



CITY OF  
**PORTLAND, OREGON**

OFFICIAL  
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **6TH DAY OF MARCH, 2002** AT 9:30 A.M.

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

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

Item No. 208 was pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

<p><b>*197 TIME CERTAIN: 9:30 AM</b> – Adjust FY 2001-02 Adopted Budget for Winter Budget Adjustments (Ordinance introduced by Mayor Katz) (Y-4)</p>	<p><b>Disposition:</b> <b>176298</b></p>
<p><b>198 TIME CERTAIN: 9:45 AM</b> – Amend City Code to include review of officer-involved shootings and deaths in police custody by the Independent Police Review Division (Ordinance introduced by Auditor Blackmer; amend Code Chapter 3.21)</p>	<p><b>PASSED TO SECOND READING MARCH 13, 2002 AT 9:30 AM</b></p>
<p><b>CONSENT AGENDA – NO DISCUSSION</b></p>	
<p><b>199</b> Approval of Springwater Corridor Contracts with Oregon Pacific Railroad Company (Report; Purchasing) (Y-4)</p>	<p><b>ADOPTED</b></p>
<p><b>Mayor Vera Katz</b></p>	
<p><b>200</b> Accept contract with Payne Construction, Inc. for Portland Police Mounted Patrol Unit Renovation project as complete, authorize final payment and release retainage (Report; Contract No. 33365) (Y-4)</p>	<p><b>ACCEPTED</b></p>
<p><b>201</b> Approve the appointment of Richard Fernandez to the Housing Authority of Portland Board of Commissioners for a five-year appointment to end February 25, 2007 (Resolution) (Y-4)</p>	<p><b>36057</b></p>

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<p><b>*202</b> Amend Intergovernmental Agreement with Multnomah and Lane Counties, the Cities of Eugene, Roseburg and Huntington, Canby Utility District and Rogue River Valley Irrigation District for the purpose of pursuing legal action to resolve issues to Public Employee Retirement System Board administration of accounts (Ordinance; amend Contract No. 51297)</p> <p>(Y-4)</p>	<p align="center"><b>176284</b></p>
<p><b>*203</b> Extend agreement with Lindsay, Hart, Neil &amp; Weigler (Ordinance; amend Agreement No. 33804)</p> <p>(Y-4)</p>	<p align="center"><b>176285</b></p>
<p><b>*204</b> Extend contract with the Salvation Army to allow the Police Bureau Oregon Police Corps program to continue using Camp Kuratli as a training facility until May 10, 2002 to accommodate a second academy in fiscal year 2001-2002 (Ordinance; amend Contract No. 33080)</p> <p>(Y-4)</p>	<p align="center"><b>176286</b></p>
<p><b>*205</b> Amend Intergovernmental Agreement with Portland Development Commission for the design and construction of the Portland Police Mounted Patrol Unit at the Centennial Mills site (Ordinance; amend Contract No. 51496)</p> <p>(Y-4)</p>	<p align="center"><b>176287</b></p>
<p><b>*206</b> Authorize limited tax revenue bonds for the various public projects (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>176288</b></p>
<p align="center"><b>Commissioner Jim Francesconi</b></p>	
<p><b>*207</b> Repurchase property at 4841 SE Tenino Court for park and recreation purposes (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>176289</b></p>
<p><b>*208</b> Apply for a grant from the U.S. Fish and Wildlife Service and Metro Parks and Greenspaces in the amount of \$40,000 for Powell Butte Wildlife Habitat Improvement, Conservation, and Revegetation Project (Ordinance)</p> <p><b>Motion to refer this back to Commissioner Francesconi's office:</b> Moved by Commissioner Francesconi and seconded by Commissioner Saltzman.</p>	<p align="center"><b>FILE FOR NO FURTHER CONSIDERATION</b></p>
<p><b>*209</b> Amend contract with Winterowd Planning Services, Inc. for the preparation of a master plan update for the Portland International Raceway (Ordinance; amend Contract No. 33292)</p> <p>(Y-4)</p>	<p align="center"><b>176290</b></p>
<p align="center"><b>Commissioner Charlie Hales</b></p>	
<p><b>*210</b> Authorize a revocable permit to Paddy's Bar and Grill to close SW Yamhill between Naito Parkway and 1st Avenue on March 16 to March 18, 2002 (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>176291</b></p>

