, this has to do with the south end of t-1, or northwest 15th avenue and which is in essence, this interim greenway trail. The placing of a structure would preclude design of a trail that accesses the, the greenway trail along willamette, and also, the location of structures would impact potential support of passenger shipped traffic as per 33.510.110. And the final point in terms of the greenway approval criteria is again, having to do with public access, and public access to the water's, as quoted in 33.440.350-b is limited by preservation of the dock structure on lot 12. This issue ties in with the one I just mentioned, having to do with structures, but we question if the dock is being preserved for river dependent usage, as mentioned in the hearing officer's decision on page 45, the riverscape has the additional potential to support passenger ship terminal, which could add substantial additional foot traffic during specific times. Again, I mentioned it already, there is inadequate access provided by the street and walkway access as laid out in the subdivision for this sort of facility, and then for the, if you remember if the dock is not preserved for further usage we would argue passage to the river's edge has specified in the greenway approval criteria is limited more than it need be, and in fact, there is no access to the water's edge anywhere along this site.

Patricia Gardner: Just in conclusion, basically it comes down to the fact that it is our deep belief when you create a subdivision, you create lots and lots create buildings, and we can't go on the hearing officer's, well maybe they can leave a building off or maybe they won't. You can't -- that's just not -- it doesn't work. And so 17th is an accessway, all the way through northwest, and it looks out at the river, you know, which there is too many places in the code where that's, that's emphasized. And so, basically with lack of a master plan, and lack of an overall view of a design concept, we have to assume that what we see is what we are going to get. And our opinion is, what we are going to get is not good enough.

Katz: Thank you. Before we start with anne, are there any questions?

Hales: I think that I have a question but it will apply to all three, and that is, so what decision are you asking the city council to make? Are you asking us to deny it, add further conditions or approve it. Those are the options.

Patricia Gardner: I guess it will depend on what the applicant says when you start mentioning conditions. I think that, you know, I can imagine, you know, what I would love to see is that we go away and we meet with the applicant and we all talk about it and come up with a plan together. That would be the most ideal situation because we would all have buy-in and get a good product out of it. Short of that, if you just say well, put an easement across the lot for 17th, you know, and start, you know, add some, an easement across for 15th, it becomes like a lot of conditions and so, you know, just depends what kind of conditions you come up with.

Hales: Again, I will press you on that. There are three public agencies that had something to do with this piece of property. One was the seller of the property. And those kinds of open ended

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negotiations could have, and I believe should have occurred with the seller of the property, which chose to maximize income. The second agency that was offered the opportunity to do that open-ended negotiation for the property was the city's development commission, and that agency turned down the opportunity. Now we have before us the regulatory agency of the city whose job it is to apply the code and there are three choices for this council. Approve it, deny it, or condition it differently with approval. I need appellants who come here in that form and you are three of the most sophisticated neighborhoods in the city, so you know the drill, tell us as a quazi-judicial decision making body which decision you would like us to make.

Tyson: How about if we hold our response until our final comment.

Hales: Okay.

Katz: And I am going to ask for some correction on what you just said in terms of the development agency and what happened. That will be later on. To set the record.

Hales: I will deal, my ex parte contact consisted of asking the agency to do that and they turned it down.

Katz: And that may be but there's a long history and I want that to be cleared up and that's why bruce is here. Go ahead.

Saltzman: Two quick questions, your concern about the 15th avenue is that it doesn't go straight. The easement doesn't go straight across lot one, it shows here access to the river, I don't know what the distance is but somewhat north.

*****: Correct.

Saltzman: And that wouldn't satisfy that to that northern access point?

Tyson: I think that there is standards applicable to the greenway trail that are -- that need to be applicable to this site, and those are fairly specific in terms of the design of the trail.

Saltzman: The easement should go straight.

Tyson: Yes.

Saltzman: The time we, would the extension of 17th avenue, does that at all factor in to your concerns about any potential traffic from commercial ships or cruiseships?

*****: Yes.

Saltzman: Seems that would provide that.

Tyson: Tell me more what you mean by the question. In terms of --

Saltzman: I think part of the concern, a cruiseship were to dock here, there would be a lot of, of, of traffic, things like that. 17th goes through as, I guess was originally sought, doesn't that provide sort after major thoroughfare access?

Tyson: Yes, and as to how that's designed in terms of accessibility per mode, whether it's a pedestrian right-of-way or a transportation right-of-way or a limited transportation right-of-way, so that buses can go in there sometimes, not other times, those are all good options.

Saltzman: Okay.

Katz: Ten minutes, anne.

Ann Gardner, Northwest Industrial Neighborhood Association: My name is ann gardner, and I am here representing the northwest industrial neighborhood association. I would like to begin by reading from a recent urban land institute document entitled "on the future." the health of an urban economy is driven by the economic base, the industries that export goods beyond the region. The base typically accounts for only 20% of the employment. But, it is the region a metropolitan area exists. Portland's northwest industrial neighborhood district houses almost 500 businesses and about 20,000 jobs and most of these are part of the economic base that the uli is talking about. And then you juxtapose the value of the industry with our knowledge that as a region, we do not have

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enough land to accommodate the kind of growth that we need for the next 20 or 40 years. The study that metro has been working on, and I know that mayor Katz and commissioner Saltzman are well aware of the regional industrial land supply, it talks about the shortage of land that we have in the northwest area, and how expensive it is to create that elsewhere, in particular, how expensive it is to create the infrastructure needed to serve the district, such as the northwest industrial area.

Francesconi: Commissioner Sten and I read things, too.

*****: I am sorry, I was just at the meeting where they were both there and saw the presentation. My apologies.

Francesconi: I am sorry.

Sten: I haven't read it.

Katz: Commissioner Sten hasn't read it. Commissioner Francesconi may have read it.

Francesconi: Nothing personal.

Sten: I was meaning to read it.

Francesconi: He's going to read it tonight.

*****: Stop the clock.

*****: I am nervous about running out of time here.

Katz: We will give you an extra minute because of their --

*****: Thank you very much. Because of their shenanigans.

Ann Gardner: But the good news is that city council adopted last year the guiles lake industrial sanctuary plan and we felt that that was a terrific move. We were here -- the pearl folks and the northwest district association folks endorsed that plan and we felt that helped address a number of issues that we had with respect to our boundaries. And some of the transportation issues, but before move onto that I want to remind you of the resource that they present in terms of the value of that district. It's close to -- it's, its customers are in close proximity. It has a terrific workforce and we feel that that district is a tremendous resource for the community, and it can be part of the solution. With respect to the shortage of industrial land that's available for us for the future. But here we are back today and we are concerned that the purpose and needs of our district may not be fully understood, if the developer of the t-1 project is allowed to neck down a major portal into our district. Our association supports the policy issues that you just have heard from pearl and nwda but the base of our appeal focuses entirely on front avenue, and we assert that reducing travel lanes on front avenue will violate the spirit, intent, and language of the newly adopted guiles lake industrial sanctuary policy plan as well as several other important city policies. As we understand it, the approval of the t-1 subdivision triggers improvements to front avenue requiring a 12-foot pedestrian sidewalk and has proposed, 7 feet of that 12-foot sidewalk will encroach into one of two northbound travel lanes.

Ann Gardner: Council members have repeatedly gop on record supporting the need for transportation planning as a tool to sustain our tee's precious few industrial areas. Yet, there is no plan for front avenue. Even more challenging is that the adopted city policies have additional expectations for front avenue, including bike lanes and a landscape boulevard. While the city apparently is not requiring that the t-1 project install either of these at this time, we need to understand the long-term buildout plans for front avenue before we require improvements that will foreclose future opportunities. In fact, the river district street standards indicate that the cross-section for front avenue is to be determined but we advance that the design of front avenue ought not to be determined by this or any other single project, and some of our members have expressed real concern that the city may, in fact, be throwing down a gauntlet to have front avenue become primary al pedestrian corridor. The alternative is to build on the industrial sanctuary with the tools

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we already have in place. We are asking you today to deny the t-1 project based on the fact that the proposed 12-foot sidewalks will encroach into the right-of-way and will preclude the flow of goods and people into and within the Guile's industrial sanctuary. Policies in support of our request include, as mentioned before, conformance with plans. The t-1 subdivision is not in conformance with the following plans, comprehensive plan, objectives, 5.1-a insure there is inventory of commercial and industrially zoned buildable land. I will not read all of those. They are here for your review. I would like to also mention in addition to the comprehensive plan elements that are listed, the transportation element of the comprehensive plan, front avenue is in a, is in a truck district, and elements of the truck district, functional plans the truck districts are intended to provide for convenient truck movements in areas serving large number of truck trip ends, truck districts should include terminals and industrial sanctuary, all streets should be available for use by trucks. Street improvements in truck districts should be designed to serve industrial areas. There are also elements of the central city transportation management plan policy that I have identified, as well. And finally, the Guile's lake industrial sanctuary plan transportation policy statement, which we referenced earlier, which says maintain, preserve, and improve the intermodal and multimodal transportation system, to apply for the smooth movement of goods and employees into and through the Guile's lake industrial sanctuary. In particular, to maintain, protect, and enhance the public and private intermodal transportation investments. In 1981, the city improved front avenue to widen for trucks expressly for the purposes of accommodating freight. I will conclude my comments. I would like growing speak quickly to 34.6 0.

Tyson: Greg tyson. I didn't mention you have it in front of you, on the second page of the nwda handout, and it does relate to issues that we have already discussed. The hearing officer's decision states that proposed on, on page 23, the proposed pedestrian connections are particularly important in this case given the development potential of the site and the location of the site relative to downtown. The hearing's officer developed 1.5 pages of text showing why connections were important. Does not speak to why the proposed connections would be desired -- more desirable than any other solution, as to what the solutions might be. I think that that's the main point of the thrust of our argument in regards to the 34.60. There are additional laws from -- I think that we reference in our original comments, oar 660, and that is that, again, a public recreation trail designed for both bicycle and pedestrian use is proposed along the willamette river's edge which connects to other recreational facilities in the central city waterfront and the hearing officer identifies this being within the central city district. There are no conditions of approval given to make sure that such connections are actually made. In this central city location.

Ann Gardner: So in closing, the northwest industrial area has a potential to evolve, grow, overtime and access is the most important of components. And we ask that you take very seriously the comments that we brought forward in this appeal so that we do not preclude future opportunities within the industrial sanctuary. Thank you very much for your consideration.

Katz: Thank you.

Saltzman: So, anne is, your opposition to the approval of this whole land division or is it the, the sidewalk and the impact on the northbound lane --

Ann Gardner: Our appeal is based on -- solely on the transportation, but I must tell you, we are asking for denial based on this, but we are supportive of the issues that the other two neighborhood associations have brought to your attention. They have valid concerns and we are supportive of their issues, as well.

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Hales: I need to understand that further, too, at least I appreciate you being here in telling us that you want denial. But you want denial based on the vehicular movement. Right? To summarize your appeal.

Ann Gardner: Correct.