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<p><b>*211</b> Authorize a contract and provide for payment for construction of the SE Foster Rd./SE 162nd Intersection Improvement Project (Ordinance) (Y-4)</p>	<p align="center"><b>176292</b></p>
<p align="center"><b>Commissioner Dan Saltzman</b></p>	
<p><b>*212</b> Authorize up to four grant applications for the Five Star Restoration Challenge Grants in the amount of up to \$20,000 each for revegetation activities (Ordinance) (Y-4)</p>	<p align="center"><b>176293</b></p>
<p><b>*213</b> Amend Ordinance for an Intergovernmental Agreement with Multnomah County and accept the amount of \$30,000 for FY 2001-2002 to support the delivery of community services by North Portland Neighborhood Services for the Latino Network of Multnomah County (Ordinance; amend Ordinance No. 176248) (Y-4)</p>	<p align="center"><b>176294</b></p>
<p><b>*214</b> Contract with Central Northeast Neighbors district coalition for the operation of bulky waste cleanups for the period July 1, 2001 through June 30, 2002 (Ordinance) (Y-4)</p>	<p align="center"><b>176295</b></p>
<p align="center"><b>Commissioner Erik Sten</b></p>	
<p><b>215</b> Accept the post project evaluation of the Headworks Improvement Project Construction Management/General Contractor project management process (Report; Contract No. 32472) (Y-4)</p>	<p align="center"><b>ACCEPTED</b></p>
<p><b>*216</b> Contract with Central City Concern for \$100,000 for their Building Services expansion project and provide for payment (Ordinance) (Y-4)</p>	<p align="center"><b>176296</b></p>
<p align="center"><b>City Auditor Gary Blackmer</b></p>	
<p><b>*217</b> Assess property for system development charge contracts (Ordinance; Z0737, T0059, K0044, K0045, T0060) (Y-4)</p>	<p align="center"><b>176297</b></p>
<p align="center"><b>REGULAR AGENDA</b></p> <p align="center"><b>Mayor Vera Katz</b></p>	

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<p><b>*218</b> Authorize a contract with NWP &amp; Associates, Inc. for Integrated Regional Network Enterprise project management and implementation (Ordinance) (Y-4)</p>	<p align="center"><b>176299</b></p>
<p><b>*219</b> Authorize contract with the Dully Company for consulting services to evaluate alternative public uses for the Memorial Coliseum (Ordinance) (Y-4)</p>	<p align="center"><b>176300</b></p>
<p><b>*220</b> Accept an Intergovernmental Agreement with Oregon Liquor Control Commission and the Portland Police Bureau to provide access to the Portland Police Data System (Ordinance) (Y-4)</p>	<p align="center"><b>176301</b></p>
<p><b>221</b> Authorize implementation of Human Resources Administrative Rules, repeal the Personnel Rules, repeal existing Human Resources Policy Resolutions and Ordinances, and amend the City Code to reflect changes (Second Reading Agenda 191; amend Code Section 3.15.050, repeal Chapters 3.57, 3.58, Title 4 and Section 5.08.100, add Chapter 5.09; repeal Resolution Nos. 35757 and 34849 and Ordinance Nos. 171144, 172881, 172880, 173221 and 173145; and amend Ordinance No. 166997) (Y-4)</p>	<p align="center"><b>176302</b> AS AMENDED</p>
<p align="center"><b>Commissioner Erik Sten</b></p>	
<p><b>222</b> Grant a franchise to Lewis and Clark College for a period of ten years (Ordinance)</p>	<p align="center"><b>PASSED TO SECOND READING APRIL 10, 2002 AT 9:30 AM</b></p>

At 11:44 a.m., Council recessed.

**MARCH 6, 2002**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 6TH DAY OF MARCH, 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; Frank Hudson, Deputy City Attorney; and Officer Michael Frome, Sergeant at Arms.

<p><b>*223 TIME CERTAIN: 2:00 PM</b> – Amend the Comprehensive Plan Map and change the zone of property at NE Sandy Boulevard and NE 165<sup>th</sup> Avenue from R7, Single-Family Dwelling Residential to R2, Multi-Dwelling Residential (Hearing; Ordinance; LUR 01-00575 CP ZC)</p> <p><b>Motion to overturn the Hearings Officer’s decision:</b> Moved by Commissioner Sten and seconded by Mayor Katz after turning over the gavel. (Y-2; N-2, Francesconi, Saltzman, motion fails)</p> <p><b>Motion to approve the Hearings Officer’s decision with the conditions the proposal undergo design review and the structures built on lot "d" meet the airport noise insulation standards in the City Code:</b> Moved by Commissioner Saltzman and seconded by Commissioner Francesconi. (Y-2; N-2, Sten, Katz, motion fails)</p>	<p><b>Disposition:</b></p> <p><b>CONTINUED TO MARCH 20, 2002 AT 11:00 AM TIME CERTAIN</b></p>
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At 4:09 p.m., Council recessed.

**MARCH 7, 2002**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **7TH DAY OF MARCH, 2002** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, and Saltzman, 3.

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

<p><b>224</b>    <b>TIME CERTAIN: 2:00 PM</b> - Amend the Zoning Code to update regulations that protect Portland's historic resources (Ordinance; amend Title 33)</p>	<p><b>Disposition:</b> <b>CONTINUED TO</b> <b>APRIL 17, 2002</b> <b>AT 6:00 PM</b> <b>TIME CERTAIN</b></p>
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At 3:33 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.