Hales: So, why aren't you asking for a different condition of approval for a different right-of-way. The city engineering staff used their discretion to approve a right-of-way dedication requirement for this subdivision. That right-of-way dedication requirement could be changed if we were to concede to your concern and build a wider street, so why aren't you simply asking us to make a wider street, rather than deny the parcelization of the property?

Ann Gardner: That's an excellent question. I have been working with your staff for the last couple of weeks, staff at pdot, commissioner, and they have been very gracious and very willing to be helpful. They have prepared a number of different cross-sections, but all of those cross-sections assume the 12-foot sidewalk and encroaching into the existing right-of-way. Every one of the alternatives that they presented make that assumption, and so I may be incorrect in assuming that the city had no choice -- the city was intent on taking that additional 7 feet, if that is not the city's position, then I would certainly be willing to, to recommend the conditions be imposed rather than a straight denial. I did not realize that that -- you had that flexibility. Based on conversations --

Hales: We will have to get staff up here later because I am not sure that I want to exercise that. I agree with you from a substantive standpoint, but again, this is the, the 11th hour, and 55th minute of this process. And although I made bruce feel bad, you know, there were opportunities for open-ended discussion that existed and frankly, one of which I exercise, which is for city council members to have ex parte contacts with land use applicants, which I do once about every ten years. And that's too often. This is not the forum. You need -- you have done it. But I think what you are asking us to do is require a wider right-of-way dedication from the applicant because you want -- you want to push the sidewalk further west, sorry, further east, is that right? So, you want enough room for trucks, and you want to push the sidewalk further east, so I think what you are asking us to do is not deny the parcelization of the property, which is a decision in front of the city council. And to borrow a phrase of the mayor's, where she lectures rightly, people in this room when they get obstreperous and say, this isn't a school board, this isn't the planning commission, this is the city council acting as a review body as Kathryn said for a decision on the record where we apply the code to cases. You want us to either apply -- you want us to apply the code differently in this case, I think, so I am not trying to put words in your mouth but I think what you are asking us for is a wider street --

Ann Gardner: I am not asking for a wider street. I am asking for you to leave the street the way it is today and if there are improvements that need to be made, for this particular project, let them be made on the private side.

Hales: Okay I misspoke. You are asking us for a wider right-of-way dedication.

Ann Gardner: Yes, sir.

Hales: Got it, so if we did that, you wouldn't be asking for denial?

Ann Gardner: Correct.

Hales: Okay. Thank you.

Ann Gardner: As long as the right-of-way has two travel lanes north. [laughter]

Hales: That's another story. It's pdot's decision how to stripe streets but the property owner's requirement to dedicate right-of-way when we require them to do so, right? We can stripe a street as our staff chooses to as long as the council supports how they stripe t but you are saying, again I

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am getting legalistic here, but way, hey, this is a quazi-judicial land use hearing, so your concern is how much space there is for us to stripe those lanes in. Right?

Ann Gardner: Yes, sir. Thank you.

Katz: Okay. Anybody else have any questions? All right. Vul -- okay. You will have an opportunity to come back and give us some recommendations after you hear the applicant, what you would like us to do. I have some ideas, but I will wait until I hear from them, as well.

*****: Ma'am, there are a number of --

Katz: Right. Let's hear some testimony supporting the appeal.

Chris Mongrain, Emerson Hardwood: Good afternoon. My name is chris, emerson hardwood, 2279 northwest front avenue. Portland, Oregon, 97209. I am also a member of nina and our concern is any change of front avenue. As you just asked. The -- with the heavy transportation moves in and being able to turn trucks in and out of our facility, and other facilities, has I testified before, prior to the end of the year. In any case, traffic -- front avenue was widened because of the safety issues. When it was a narrower, there were a lot of accidents that occurred with trucks trying to turn into yards. In addition, the movement of other traffic that occurs at, at hours of, of people moving to, to and from their jobs. We have some other things that are kind of interest, is that there have been several studies that have been done in the past that talked about what the traffic needs are, 20-10, and I think that we are forgetting that, and trying to, for us, to be able to move our freight and customers being able to come down to our facility and move their trucks in and out of our facility. So, in, and our neighbors share the same concerns and that's why there is so many of us here today. Is any change to front avenue is objectionable to all of us.

Katz: Thank you.

Howard Werth, Vice President, Gunderson: I am howard werth. My address is 4 350 northwest front, I am a vice president at gunderson. Tom was going to be here today but he's tied up with another decision. Gunderson is located on front avenue. We dependent upon t it's a major source for our traffic both for services of items delivered to the company as well as product being delivered from the company. Our concerns and reason that we have concerns about the necking down of front avenue have to do with the emergency services, we are concerned about the restriction that is emergency equipment, we are also concerned about employee complains. We have had numerous employee complaints about the existing neckdown near the broadway bridge. We have also had employees who have been injured and also had one fatality in the past year based on the congestion on front avenue. Also, front avenue is a major access point for us, only one of two areas. If you recall back in 1996 when we had the floods on the river front, front avenue was closed. We had a very difficult time getting product and traffic and the employees in and out of the area for a period of about six days until the water was receded. Again, it is an important route. There is only one other alternative in and out of the area. Also, there appears by necking down it also adds another hindrance to the economic base that's located in that area. Gunderson has had a long history with working with the city on transportation issues and we were actually part of some of the improvements and involved with the improvements that occurred in 1981, and now it appears that we are being asked to give up some of the changes for truck traffic for, for terminal one development. So, based on our concerns, we would ask the council to deny the, the, to deny the application at this time until there is further evaluation of the transportation issues in the area on a comprehensive basis.

Katz: Thank you.

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Judy Johnson-Bari: My name is judy johnson, and I work for u.s. Bank. I am located at 3165 northwest yeon. And all I want to do is reinforce the messages that are being delivered by my fellow neighbors in the northwest industrial area, and lend my support in this appeal.

Ken Unkeles, Carton Service: I am with carton service company at 2211 northwest front. We are about in the center north section of the proposed development. Mostly I am joining the course, as well, but I would say this, our business is primarily recycled packaging products. And all of our material comes in by truck. We get it -- we get from 10 to 20 truckloads a day. Three quarters of the material leaves by truck, and we moved to front avenue in 1990 from a tight corner on, on northwest 13th and hoyt in the pearl district. The reason we moved was for access. We were being choked out there, and I haven't got any report, traffic reports or made any statistical analysis and I am not an engineer but I know from 25 years in the business that trucks this size need this much space. And we fought it every day in the pearl district before it was the pearl district, and we don't fight it now because we have a street that works, and our yard works. We have a two-acre site there. And trucks can come in and do what they have to do. If it was a boulevard treatment, such as down by Broadway, which by the way, I only heard about within the last month, so if we are late in the process to make our voice heard, I am sorry about that, but hopefully this is a process where that can still be heard. I can't imagine that we will not be materially damaged by a boulevard treatment in front of our place of operation. Thank you.

Jan Frost, Harris Transportation: Good afternoon. My name is jan frost. From harris transportation company. We are located at 3077 northwest st. Helens road. We, as well, support the nina appeal. We are one of the other main thorough fares on northwest st. Helens. We moved from north lombard across st. John's bridge over to northwest st. Helens road, as a petroleum transportation company. We're right now in the final phases of an asset acquisition that virtually is doubling our size and as well, doubling employment in the area, adding employment. We are a growing company. By size, I mean we are doubling our fleet size. Our tanker size. To have a direct connection to road, rail, and water transportation is critical to all manufacturing and distribution businesses in this area. Harris transportation, as well, feels that the development of terminal one directly opposes the vision of the guiles lake, the industrial sanctuary plan. I think the northwest area must continue to be preserved as outlined in the recently approved plan that was approved by city council. To insure that preservation, all development plans inside and surrounding our business area must include an overall plan that does not restrict or curtail ongoing business activity in any thoroughfare in that area. Progressive planning for any community must include a viable solution to issues that impact the surrounding neighborhoods. I would like to just reclarify that position of harris transportation. We are not opposed to progress, quite frankly. We are very much for progress and open to ideas and improvements that will enhance the Portland area. The key word is planning. We are opposed to any plan that does not plan well for the current ongoing business stream, and that would block the connectivity of any business in this area. And in the future or literally down the road. Thank you. Thank for your your time.

Keith Green, Penski Truck Leasing: Good afternoon. I am keith green. I represent penske truck leasing locked a at 1325 northwest 14th avenue, between pettygrove and overton. 14th avenue, as you know, is a direct road into the front avenue at the thurman intersection. We've -- I want to speak to my experience at 14th and tie it into front. We are a services provider for over 400 companies within the state of Oregon. Many of them in the Portland-metro area. In 14th, it went from a two lain road to a one-lane road where trucks began competing with cars and bikes. Our experience at 14th, we feel the same will apply on front avenue, if you take away the, or add the 12-foot of sidewalk that you are looking at. I will remind the council that trucks can be upwards of

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65 feet in overall length, 200 inches wide. We see increased congestion on 14th. We feel the same will happen at front avenue. Our clients tell us that the changes that occurred at 14th, which is six blocks within the front street intersection, they have experienced the same thing, congestion with cars, near misses with bikes. And trucks find it very difficult to maneuver in these limited conditions. We also have safety concerns, as I mentioned, earlier. I witnessed it many times, bikes and trucks and cars near misses at my place of business. We are here to support nina. Thank you very much.

*****: Thank you.

Neilson Abeel, President, Pearl District Neighborhood Association: My name is Neilson Abeel. I reside at 1325 northwest flanders, and I am the president of the pearl district neighborhood association. I am here to support the appeal of all the neighborhoods today but to point out a, a disappointment that I am feeling over the presentation of this subdivision -- the river district, and subject to the guidelines, I believe are over 1 years. And as the river district and the pearl district has been builtout in those years that we all know the activity has been intent that terminal one was to be the northern anchor of what is to be a, a mixed use highly dense urban residential and mixed use neighborhood. This is one of the last few key sites on the river front in the city of Portland, and I think that, that the way this application has been presented and the lack of vision in the design of it, is leading us to a tragedy. I think that Portland prides itself on, on excellent design, excellent urban design, excellent architecture design, and this particular application doesn't speak to any of it. And I think that talking to my friends in my neighborhood and other neighborhoods, the -- it has been viewed as the mere laying out of streets and right-of-ways and view corridors. Well, according to my techy architecture and engineering friends, that is going to dictate the kind of buildings that you see on the sites. We don't have a, as yet, exhibited a developer here who is saying, I have a vision for this piece of property. We basically have had presentations which simply say, I am going to chop up this piece of property and divide it up because it seems as if it will be sold off in pieces. It will be developed piecemeal, and I think that the city of Portland has - - and the port of Portland have missed a huge opportunity here to create something that should have been put out almost on a nation-wide design competition to create what could be and should be one of the absolute stellar developments in the city of Portland. So, to support the appeal is simply trying to send everybody back to the drawing board. And try to create what those of us in Portland really quest for, which is excellence in our urban design.

Katz: Thank you.

Katz: Let's start.

Tammy Boren-King, Northwest District Association: Hello. My name is tammy boren-king, I am a member of the northwest district association. I live at 2209 northwest everett. I want to reiterate that I support the appeals of all three neighborhoods, but I wanted to bring up two specific points where I think the hearing officer's decision fails to meet the code. The first is 33.272.020, dedication of a public right-of-way or easement. The code reads "all applicants for a land use review or for building permits on lands designated with the recreational trail symbol on the zoning map are required to grant an easement for the recreational trail. The easement must be done as part of a recording of a land use review and finalized prior to obtaining a final certificate of occupancy. The land may be donated to the city instead of granting an easement when 33.272.80 are met. Trails adjacent to the public rights-of-way may be constructed in the right-of-way subject to approval from the office of transportation." and I would submit to the council that there was no easement required for the interim recreational, or the interim greenway trail which is to connect 15th and thurman, which, in case this has not been brought up before is the connection from the

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river up to forest park. The second place where I think the hearing officer decision fails to meet the code relates to the greenway design approval criteria related to public access which is part "b" under the -- or -- condition "b" under the eight guidelines. These guidelines require -- they don't require, they say "new developments should integrate public access opportunities to and along the river into the design of the project. It includes the greenway trail, formal viewpoints, access connections to the greenway trail and internal site pedestrian circulation." and then part three, or four of the same part, access to the water's edge where site topography and enhancement of river bank and riparian habitat allow safe pedestrian access to the water's edge is encouraged. No mention of access to the water's edge other than over the water on the retained dock has been made in this hearing officer's decision. And the justification for that has been the maintenance of the dock as part of the working river but I would submit to council that a very large wharf is being removed, as well as -- and most of the frontage along the willamette, which is currently now, you know, with this wharf could be open at some point, somewhere along the sea wall to, access to the river and there are many examples contained in the statewide willamette river greenway plan that show how that can safely and easily be done without needing to reconstruct it or reconstruct a sea wall. Thank you.

Liz Callison, Director at Large, West Multnomah Soil and Water Conservation District: Liz Callison, I live in Portland. I am also a director at large with west Multnomah soil and water conservation district and we had asked the port of Portland to either restore the property and keep it, as a public asset, or to donate it to our conservation district to restore it for the public benefit. However, the port, of course, as you know, chose to sell it to a private developer and as far as I know, if the development does not occur as planned, that land would revert back to the port. I would like to enter my opposition to this entire subdivision proposal. I would like to send in written comments if you allow entry of comments into the record after today's date and state that during this hearing today if you will allow that. My opposition rests on, on a number of different points, some of which I have sent into you already when the hearing officer, or the planner was working on this application with the city. It does not provide adequately for the health and safety of any future residents. It needs further evaluation by the city in regard to the endangered species and clean water act enforcement on the city at present. And you will note the letter in the record earlier record from jim from Oregon department of fish and wildlife, in which he said that the primary issues of concern to them are the actions along the stream bank and treatment of stormwater run-off, as you know, continuing to quote, the site was developed without balancing the needs of fish and wildlife species, including willamette river fish stocks that are listed under the federal and state endangered species acts. The lower willamette in this vicinity provides adult and juvenile mitigation habitat. As you know, there will be other permit levels beyond the city's regulatory level because of the amount of bank stabilization and anchoring and so on that will need to occur so there likely will be state and federal permits involved but it's better, I think, to help the developer to understand some of this before they get so far along in their process of building and then maybe have to quit later. This property, this 15-acre public asset was sold by the port to a private developer. The port held only one community meeting for a small group of people. I happen to attend that and testify at it. Most of the people there at that meeting were opposed to this sale. The, the community meeting wasn't listed in the Oregonian. This process has been very close to the rest of the people of Portland and of course, today, mostly you are hearing from --

Francesconi: I hate to interrupt you but I know that that's not a grounds for us, I mean. Why are you getting into any of that?

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Callison: But the statement was made earlier, though, that this has been a process that people have been able to interact in, and I am -- my point is that it has been a very closed, very narrow process.

Francesconi: But even so, it's not an approval criteria.

Callison: Most of this subdivision would be crowded into a 200-foot strip along the river front. This is also the area that, as you know, u.s. Fish and wildlife, has been recommending 2 to 800-foot buffer along a major waterway like the women river. So most of this subdivision would be within that area that ought to be preserved as a riparian buffer so that's one problem. Another problem is that this is next to a heavy rail line. There's a lot of potential here for catastrophe to human beings that would be living on this site, not just from, from accidents relating to the heavy rail traffic, which carries very contaminated materials on heavy rail, but also from the, the ground, itself, which is contaminated. Thank you very much for your time.

Katz: Anybody else in support of the appeal? Okay. Applicant. You have 30 minutes if you need it. Is the real applicant here?

Jeff Bachrach, Attorney for Riverscape LLC: The real applicant here? The applicant and a number of his representatives are here and they can answer questions of anything that I am not able to do, I will bring them up and have them respond. For the record, I am jeff, attorney representing the applicant riverscape llc. If you will indulge me for 30 seconds while I try to organize myself so I am more coherent in deciding what's most important to present to you.

Katz: Does somebody want to move the easel so we can see that?

Bachrach: Well, let me begin, if you will indulge me with some technical, legalistic points to be sure I am on the record. We would preserve all arguments we presented to the hearing officer and restate them for the record here today. Specifically, as to -- let me begin with the road, with front avenue because I think that is more of a technical-legal matter. Almost all the testimony of ann gardner should be stricken, she was citing to evidence from another hearing having to do with costco, with truck traffic and none of that is in the record before you. The only evidence in the record before you, is the traffic report submitted by the applicant which says that following the city's boulevard plan, which is not the applicant's plan, the city's adopted river district boulevard plan will not create any conflicts for trucks. They didn't just do a capacity analysis, they did a truck movement analysis and that was the conclusion in the traffic report that's in the record and there is a letter from Portland transportation agreeing, and in fact, that letter from pdot uses the terms, it will function excellent. There will not be any conflict with trucks. So the only evidence in the record before you as to truck traffic in this area is that there is absolutely no problem for truck movements when you narrow to the boulevard standard in this area. And port of that is because most of the truck traffic is going north to 405, not coming south towards downtown. So that's the only evidence in the record about trucks and a lot of the testimony you heard today, both anecdotally and referring to studies from some other record, are not before you and the other point I would make is that terminal one property, and I think that nelson biel made this point has been rezoned to residential. I thought it was eight years ago. He thinks it was 12 years ago but both the terminal one property and the property across the street on front avenue to the west has also been -- also has a ex comprehensive plan designation so it, too, has been taken out of the industrial sanctuary, and that was done happy, many years ago, so again, the boulevard design is not the applicant's choice, it is the design that would go with the residential property and that's what this has been for quite a while. So I don't think there's either -- there is no legal basis for changing that in this forum, and I would wonder why from a policy standpoint, but obviously that would be the council's call in another forum to decide to reconsider and the boulevard treatment already has been

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constructed along the front and naito to the south. So, that's our response to doing something different on front avenue, but again, the developer will, will build the frontage improvements the city calls for, so it's nothing, not the applicant proposing it, the applicant responding to the city's boulevard design. The argument that was raised that, about why the comprehensive plan isn't an approval criteria, I am not going to really respond to other than I think that that's not a legally accurate extrapolation of what the code says and I think that became most evident when the -- miss gardner was make that go argument. She cited to the plan standards that she wants you to apply, and she quoted such things as a standard as enhanced Portland as a livable city, add diversity and depth to Portland's character. The courts have been clear, those are not approval standards for a development application. And I think you can see why. They are a little too subjective and open-ended to say, a local government will judge a development proposal or a subdivision, particularly a subdivision by a standard such as enhanced Portland's livability, so technical matter and I would defer the city attorney but I think this is well stated by the hearing officer, that's simply not correct. You don't take all of your open-ended comprehensive plan policies and bring them to bear on each individual development application. Never done that in the past and legally, it is simply the not what the code calls for. Let me stop on the technical end and try to just address what I am sure that everybody will recognize as the larger concerns going on with this property and the development of it. This subdivision has been evolving for close to two years now. It was first presented in conceptual form to the port as part of their requests for proposals, and riverscape was a successful bidder based on the concept plan and on the fact they offered a lot more mope than the only other part that he was interested in buying this difficult site. Great site. A lot of opportunity, exciting but difficult from a development standpoint. The designer is gglo, an architect design firm out of seattle. Pdc likes them, alan granger, the lead designers this is a consultant to pdc on design matters. He's the lead designer of this. And in fact, the port insisted, in an unusual twist that our contract, the purchase agreement requires us to continue using gglo because that was the designer that pdc liked, and the port like and had ultimately, riverscape felt comfortable with the ideas. This subdivision and greenway plan is very consistent with that original concept. There were some changes but if you were to look at what was put up as the original design, which came from gglo on behalf of riverscape, the only change was the diagonal street. The original plan had a diagonal street. There's a lot of work done analyzing a diagonal street, what would that do, pros, cons, a lot of preliminary engineering work was done based on that. It was under discussion in a lot of different forums for a long time, but finally, by my notes show last august, a series of meetings with three different city bureaus, the port participated, as well and it began with transportation just not being comfortable with it, but in fairness to them, that wasn't the end of the discussion, it was looked at a lot of ways, and the city made the call that it is just too problematic to continue a diagonal street so the developer said, fine, we have got to make a decision. We need to move forward with the engineering work. We need to move forward with the finalizing of a plan, and it wrecks that decision point that, not to do a diagonal street and that was ultimately the city's decision and the developer respect it had and moved forward. So, that's how we, we end up with this product. Let me address a fewer issues and talk to the broader concerns. I was confused by the conductivity issue. The greenway trail will connect the entire site, from the northwest boundary all the way around to the southern boundary, where it hooks up to odot-owned land underneath the fremont bridge, but it will be a short connection and I assume between the city and the developer, we will get odot's cooperation to extend the greenway trail from where it ends on the riverscape property to where it picks up on the private property on the south end, south side of fremont bridge, so I am not sure what the conductivity issue s the greenway as proposed by

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riverscape is 50 feet wide. Your code only requires 25 feet wide. The feeling was, in part, we had a lot of meetings with the bureau of planning, other people, the feeling was this was a site you have got to do more than the minimum. Riverscape respected that and came in with a, a greenway that's twice the required size. We hear issues about connections to the river. We want to see conductivity to the river. There are seven pedestrian view, pedestrian and view corridors. You can see them extending through the site. They will give wonderful, visual connection. They will create pedestrian access. There are no cars on most of them. They are simply pedestrian access. They are 650 feet wide. Anyone approaching the site. Anyone biking, walking, driving along the front avenue will have a far greater visual connection to the river than any piece of waterfront property between this site to north macadam. Far more visual. And these are wide enough corridors, you can be out there throwing a frisbee, you can move around. They are wide enough. They will be public. They will either be public easements or publicly dedicated. So in terms of visual and pedestrian conductivity to the river, the designer has tried to not do the minimum, to try to really come up with a lot of ways to connect the community, visually, pedestrian, to 17th avenue visual connection just became a difficult design to meet and the feeling was there is enough other connections that you can't do everything and this was a tradeoff to get this many public connections to the river. In terms of more open space, if you take the greenway as proposed and you take the pedestrian access, there's about 3.5 acres of open space, publicly dedicated or public easements so that's over 20% of the site. You add to that an opportunity, which I will talk more about in a minute. This pier out here, you can see it's been designed with some textured paving, the feeling was at some point there is a great opportunity to continue the greenway out onto that pier. It's a huge pier. It's 400 feet long. 60 feet wide. It's three quarters of an acre. Riverscape very much believes that should become a public asset. Most likely the city will take ownership, we haven't resolved that yet. But you add that to the mix, that puts over four acres of public land, public space that comes along, just with the subdivision. So, that's 25% of the site on this subdivision plan will become a city asset. And I guess the feeling from riverscape is they have tried to come to, to the table that respects the public that does far more than the minimum. This is a first step in the process, and I understand we have heard it enough and nelson biel said it today, there is such great -- paraphrasing or characterizing it, that there's a great opportunity here, and this developer and this proposal is going to chop it up and ruin this opportunity. We don't believe that. Riverscape has simply come into the table with the opening tableau. You need to establish the blocks, the streetscape. This design does not dictate any future building designs. There is ample flexibility for the kinds of designs of buildings you would see, as well as uses. One of the things over the last year and a half of meetings and discussing the site, there has been a hope, an expectation that there would be a city participation, a public participation. A lot of the renderings show some public parks and public plaza. That has not yet been worked out. There have been discussions at different levels with the city about what level of public participation does the city want. And at this point, the city, both from acquisition money, sdc credits, pdc you are ball renewal money, the city is telling us right now there's nothing. So, unlike almost every other major development along the waterfront, right now there is not financial participation by the city. There's time to work that out. The developer welcomes it. And I think that there is great opportunities to find some ways where this project can fulfill some of the expectations people have. It can happen solely as a private project, but I think the, the ability to do that is enhanced if there's a city involvement, and that's a tough policy budget call and all I can do from riverscape's standpoint, is repeat the good faith offer to, to work with anyone at the city at any bureau, any level, that has that interest in seeing if there can be a public participation, but again, in defense of my client, and I have sat through an awful lot

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of the design meetings with the neighborhood groups and everyone else, this is a good-faith effort to do a lot more than the minimum. It certainly is a lot more than the code requires. It fulfills the expectation to the port in terms of coming up with a design, as a first step, achieve a lot of open space, achieves good access to the river. What I would like to do is just take a minute and maybe help the council to ask questions or decide where you want to go. Currently, just to give you an idea of where the future lies for this property, the thinking from riverscape standpoint is to begin building housing by the fremont bridge, on the south portion of the property, had a lot of discussions with the housing authority because again there's a good faith pledge to make sure that there's an affordable housing component, housing authority has been interested, discussions are moving forward. Things go well here today I think the housing authority will be even more encouraged to make that happen. As you move north, I think those middle blocks, sort of the big and little middle block combinations will likely end up in housing, that seems to be where the market is now. Whether there will be retail component is just unclear at this point. And I think where the greatest opportunity is, is at the north end. A large lot was deliberately left that way because it's unclear what the best use is going to be there with that large pier, you have got an opportunity and an asset. We have been approached and have had numerous conversations with lots of people, lots of ideas, the cruiseship line idea which you heard reference to, that's simply an idea. A lot of people have mentioned that we have tried to see how real it is. My sense, because I have been involved in most of the discussions about cruiseship, is we are not seeing either the private sector wherewithal to do that or the public, the public commitment to want to make it happen. It's hard to gauge whether that's a good idea. But it's just an idea. We are not saying that's what's going to happen. We are saying that that sounds like a great idea if, if the people in the private sector want to make it happen or the city tops make it happen. There's a great pier. There's an asset. That lot, the north end lot was deliberately left large to accommodate whatever might happen there. You heard concerns about, well, if there is a cruiseship line, what about pedestrian access. What about vehicular access. Good questions, and that's why we have got some more thinking and planning to do on those northern two big lots. We have been approached by number of different nonprofit groups, a lot of interesting ideas. That would be great. Public plaza, marina, there's a lot of opportunity there. One of the reasons we were -- the master plan didn't go forward as a concept is too many key pieces are unknown. We wouldn't know what to put in the master plan. The city approached us or we have had mutual discussions about should we rezone that north end. The rx zone is really not the most conducive zone, if what you are looking for is cruiseship lines, huge nonprofit museums, cultural things. Hotel, conference center. A lot of the sizzle to this project, a lot of the ability to make this a gateway project seems to lie in the north end. Lot of land, water, a pier, a lot of public assets, and the riverscape's position is, we are not sure how to handle that north end. This subdivision moves the ball forward, gives us a basis for more discussions with all interested parties. The agreement with the port, I am sorry to jump around, the property, the phasing for the subdivision is a little bit different than the phasing from a purchase standpoint. At first, let me look here. Riverscape has already purchased the southern three lots from the port. And riverscape is obligated to close on the purchase of the next six blocks, is that right? Yeah, six blocks in the next few months, so in short order, two-thirds of the property will be in the ownership of riverscape. It puts a certain time pressure on them to move forward. It's far too expensive a piece of property to purchase and not be moving forward. There is time on the north end. The two lots, 10 and 12, or 10, 11, and 12 because the port has to finish some environmental cleanup and the contract doesn't obligate us to acquire that until that's done, or at least until june of 03. And so I think there is an opportunity, and this subdivision doesn't create this legal opportunity, but I think

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that there's a real opportunity and a good-faith pledge from riverscape to welcome any kind of a city dialogue, particularly focused on that north end. We are already having it with a lot of private parties and nonprofit groups that have some interesting ideas. Those discussions may lead to coming back to the city for a zone change. They may lead to coming back to the city for a different kind of land use approval. But the opportunity is there to try to achieve some of the sizzle, some of the big vision that people are, feel is lacking here. But this subdivision and greenway plan before you doesn't shut the door unlike a certain newspaper article. Doesn't dictate a foregone conclusion of big, ugly buildings. And there are a designer view pros that at least continue to give the city some control over that. I am not sure if there is any specific issues. Quite frankly from a legal standpoint, I haven't heard an argument on the record based on the evidence that says the hearings officer made a legal mistake. I haven't got a legal argument to respond to. I guess what I am trying to do is give the council the comfort level that this isn't going to end up something of an eye-sore down the road and I realize the subdivision approval before you doesn't guarantee a good result, but it certainly does not guarantee a bad result.

Francesconi: Jeff, listen I appreciate your presentation.

Katz: Are you finished?

*****: I think so, yes.

Francesconi: I appreciate your presentation and honesty. Let me throw out a couple things. And it's for you to respond to and maybe others, later, can respond to. So on the -- can you give some more land to, in order to make that street wider, in other words the sidewalk, if it is going to be 12 feet, can you take 8 feet or whatever the number is and in order to make -- allow the street to be wider and make this thing happen? You were outside the record in your comments, so I guess I can ask you that question outside the record.

Bachrach: The developer, who has designed it, engineered it, has already -- is making a large amount of dedication, I mean, the street standards we were told are in place. And so, when our engineers meet with the city, they say, we have a boulevard style road. You will design to meet that. And some dedication was necessary to accommodate that. I think it is an unfair request to say, give more land. Frankly, if you want to try to --

Francesconi: It may be --

Bachrach: That's a lot of land, do you really want it along front avenue or should we be talking about a park or a plaza in the north, northeast corner, I mean, quite frankly, if I was sitting in your shoes I would be figuring out a way to get that out of us, not 7 feet along front avenue.

Francesconi: The legal arguments, I mean, maybe -- could you respond to the legal arguments that the lots and parcels under 34-60-0 approximate 0, the side, width, shape and orientation of lots and parcels are not appropriate. And then also, under 33440.350, the greenway approval criteria, that the structure and design is structure alignments are not appropriate.

Bachrach: Without having those in front of me, I think that generally the standard about appropriate is, is -- okay. Erik is going to help me out. Thank you. You orient me again to the specific code section.

Francesconi: That might have been unfair, too, jeff. I didn't really -- I just didn't want to, any surprises.

Bachrach: That's the one thing I should be able to do is respond to legal questions, so. [laughter]

Francesconi: Well, I am not a land use lawyer by any stretch. 34. -- in fact, patti is better than I am. But Kathryn is, is the right one. 34-60-030? I will have to see what the hearings officer said. It's the language about the lot configuration should be appropriate. It's an awfully open-ended

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standard and I think what the hearings officer did, first of all so I won't object to his use of the central city plan. That is a specifically designated approval standard. We are in the central city. You have a central city plan district in your code. 33-510, so to look at the established grid pattern throughout the central city, and say, we are following an established grid pattern is appropriate, certainly, that's a sustainable interpretation. And that's essentially what he did. It accommodates our -- I think the question is, is this appropriate for an rx zone. I think if we came in with 500 little lots, you would go that's not appropriate for an rx zone, that would be propose for an r-10 or 20 zone, if he came in with 5,000 square foot lots. I think that that's what you are looking for. And I would quarterback Kathryn or erik to try, to chime in but this is how -- it's always been interpreted. This is how we responded to it and that's how the hearings officer viewed it.

Francesconi: And the greenway structure and design, structure and alignment?

Bachrach: We don't have any buildings right now. There have been some major -- we have a 50-foot greenway setback instead of the code's 25, so we know that we are starting with a bigger setback than the code would otherwise allow, and I think that that design guideline, can you read it to me again because I don't have my greenway.

Francesconi: It's 33.440.350.

*****: Is that the --.

Bachrach: Interestingly enough, this, this particular design guideline says it applies to all, applies to all, I am sorry, okay. I am reading the wrong section. Structural alignment, surrounding development follows an established block pattern, alignment with the block pattern should be considered in a structural placement. Well, there's not much surrounding development on this site to begin with, and I guess what's there you would have to move over to the office buildings on the other side of the fremont bridge, and they follow a large block grid pattern. The greenway setback area should compliment and be enhanced by designing detail, coloring and citing structures. The structures will have to go through a design review that will include a greenway review. So, when the buildings, themselves, are in design review, a part of that will be to comply with these greenway design guidelines, so in terms of the subdivision, it's really no way to apply a design guideline that's geared toward structures.

Saltzman: Somebody made the point that the lots should be sized to normal city blocks. Given their in the central city district. I thought that somebody made that point.

*****: I am sorry, commissioner, say that again?

Saltzman: I thought the point was made, I don't remember who, maybe patricia, that because it is in the central city district, that the lots are, should be configured to meet ordinary city block sizes?

Bachrach: Well, some are. Some are close to, you know, 400-by-400. Some are bigger, some are littler. He didn't -- if we had come in with precise every single lot, 400-by-400, we would have said that cookie cutter grid. This was a little design thought going in. The narrower lots along the front thinking that that would create an interstreetscape smaller lots, smaller buildings. I mentioned the reason for the large lot 12 was to maintain flexibility, I mean, that's, that's -- if a road is needed there to get to the pier or whatever, so again it, generally follows a grid, and that's what we were told was, would be appropriate. So, I guess our design people felt there was not a point in trying to precisely measure 400 feet. There's some reasons from utility placements and street access placements that the lots fall where they do and as I said, some are a little bigger and some smaller than 400-by-400.

Saltzman: So you don't agree with the contention they need to be 400-by-400 by virtue of being in the central city, just need --

Bachrach: There is not a code requirement that says that.

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Saltzman: The other issue, I wanted to ask about was the street connectivity to the greenway trail, northwest 15th.

*****: Thank you --

Saltzman: I am showing a map that shows 15th to be part of a greenway.

*****: Are you looking at?

*****: Yeah, that map. I am assume that go that's 15th. It shows --

*****: Willamette greenway public access map?

Saltzman: Shows it to be an access path.

Bachrach: That is under the fremont bridge, which is owned by odot. So, we don't control the land where that interim access is. Riverscape will build the greenway trail right to the edge that far, so that the connectivity is there if odot or someone else will continue it.

Saltzman: 15th is not part of the interim access path, as was stated by somebody?

*****: Well --.

Saltzman: That was the access path up to thurman, to forest park?

Bachrach: On the official zoning map, the location of the interim connection is it appears at least to be, to come underneath the fremont bridge and then up 15th. To the extent it's on our property, there is an easement if you look here. I believe that it is 20 feet. So there is a 20-foot access trail, frankly, I have to remind myself. I believe that's part of the public easement. Yes. 20-foot wide easement.

Katz: Do you want to identify yourself for the record, sir?

Lee Crommiller, David Evans and Associates: Yes, I am lee with david evans and associates. Our address is 2828 southwest corbit avenue. There is an existing 20-foot easement that's located on the very southerly edge of the property. That is an easement that was granted to odot and it is for bridge maintenance purposes. But, it is shown on this plan as being used also as a pedestrian access to the river, and also an emergency vehicle access.

Saltzman: In your plan? In this plan.

Hales: Similar question. There was testimony about --

Katz: Jim, one second. Were you finished.

Saltzman: Well, just one other aspect of it was also the point about the view corridor. Associated with 15th avenue. I guess would you give any consideration to having the interim, or the greenway connection following the 15th alignment? Maybe in lieu of one of the other 20-foot dedications.

Bachrach: First of all, there is -- there is on the same map you are looking at, commissioner, designated view corridor so 15th is not the designated view corridor.

Saltzman: I realize that.

Bachrach: And again.

Saltzman: It certainly would provide the --

Bachrach: Well, I think the response and unfortunately, alan granger, gglo isn't here but I hear the response so I can -- the feeling was this maximizes the view corridors and there is some access considerations that make it difficult to put a view easement along 15th. The other issue on 15th, it doesn't really come in perpendicular. If you had a larger map, and if you want to look at this map. 15th kind of curves into front, so for most of 15th as you approach front avenue, you will be able to see the river through that view easement by front -- by fremont bridge. That lee was just talking about. You may not be right there. You may not be able to see the river. It depends on the design, what's built there. But, if you curve around here, 15th comes like this. If you can see it, as you are approaching on 15th, you approach like this. It hooks in, so you are driving here, you will be able to see there. I guess the ultimate decision was, getting the access points and the viewpoints from

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front avenue where people will be walking, biking, and driving was a higher priority than the approach roads coming in, into the site. There's a lot of view corridors and I guess it would require some real reconfiguring -- you are really creating a problem for the development of that lot.

Saltzman: On the southern strip there you mentioned the emergency path, the pedestrian alaska, that's really subject to odot approval -- to the pedestrian access, that's really subject to odot approval.

*****: That's the easement granted to them for the bridge maintenance. And that's their only right.

Saltzman: So you are proposing pedestrian?

Crommiller: Yes, that will be a pedestrian connection, and let me clarify a little earlier on some of the lot configurations. These lots are in almost strict conformance with downtown block patterns. In the respect that each lot is 200 feet in width. The buildable area is 200 feet in width. The only variable dimension, then is, its dimension almost perpendicular to the river. So we're not looking at large super blocks, if you will.

Saltzman: One last point, jeff, you mentioned that you are willing, as the applicant, to do really whatever we ultimately ask, with respect to front avenue, or as long as it doesn't involve near dedication of additional properties, I am assuming what you are saying. If we say, as a council, we want four lanes of traffic on front avenue, and it requires some changes to sidewalk width, and maybe even change to the boulevard avenue concept, I mean, that's not a problem, as I understand it, for you.

Bachrach: I don't think that I want to go there, if I start to go there, I probably would defer to some of the design people and lee, but this is a residential piece of property as you have heard from lots of people, a prime residential piece of property to not give it the boulevard stream, I think, would be wrong. I think it would be unfair to the developer who purchased it and it's, it's -- certainly onstreet parking is essential to this project, you know. So that --

Saltzman: I see this in direct conflict with the guild --

Bachrach: Yeah, if I can respond to that. I don't know what's in that plan because it was adopted well after we applied for this subdivision approval. Moreover I would be surprised if it included this property and the property on the other side of front avenue because they have been rezoned to not industrial use and is made a part of the river district.

Saltzman: No, it doesn't include those properties but the access issue, I think, is an accurate impact on that, of the properties north of you?

Bachrach: And again, if you will indulge me to be a lawyer for ten seconds, nothing like that is in the record, the only evidence you have, and I know that you have knowledge beyond what's in the record but in theory, you are not supposed to bring that to bear, is that there's absolutely no problem for truck movement on this stretch of front avenue. It's documented evidence by experts and by your own city experts, and there's absolutely nothing in the record that says otherwise. And I have no reason to -- not like we are trying to keep something out. The only evidence we heard today was some other forum or studies and some other part of front avenue. So I guess I would take a hard line that I don't think that there is a legal basis to change front avenue in this --

Francesconi: While we are on that subject, it's right on that point. If it's all right with the commissioners.

Katz: Go ahead.

Francesconi: I want to ask Kathryn to confirm that. Is there any legal grounds based on the record, what's in the record or our statutes or codes to deny this on the grounds of any transportation, especially transportation of freight issues?

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Beaumont: I'm going to have to rely on staff to either confirm or deny what's in the record on transportation issues. Assuming what he said that the only traffic evidence in the record is the applicant's studies that indicates that it will not have a negative effect on truck traffic, and assuming he is correct, pdot has, is, has gone on record agreeing with that and there is no -- if there is no substantial evidence to the contrary, I think that it would be difficult to deny on that basis. But again, I would ask erik to inform you of what is or is not in the record.

Francesconi: Is pdot here for later?

*******:** Yes, glenn is here.

Francesconi: For later, for later.

Katz: Okay. Further questions?

Francesconi: I cut you off, I am sorry.

Katz: Remember we still are continuing with the hearing.

Saltzman: The other issue is the extension of northwest 17th diagonally, that was part of your original plan and if we could figure out a way to do it, you would have no problem with that, is that correct?

Bachrach: The problem at this point --

Saltzman: I think you need certainty, but.

Bachrach: There's been an awful lot of design work, engineering work done. At some point a decision had to be made, and that decision was made and it would be very expensive to undo it and redesign something different. So it would be problematic. It would be extremely problematic.

Saltzman: When was that meeting where everybody --

Bachrach: I went back and checked my notes, august I had notes of a couple of meetings.

Saltzman: 2001?

*******:** Yes.

Katz: We have the ability based on the issue of you to require you to angle that street. As a condition.

Bachrach: Well, I mean, I am not going to let my engineer respond to a legal question of your authority, madam mayor. I am going to disagree with our engineer and say that legally, I am not sure if your authority would extend that far.

Katz: I will wait until later on to get into that.

Saltzman: I'm through.

Hales: One question, this was testimony here that, and maybe I misunderstood it, that the easement or dedication for the greenway trail, I am sorry, there was testimony here, and I am not sure if I heard it correctly that the easement or dedication for the greenway trail was not assured.

Bachrach: I don't understand that. If somehow we have all missed language in the hearings officer decision require that go dedication -- in fact I know it's there because I remember the language about we have to work with the city attorney's office to come up with the language for the easement, so, and again, the hope would be, end up being a dedication, if that can be worked out with the city.

Hales: I will look --? Your code requires to you accept a dedication under certain circumstances so I am certain that's already in there and if it is not, it was a surprising oversight but --

Hales: If not, we could add it.

*******:** But I am certain I could find it for you.

Katz: Sir, did you join us for a reason?

*******:** Mr. Stern is our traffic expert but I am not sure, unless there is a question.

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Katz: Why don't we wait because after we finish with the hearing I would like to poke a little bit on some of the issues that have just been raised.

*****: Don't poke too long. I have to leave at 4:30.

Katz: Well, folks, this is important.

Francesconi: Have you decided how many housing unions?

Bachrach: Nothing certain. The first three blocks could be three or four hundred units. The first three blocks could be three or four unions, middle could be 3, 4, 500 units, and on the north end there is a hope that maybe something other than housing could go there.

Katz: Say that again. Your architect isn't here. It's like buying a pig in a poke. I don't like these kind of subdivision issues. We have had them before and the council has been frustrated because they don't quite know what your vision is for this very exciting piece of property. So, what's your thinking in terms of the density in this area. Do you also think that the designs will include mixed use development? What's the height? Give us a sense of what it is going to look like.

Bachrach: That's a difficult question because not all of that has been thought through, and whatever I was to tell you could change as more serious design work happens and is more, as more serious evaluation of the market happens. The first three lots, three to 500 housing units, you have 100-foot height limit and a 2-1 far, and those are code words that may not tell you what you are trying to figure out.

Katz: Okay. You can't tell us now, is what you are telling us? Okay. I guess that's a fair.

Bachrach: That's a fair summary, it's just an awkward question in terms of the subdivision. We have certainly --

Katz: I understand that.

*****: We have had meetings with Gil Kelley and other people and perhaps we are failing you or I am failing you by not giving you some of that dialogue but it's -- you put a developer in a tough position when you say, tell us what you are going to build when it is not really part of the subdivision approval, and I understand the concern that you might not like what you go, but there's opportunity --

Katz: I am going to go -- we are going to go through that after you are finished. All right, further questions? All right. Let's do rebuttal. Come on up. You have got five minutes each, so a total of 15 minutes.

Hales: We may have to continue this.

Katz: Unless they waive the 120-day rule, we may be left here with three people.

*****: Okay.

Katz: They may want to waive the 120-day rule.

*****: Vera, may I ask, was there no additional comment from supporters? From the --

*****: Oh, yeah, yeah.

Katz: Did I miss that with all the interruptions. Sorry. Any additional support testimony? No. Okay.

*****: That's how it has been in the community, as well. Five minutes all together?

Katz: No, each.

Ann Gardner: I will start. I am starting. This plan does not comply with the Guile Lake industrial sanctuary plan as it does not comply with the comprehensive plan objectives that require that we preserve the public and private investment in the network, and that's comp plan objective 6.21-b. This street, front avenue was improved in 1981. This information is in the record. Don Lang was the city engineer. This was additional dedication that was required from adjacent property owners and the express purpose was to accommodate freight movement in the,

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into the district. The problem is, we do not have a plan for front avenue. The design standards for the river district, for this portion, for front avenue say top determined. This project was initially submitted with a boulevard, substantial objection was raised. The cross-section has been adjusted since the project was approved. There have been a number of discussions about what it could be, couldn't be, might be. City plans show, request bike lanes, a boulevard. 1-foot sidewalk, and at the same time, we have got to preserve the portal for the industrial district. We have to have a plan for front avenue. And a project, no one project should set the standards. It needs to be done comprehensively and in partnership with the other districts and reflecting the adjacent uses, which obviously, there is some competition between industrial uses, commercial uses and the industrial district but we have got to take that into consideration with the plan and this project should not establish shall and preclude future opportunities and violate essential elements of the comp plan that say preserve the industrial districts of the community.

Patricia Gardner: Just, I am sure that Kathryn is going to do it, too, going to say, you know, something about my argument regarding the conformance of plans but I will say one thing, this was been a really narrow interpretation of the code in the last two years, and what you see, is written down, that's what it is. And I didn't write the code. But it very clearly says must conform to the comprehensive plan. It does say that. I didn't make it up. And so, you know, in regards to our argument, and that it is all open-ended, it's not my fault. That's what it says. It says, you know, and it very specifically goes through and says, the comprehensive plans is not the maps. It's also the goals. And they are open ended, but that's just what they are. And it does that in the definition of title 34. It does it within the title, itself. And so I still, I still pause, posit that that argument does stand. In regards to the whole thing about --

Francesconi: Before you move from that, can I interrupt you for one second. Kathryn, do you agree with that?

Katz: Let her finish. We will get to Kathryn in a minute.

*******:** Fireworks would be created if we did that now.

Katz: Got the question written down here. Go ahead.

Patricia Gardner: But in any case, in regards to the thing -- one thing I need to say is we are here, the last line. We weren't there with the port. We weren't there with any discussions with the city. For the last lines in the sand as far as approval process and that's just how it is. And I am sorry that we are having to come before you, but that's, you know, we are just last and we are not kind of privy to a lot of discussions so, and the ones we are, we are able to do something for so that's just how it is in regards to, you know, isn't it sad that we are all here, it is but this is where we are. And the whole thing is subjective. All of the hearings officers stuff is subjective. Pdot says there shouldn't be a special intersection here, even though they could have one, that seems rather subjective to me. The hearings officer says central city blocks work at the edge of the river and just to clarify it, commissioner Saltzman, I never said that there should be central city blocks, I said that there should be something special there, not central city blocks. Why are we putting the central city at the edge of the river? That doesn't make sense so for him to say well, it works, I mean, he's having to use that little "d" at the end. If you read the code very specifically, you would end up going to rx zoning. It doesn't send you to the central city plan, it says you can have any lots you want. And so for him to make the determination in his decision that it's good that they're block sides because the central city is a subjective vision based on design guidelines. The other thing to keep in mind is this development is a third of the site -- a third of the size of the hoyt street properties yards. As third of that, and has a very similar layout. The pedestrian streets will be like kearney. The blocks will be roughly the same size and our experience with hoyt street properties,

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that buildings get built to the edge, don't stop in the middle of the block. And so to say that they might not be within our experience and one that we can't go on. So, and as far as precedence, in the central city, river place is on the, the water and is there a grid there that, you know, grid, and regards to McCormick Pier, as awful as it is, is there a grid there? The precedence within central city is he's going to use a design discussion, isn't there about how we treat our rivers. Now, you have asked what we want to do. And I've been thinking about that, and I have been listening and I have to admit I was slightly amused but in a sad sort of way at kind of frustrations that I saw because it seemed like discussions that we had, you know, that came before us twice. And we had these meetings where we said, we really want you to do this and that, and we didn't get anywhere, so if you can't get them to do certain things, I would say deny it. Deny it because we can't protect anything otherwise. And the things that we would want to see is an easement, you know, if either pedestrian easement or a road, across 17th, directly across all the way to the river, all the way because we can't say we might not build a building there, that's not good enough. We want, a termination at 17th of the pedestrian improvements on front, specifically because we are seeing creep into the industrial sanctuary. We have got terminal one, north that's coming up and if we don't stop, we are going to have a sidewalk that ends? That's bad design. You know. Can't we like make it go all the way to the river? I mean, it's just bad design. And we want an easement on 15th. If we were to get that simple, we want an easement saying you can walk underneath the bridge for the 40-mile loop is great but it's not good enough, particularly when you have got something that really, really connects so much of the city in such a fashion and should be held up as a, as an ideal, so I will let you go now.

Tyson: Greg Tyson again. They are not just concerned about this one space, as much as it is the focus of this hearing and I don't mean to focus just on this space, as a residential space. It's definitely connected to, as I said at the beginning, to industrial lands that are on its boundaries, across the street is the X zoning presently under industrial uses, and I bring that up to, to emphasize that our concerns are, are concerns similar to Nina's, that may be unexpressed here, but in terms of the functioning of front avenue. We are concerned about land uses along front avenue and how that impacts the functionality of front avenue so, while I am arguing towards a larger picture of what might happen along front, I support Nina's arguments but want to bring us together to say that all of us, I think, are focused on and worried about what happens along front and how it impacts access and capacity into the industrial sanctuary. In terms of some of the specific issues that Jeff addressed himself to, I would remind council that there are two trails here, and that is largely one of my points, there's the trail that goes along the river and there's the trail that goes up to Forest Park, and exactly where that trail lies sounds like it's up for some discussion, but the trail design is guided by the Willamette Greenway Plan, so if they are propose something easement along here that's, that addresses this trail, it needs to be to the same standards as the trail along the Greenway. The Willamette River front, to be more specific. Patti mentioned creep. I have alluded to it in my first statement. Issues of comprehensive plan, applicability and Title 33 application for the site. We would love the council to deal with this. It underlies the heart of the matter in terms of the application of code, documents that all of obvious spent months and months and months, years working on, and how that applies under a subdivision is, a huge point of contention here, and I think that we have tried to do the best we can to say that it does, and certainly, I am in the Northwest Area Plan, Citizen's Advisory Committee and when that plan comes before you, what I learn from this process is it has to be cited in Title 34. Well, that's not necessarily, 34 is being rewritten into Title 33, and all of this may very well be moot. I think I will end there. Thank you.

*****: Okay. Now, Commissioner Francesconi.

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*****: Do you want us to go?

*****: Yes. Go clam. [laughter]

Francesconi: The only thing was the legal response to the legal argument that patti made about the comprehensive plan and its effect. Jeff says she's wrong. You were quoted by her, by patti so, I thought --

*****: This is your rebuttal.

*****: You would get to speak to yourself.

*****: I was at a hearing where someone had their own testimony and played me at the same time. [laughter]

*****: Go ahead, kathryn.

Beaumont: I do disagree with patti and here's why. State law, she's correct that the codeset has that provision that requires conformance with the comprehensive plan. However, because this is a subdivision, it is considered to be a limited land use decision under state law. Limited land use decisions, limited land use statutes, specifically require the city to incorporate any specific standards from its comprehensive plan into its land division code, as of september 29, 1993. If we fail to do that, we could not simply have the provisions out of the comprehensive plan and use them as a basis for approval or denial. But the subdivision in this particular case, given the broad language in our code, we have consistently applied that language to say conformance with the comprehensive plan means conformance with the comp plan map deflected in the official zoning maps, and the zoning code so, unless the land division code specifically requires compliance with neighborhood plans or with specific policies and objectives in the comprehensive plan, which it does not, you can't use those as a basis to approve or deny a subdivision. And specifically with respect to the guiles lake plan, that was adopted after they filed their application, and cannot be applied to this particular review.

Saltzman: What about the issue regardless of the guiles lake plan, if there are two comprehensive plan objectives that anne mentioned, preserving the public and private investments in the freight network and the need for freight movement, when conducting multimodal transportation studies, does that serve us as a basis, if we so choose accept the arguments that this will have an impact on freight movements and the ability of freight to get in and out of the industrial sanctuary area?

Beaumont: I suppose that you can make your own judgment as to how you read our code and our comprehensive plan. I think if we had under state law if we had wanted to use that policy and objective as an approval standard for a subdivision, we would have had to have incorporate it specifically into our code. Or write approval criteria that said, that policy and objective has to be satisfied in order to subdivide land. We haven't done that, so I think I have my doubts as to whether attempting to apply that comprehensive plan provision would withstand challenge on appeal.

Francesconi: Plus, there would have to be evidence in the record supporting that. But, on the provisions I cited on lots and parcels and greenway approval criteria, those would be valid reasons to deny this, right?

Beaumont: Those do provide use and room for interpretation.

Katz: And view corridors?

Beaumont: The lots and parcels standard is quite broadly written. It allows you a great deal of discretion. I think the hearings officer interpreted the greenway standard to basically say it's really going to apply meaningfully at the time development is proposed on the property. All they are doing at this point is dividing the property up, and there's no way to evaluate the relationship of structures to the greenway trail at this point in time.

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Francesconi: And you agree with that?

Beaumont: I think that that's a fair reading of the code.

Francesconi: I think it is, too.

Hales: I want to make a motion.

Katz: I am not ready for a motion. If you have to leave, go ahead but I think that there's still a little couple of issues that need to be discussed.

Francesconi: This is just a procedural thing because I am supposed to -- is there any way that we can -- there's no reason for the parties to talk at this point to bring it back in a week? Is there?

*****: We have a time issue.

Beaumont: The 120th day runs next wednesday -- is next wednesday. So unless we get extension of that 120-day period from the applicant, we are on a very short time frame.

Katz: Kathryn, with regard to the questions that commissioner Francesconi asks, how about the view corridor issue? In terms of -- is that -- can we deny it because it doesn't meet that requirement?

Beaumont: I think I am going to ask eric to respond to your question.

Katz: That makes me nervous. When my lawyer tells me that I have to ask the planner.

Beaumont: He knows the specific language of the standard better than I do. I think in terms of, as I said the lots and parcel standard is quite broad and discretionary. There may be a way to tie that into a particular standard.

Katz: Did you want to respond to that?

Engstrom: For the record, this is eric again. I think both of the criterion we are talking, about the lots and parcels in title 34, and the greenway issue that, the issue "a" is what we are talking about, I believe, with regard to the view corridors, I think both of those are fairly discretionary criteria. We did not interpret them the way they are contemplating, but I think as kathryn said, you do have the ability to interpret them different than staff did, and different than the hearings officer did.

Katz: Could somebody tell me why pdot said no to the 17th avenue view corridor?

Engstrom: Glenn pierce from the office of transportation is here, if you would like him to speak on that.

Katz: Do you want to tell us why?

Sten: I had one transportation question.

Katz: As he comes up. I need to know who owns the entire property. Who owns the northern end?

*****: Port.

Katz: Port. And -- all right. And you are coming here to subdivide the port property? Excuse me? Okay.

*****: Co-applicant.

Glen Pierce, Office of Transportation: Glen pierce, office of transportation. First I do want to acknowledge what mr. Backrack said that the, the true primary transportation -- the two primary issues, 17th avenue alignment and the scope of work on front avenue did come from the office of transportation. They did not come from the applicant. So we gave them specific directions about what we are looking for, for front avenue and our concerns about the 17th avenue alignment. So, moving to 17th and your question, mayor, our concerns with 17th avenue are that providing an angled intersection that would result from extending the current angled approach of 17th, ends up creating a very large intersection in front avenue. It basically more than doubles the size of the area of the intersection that would be created because of the angle of the approach, so what that means is that pedestrian crossings, pedestrian distances, vehicle turning motions are operating

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through a much larger area, visibility for pedestrian crosswalks is less. You have much more potential for vehicle and pedestrian conflicts. It's exactly the type of thing we try to avoid. In fact, at 9th avenue when the city reconstructed 9th avenue we realigned the approach at that point and made it come in at a 90-degree angle to minimize the conflicts. To confine the area into an area that, that is managable and safe.

Saltzman: Could you elaborate on the minute point it minimizes the effectiveness of pedestrian crosswalks?

Pierce: What I am saying is, pedestrian crossings, the further you extend the area of an intersection, then pedestrian crossing movements get longer. So the actual distance across front avenue, for example, is probably the same, but then the actual distance of pedestrian would walk coming from 17th and then going laterally along front avenue and crossings, there's longer distances that pedestrians will go.

Saltzman: It doesn't necessarily encompass a signal crosswalk?

Pierce: Well, that intersection is signalized, and the signals would have to be adjusted. A signalized intersection that's wide like that becomes more difficult. The time for the motions that occur in the intersection to clear the intersection becomes longer because there's more, you know, more space. So it's, it is not desirable from either pedestrian safety and access or from vehicle operation to create those kind of intersections. The existing approach link from the west, southwest where 17th avenue comes in there, if you will notice the actual striping, there's an effort made to sort of veer the traffic around into a 90-degree approach as it comes to front avenue. Because again, it makes very awkward motions for vehicle turning. And visibility. If we extend 17th avenue into the project, it would not only affect the intersection of front avenue, it would affect the intersection of the new road within the development, the riverscape avenue. So that that intersection then would also be, become an awkward angled approach, and the volumes of traffic, and of course, would be less at that point, but it has the same implications in terms of widening out the area of the intersection, making pedestrian and vehicle access more difficult. And that was primarily why we gave direction early on to the applicant that complying with what the subdivision code requires or addresses was what we were looking for.

Katz: Commissioner Sten?

Sten: Can you give me a couple more sentences on why you are satisfied with front avenue is works with the industrial plan and essentially, the counter argument to what nina is saying.

Pierce: Okay. The issue for us early on with front avenue was, we knew we wanted the subdivision to improve the street frontage. And that's typical for development. Improving the sidewalk corridor along there to the appropriate 12-foot river district standard, and dealing with normal parking and other requirements. What we needed to determine was where should that future curblines go. Did we need additional right-of-way in order to move the curblines back or was it okay where it is at? And the applicant did some traffic analysis looking at full buildout of their project, under a couple of different development scenarios. Residential and mix of commercial and so forth. And they demonstrated that, that capacity and level of service at the intersections was, was good, actually. Our own traffic engineering staff, we are looking at the same issue, kind of independently because at the same time these folks came in the door, we were starting to look at the possibility of developing a local improvement district to extend the boulevard stream and so part of that look was to look at the traffic impacts. You know, was the capacity of a reduced cross-section adequate to handle both the residential and the industrial uses. And the conclusion from sort of both sides here was that, in fact, yes, there is adequate capacity, level of service, which is really measured at the intersections, because of the signals, is good. And even extending into the

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future years, it's good. The proposal doesn't do anything to restrict any existing driveway accesses, for example, restrict existing turning movements. There would be allowances with turning medians to allow the same motions to occur. So, our conclusion was, it wasn't appropriate for us to require additional dedication from the applicant when the existing right-of-way was sufficient to accommodate the improvement that is we need and the traffic demand.

Saltzman: Does that include bike trails?

Pierce: Was the ultimate section, the boulevard section would include ultimately bike lanes on each side, parking on the riverside, and basically one lane of traffic in each direction with additions of some additional lanes on the southbound side where the street approaches 17th avenue or 15th avenue and you need, you need some additional storage because when the main line trains are crossing the tracks there could be backup into front avenue for that southbound. So, you know, basically, one lane in each direction is adequate with some additional storage, and we found the existing right-of-way out there was sufficient to accommodate that, even moving the curblin 8 feet out into the street to create the wider sidewalk corridor.

Saltzman: Do any of our boulevard design or issues, I mean, I understand the level of service determinations but what about issues of trucks and bikes, generally don't mix?

Pierce: Well, actually, our findings are that there isn't -- there isn't --

Saltzman: Cars, as well to that.

Pierce: Yeah, right. But there isn't evidence that having a bike lane causes additional traffic conflicts, in fact it really confines them in an area where they should be, and a striped bike lane is more visible. And there isn't evidence that that's a problem.

Katz: And you feel confident in what you just told us without really knowing how dense the development is going to be and what kind of uses?

Pierce: Right, I understood your concerns about what are we going to do, and in their traffic analysis, they assumed a couple different scenarios. You know, one option was mostly residential and another option was a mix --

Katz: Mostly residential doesn't tell me how dense the residential is.

Pierce: I don't have the study in front of me, and perhaps --

Katz: But you are convinced --

Pierce: We are convinced that had the, the traffic that will be generated by that 15-acre site under the development scenarios likely here, there's adequate capacity in level of service at the intersections to, to accommodate both the development and the, the other industrial traffic and residential traffic in the area.

Katz: Okay. Further questions?

Hales: I will make a motion but before I do that, I want to preface it because I have very strong feelings about this project. But they are not because I think this is a good subdivision, with all due respect to the team. The property owner put together here, I think that it is a fairly uninspired and ordinary subdivision. But I think that we have to approve it. Kathryn said something almost in passing that may have been lost even on some of us, which is that this is a limited land use decision. That's not just a throw-away term, that's actually a technical term that matters a lot. Both as the president of the league of Oregon cities and as a member of this council, I have tried to maintain the authority of local governments to do what we are doing here today, and there are plenty of people in this state that would like to take that authority away or limit it further and that's exactly the bill at that created the land use decision said, you better do it according to the book when you are talking about regular land use decisions like subdivisions. We still have very broad authority to have long, even endless planning discussions about what a place should be. We can do

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that for as long as we want. We still have broad authority through development agreements and through what's left of our redevelopment agency to do public-private partnerships and craft great places. But when it comes right down to a subdivision, which is the division of a big piece of land into smaller pieces of land we have very narrow authority and the hearings officer in this case, although I think the council in many cases can exercise greater discretion, the hearings officer got it right, which is that this applicant followed the code and did at least the minimum. And in a limited land use decision that's all we get to require. We can't -- we can negotiate and as I said, I did something way out of character for me because I think that these land use decisions have to be done according to -- I actually met with the applicant and tried to negotiate a better project from our standpoint and I think that other members of the council tried, as well. And those kind of negotiations can go on between parties and including the neighborhood association right up until the time this hearing starts but when this hearing starts and it's a subdivision, it's a limited land use decision, and the question is, did they follow the code. And not did they build a great place, but did they follow the code. And we still have some discretion left in this particular project through design review because that still -- we still have very broad authority in the, in the review of the design of these buildings. And there are people in the legislature who would like to take that away from us, too. So, something that I felt very strongly about whole, strongly about is that we make these decisions substantively, not politically.

Katz: Before you make the motion, though, kathryn did say that we have a little bit flexibility on the design standards on lots and parcels.

Hales: That's right and when we get to design review applications for buildings on those lots and parcels, we will have a lot. But I don't have any grounds from the record to require a different shape to those lots and parcels. I have the city engineer saying that we shouldn't change the angle of 17th avenue. And I am for the going to, in this case, although as you know, I am happy to substitute my judgment for engineers sometimes, almost as happy as you are, mayor, this isn't one of them. Because as glenn said, the tradeoffs of what happens to pedestrians in an angled intersection are not pretty. So I can't go there. So although, you know, although it's a corner I am not happy to be painted into, again from a place-making standpoint I wish that we would either through the ports requirements when they decided to sell this property or through pdc's efforts through my own unsuccessful efforts to try to get more for the community out of this project than we have gotten. None of them worked. And now we are at the point of a subdivision. And I won't make the motion because I think that other people want to discuss this but I think that we have to simply approve it.

Saltzman: I guess I would be interested if that's the motion you are going to make, I am interested, I guess in a condition that would require the southern right-of-way, that they have underneath the fremont bridge to be brought up to greenway pass standards, similar to what they are doing on the northern part of their property.

Hales: You mean the one that runs along --

Saltzman: The right-of-way that they intend to use for pedestrian access and emergency vehicle access. Somehow be --

Hales: I don't know how we require it to bring it up to greenway standards when it is not in the greenway. Are you talking about the one perpendicular to the greenway, right?

Saltzman: Yeah. But its an access to greenway. It's their access to the greenway from 15th.

Hales: Okay. I think that I agree with you. I also think we are going to need to find a way to extend that greenway underneath the fremont bridge and that's partly my problem because my transportation agency is going to need to negotiate with odot and the property owner to go through

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the property that lies underneath the fremont bridge so there is actually a continuous greenway but that's --

Saltzman: The applicant owns that property, or will or does, but odot has an easement to it.

Hales: But I believe the requirement to do the greenway improvements would extend to the property line if we were able to get odot's agreement to allow them to do that. Jeff am I right on that? I haven't made a motion yet so let me ask that question. If the city and odot were to clear the way to allow you to do the greenway improvements right to the, the center line of the fremont bridge, the requirement that we have already imposed on you for greenway improvements would extend to that point, right? Your south property line, including whatever odot right-of-way lies on that south property?

*****: If you are going to come, going to talk, come on up.

Commiller: As far as I know, the conditions of approval would require the development of the greenway through that 20-foot easement to the south property-line.

Hales: Okay. That's what I meant. All right.

Katz: Let me ask, not of you but let me ask another question of the applicant. At some point are you willing to talk with us about a master plan for that entire area so that we can see what your plans are for it? At a later phase, not, not right now.

Bachrach: Can I give a qualified yes? As I have described the north end is an open opportunity, and a master plan may well prove to be the best way to get to a good use and design of the north end. It may turn out a zone change is necessary, and in that context you would have an opportunity, so I think that there will be additional land use reviews on the north end and the reason I am hesitating is your requirement, is very narrow and it may not give you what I think you would like to see as a more hands-on design process, more negotiated visioning process and I think that should and will happen on the north end and the point that I am cautioning you on is simply saying it shall be master planned, your language right now is pretty narrow so we could apply for the approval and never hit the issues you want. So again, I -- I think that there's likely to be more process on the north end and we are willing to work with you on language to make sure that happens.

Saltzman: I still need clarification on the 15th avenue access to the greenway trail. Continuation of the access trail to the greenway I am looking at -- note 19. Note 19, 20-foot wide bridge and footing easement paved and utilized as a pedestrian access corridor. I guess my question is, that does not -- I would like to have that be designed in accordance with greenway standards. You are saying that is your intent or you are saying that that is not?

Crommiller: Right now, it would be -- we're not proposing to pave that as a part of the subdivision application before you, but it is proposed to be paved and utilized for that use at the time of development. So i'm sure that when this lot comes in for development, that there wouldn't be any objection to that.

Saltzman: To greenway standards at the time of the development?

Crommiller: I wouldn't believe that there would be any objection.

Saltzman: So you would argue, I guess, or jeff would argue it's inappropriate to put such a condition on the land division?

Bachrach: I think that's not an unreasonable request, and you could simply give guidance to the design review. The hearings officer and staff crafted language on that, it's a greenway standard or some similar level of, so it's, it's a smart design that, that -- I don't want to try to write the language, but greenway standard is probably a good enough language because I think that it makes sense to

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make sure from a design standpoint, it connects to the design, the greenway, itself. So I think that that's reasonable.

Hales: We should incorporate that, then. I think all of us would like to see you do further master planning but we are loathed to attach that as a condition. Do you have any suggestions there?

Bachrach: One of the key pieces that was problematic with master planning is what to do in the north end. There is so many opportunities, so many ideas floating around, including will there be some level of public participation in terms of sdc credits or any kind of financial, if there's not, that's fine, but, I mean, that affects the opportunities there, and if the answer to that is no, and is going to be no, we can move forward knowing that, work with nonprofits and different people and try to come up with good ideas for the north end, which will likely produce -- I am hesitant to say it may produce a master plan, but it may be decided with the, the agreement of the city that no, you don't need to do a master plan, what you need to do is, is a zone change or is a legislative process that's supposed to be happening in this area to look at different heights, different fars, so there's likely to be a future land use process on the northern lots 10 and 12. I am just sure how to tell you legally exactly what will happen.

Francesconi: If you build a real dense development that justifies using sdc credits for a park we will do that, we may, but if it is not a dense development we are not going to do that.

Bachrach: We should have that discussion and by the way, the traffic study was based on 1,200 housing units, which includes most of that north end being housing, I think right now, and we are hesitant to throw numbers out, if you took away lots 10 and 12 and looked at them as something other than housing, it is likely to be 7, 800, 900, 1,000 housing units, something in that, I mean, that's just -- and again, if that's important for sdc credits and that's part of a negotiated process, there could be a commitment to a certain level of density but keep in mind the city deliberately minimized density on this site. There is some limits to density here so, again if, more density is the desire, that may not -- well, that may just require more discussion.

Katz: Those are development agreements we are talking about.

Bachrach: And we are willing to go there, again, if we haven't found the response from the city yet, but we are willing.

Katz: Not until we see what we are agreeing to, you are not going to see it.

*******:** We are willing to --

Hales: Not here, that's not here. Okay. I am ready to make a motion. I move we deny the appeals and uphold the hearings officer's decision. With the additional conditions, sorry, that the southern easement pedestrian easement be improved to greenway standards.

Katz: A tentative agreement?

Hales: That's right because we have got to come back with a different finding, you are right. So findings to come back later.

Saltzman: Second.

Katz: Okay. There was a request to keep the record open for seven days --

Beaumont: No. I think Ms. Callison asked to you indicate whether you were planning to allow the record to stay open or not. So, you made need to make that clear.

Katz: Yes. The council --

Hales: I'm not including that in my motion.

Katz: Roll call.

Francesconi: This actually is an extremely close case, one of the closest land use cases I have actually had, so the decision I am about to make is only on the basis of a preponderance of the evidence, which means 51%, 49% is on the other side. But because of the nature of 17th avenue

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being only kind of entry point here, I do think that the only legal grounds that we have, lots and parcels, 34.60.030 provides sufficient grounds for me to vote no on this. Having said that, I do think that the developer has done all they could to make this thing happen in a very difficult site. And we at the city really haven't helped him. Unrelated to my "no" vote, I am also asking we look at the issue of front avenue, separate from this proceeding. And how it relates to the rest of our city. No.

Hales: The opportunity is still here to do better in this project, and you just heard it, which is for the city to negotiate a development agreement with this property owner, that might include system development charge, credits for transportation for greater pedestrian improvements or whatever. Improve system credits from parks to do greater public amenities. And I want to strongly encourage and volunteer to continue to participate in those negotiations. That's political, and I am not using that as a pejorative term, at all. The legislature crafted a miracle in Oregon in which they said, make political decisions, however you want, take as long as you want, have as many public meetings and hearings as you want, craft whatever kind of place you want to craft. Make those political decisions and then make permit and land use decisions. Don't make political permit decisions. That's the deal. We have with the legislature, and I am very loathed to break it because if we start breaking it, they will start breaking our authority to create great places. Measure 7 and some of these other things are warnings there are limits to our discretion and to how long we take to make decision and is this is one of those cases so we have to do it according to the rules. Again, we have huge flexibility in writing the rules. We have huge opportunities to negotiate deals. That's not necessarily a bad word with property owners, like we negotiated in the rest of the river district. But, we have to do that outside of the legal process of a permit under clear and objective standards, which is what the legislature requires us to enforce, and that's what we are doing here. Aye.

Saltzman: I wish there were a way that I could vote to deny this based upon the impacts that it will have on industrial traffic on front avenue but I feel I can't because of three reasons. First of all, our -- there's no evidence in the record that indicates that. Even though we had testimony to that effect today. We have no evidence in the record. This is a decision based on the record. Secondly, it seems like since this application was submitted before we adopted the guiles lake industrial sanctuary plan. It's not bound by sort of the intent of city council. And thirdly, well, I guess I want to conclude by saying that I think that we have, by adopting boulevard concepts and things like that, we precluded the chance to address this issue from the outset. And I am frustrated by that. I think that we should address these issues and I hope that we will, we can go back and somehow figure out a way to reconcile the ultimate impact of a development such as what's going to be here at t-1 and the impact on the industrial sanctuary because I think there will be an impact and I think that we have to avoid the safety implications between passenger vehicles, trucks and bicycles and at this point, I would err on the side that we need to have truck access to this area. It's very important. Aye.

Sten: Agreeing those things can come up, I don't think that the appellants have met the way to overturn the hearings officer, it is not 100% zero. Whatever percentage but I don't think that, I think that there is a basis that you can get there, but I don't think that it's there. I think that the stronger argument in terms of what's in line with the code is the subdivision, so I am going to vote to approve the subdivision. I am really struggling on the bigger question of, you are appealing together but I can't quite reconcile nina's points of view and the other -- I am not saying you are contradicting each other but there is different themes going on I know that times are tough but I hope that we can find time out of the transportation bureau to do more thinking because I am

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concerned about what I see as some competing arguments that I think are going to -- and I am not 100% sure that we have got this transition zone figured out but I think that that gets more crucial as we get into the design review of this site. As opposed to the subdivision, so I think that we need to do more work on transportation. And I want to say that just, this doesn't have to do with the case, but as a personal comment, I didn't think that the port was smart to sell this in the way that they did. I thought the city should have auctioned it, if not bought it but I understand that we can't do everything so I did not take a public stand that we should have optioned it, so I am not going to criticize for people, but I think that we probably should have, and I think that this developer has stepped in, after a long series, and, you know, I think that it's a reasonable subdivision plan. I think a reasonable person can come to the conclusion that it's better not to extend 17th, which they did, but I think that this still does need some kind of public amenity in the middle of it. It is that big of a site, but on all the sides this big where there is a public amenity it is because the public did it, so I think that we, as the public need to find a way to put something into this that gives it that signature piece, and I think if we then built the design around it, whether that's through sdc's or some other mechanism, if we built the design around or through that public amenity, I think that we could get where we need to go and the subdivision plan will be fine. I think if it is a row of very large buildings that have decent design, it will lack what it ought to be but I think that the public has got to step up if we want a public amenity, and I hope that there is some way to explore that, as this goes forward. So for all those reasons I am voting aye but I think that this is just the beginning of what needs to be quite a bit more work. Although I am voting against you, I do appreciate the thinking that the three appellants in this case have brought to this. Aye.

Katz: I think that there is some discretion. It's very narrow, and it's regarding some of the greenway issues, the lots and parcels as described in 34.60.030. I am going to vote no, but let me -- this is going to pass, and I want all of you to understand the history of this, and I would have bruce, asked bruce to share it with you but it's outside of the record and I would like bruce to e-mail all of you the history of what happened on this property and why we are in the position that we're in today. I will take you quite frankly, if this isn't an exciting design and if this doesn't meet the vision that we have had in the pearl district and the river district, there will be no participation on the part of the city. Plain and simple. Not that we can -- we are in a very difficult position as it is. But I think that the developer and the architects owe us a far better product than bits and pieces that I have heard people talk about because right now, it is, it is nothing to be proud of. No. Thank you, everybody. We stand adjourned. --

*****: Wait, wait, we need to do two things. We need an extension of the 120-daytime limit from the applicant, and I would like to request an extension until march 28th and propose that we bring the findings back on march 14th if we have enough could you please members.

Katz: All right.

*****: If there is any additional --

Katz: Are you willing to?

*****: Yes, I am -- come back on the 14th or 28th?

*****: Come back on the 14th but have the extension through the 28th in case we need to carry it over for, as a result of council absences or some other reason. We have the latitude to do that without having to go through a bunch of machinations to get there.

*****: Let's go to the 14th and obviously, if there is not a quorum, I would agree to go to the 28th.

*****: So I hear the applicant agreed to an extension to and through march 14th?

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Katz: Let me tell that you i'm getting notices from offices about people not being here on very short notice. I can't tell you who is going to be here on the --

*******:** There's no quorum, I mean, that's -- certainly we would extend it, obviously.

Katz: The three of us will be here at least, do we know that for sure?

*******:** I will be here.

Katz: Okay. Well, at least the three of us will be here.

*******:** On the 14th, everybody is in so far.

Katz: Everybody will be here, so far.

*******:** So we have an extension to the 14th and bring it back on the 14th for findings.

Katz: Fine. We stand adjourned.

At 5:00 pm, Council adjourned.