**MARCH 6, 2002 9:30AM**

**Katz:** Good morning, everybody, the council will come to order, please call the roll.

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

**Katz:** Present. Commissioner Hales is on vacation. All right. Consent agenda items. There is one item to be pulled, 208. Any other items to be pulled? All right. Let's take a vote on the consent agenda.

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

**Katz:** Mayor votes aye. 208.

**Item 208.**

**Katz:** Commissioner Francesconi.

**Francesconi:** Did I pull this?

**Katz:** You want it referred back to your office?

**Francesconi:** Oh, I didn't know that. But thank you. [ laughter ]

**Francesconi:** I was too involved on police issues. [ laughter ]

**Francesconi:** I am just kidding. That was a joke. [ laughter ]

**Katz:** All right. There's a motion to refer this back to commissioner Francesconi's office. Do I hear a second?

**Saltzman:** Second.

**Katz:** Any objections hearing none, so ordered. Time certain, 9:30.

**Item 197.**

**Mark Murray, Bureau of Financial Planning:** Good morning, mark murray from the bureau of financial planning. Larry will talk generally about the changes and then I will follow up with a brief discussion on the cover memo, which addressed some of the year end expenditure concerns.

**Larry Nelson, Bureau of Financial Planning:** For the record, I am larry nelson with the bureau of finance and planning. The winter budget monitor report is primary a technical adjustment, budget which bureaus adjust current budgets for changes in program activity during the current fiscal year.

Primarily within the winter bump, the overhead charges are adjusted to reflect actual activity incurred by the bureaus during the previous fiscal year, and as a result of this year, overhead recovery within the gem fund will go down about \$800,000. And this is largely due to the asr efforts from last year, and the balance, of course, is the general fund contingency so, our general fund contingency went down by that amount. Other transactions, including general fund continues to include \$100,000 transfer to the transportation fund in support of utility costs for the streetlighting program. As a result of all these transactions, our general opportunity balance for the remainder this far fiscal year is approximately \$468,000. A total of about \$3 million is transferred between programs within the winter bump. Of course, \$600,000 is contained within the general fund. Some of the more significant transactions in the winter bump include the following -- police is recognizing about \$500,000 in real-light camera revenues from the office of transportation. The planning bureau is reducing program revenues by \$500,000 to reflect and reduce intergovernmental agreement with pdc for the urban renewal planning program. As a result of the shallow --

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**Katz:** That's all right.

**Nelson:** Transportation is appropriating about \$2.4 million from contingency for various capital projects and lastly, the bureau of environmental services is transferring about \$916,000 to communication services in support of the bes fiber optic project. Other technical adjustments included in this winter bump are contained within the pension bond obligation fund, which is reducing cash transfers to various funds and bureaus as a result of lower than expected interest costs on a variable rate pension bonds, so this has as a resulted in savings for other funds with reduce cash transfers and the pension obligation fund has, as a result, had to reduce their pension debt service to balance. Also included within the submission of the winter bump is the minor supplemental budget, which totals \$400,000 this year. There's really only two to note, within one is contained within the sewer operating fund, which is recognizing additional revenue from bhcd ask the golf fund in support of the brownsfield and inherent iraqi revegetation projects, and lastly the spectator facilities fund is recognizing additional interest earnings from debt proceeds. And that's basically it.

**Katz:** Thank you.

**Murray:** Are there any questions on the technical aspects at this time?

**Katz:** Do you want to just address a little bit, mark, on the policy, the larger policy issues?

**Murray:** Yes. Now, we used the memo and the bump process to inform council of financial issues and concerns in addition to the technical aspects of changes that have been requested by the bureau and is recommended by bfp. Given the financial condition of the general fund, this particular year, which began in august with the first mispayment by qwest, bfp has been closely monitoring the expenditure rates and working with the bureau to insure that we stay within our means. Now, you will recall the council reduced the general fund budget by a little over \$4.1 million in the fall bump and since that time, we forecasted further revenue deterioration and continued expenditure momentum. On february 7th, in the midst of analyzing the expenditures to winter bump requests, updating revenue and expenditure projections, the general fund bureaus received direction to lower expenditures for this fiscal year, an additional \$3.0 million. The bureaus are supposed to report to bfp by february 28th and how this would be accomplished. I have received a written notification from six bureaus. Of course, our main concerns are the big three. Fire, parks, and police. Fire has responded and is apparently controlling their cost. They responded in writing and have told us what they are doing, so we hope that will be all right. Police has responded with specific action items that total over \$2.7 million in reductions. They continue to work with the bureau of financial planning and their commissioner in charge on addressing the remaining forecasted deficit. The parks was also taken steps to reduce their obligation for this year, and there are representatives from those bureaus if you wish to discuss them in detail, but at this point, we continue to monitor them. We are, of course, concerned, have we done enough. Will the revenues deteriorate further. Will the controls at the bureaus put in place realize the savings that are necessary and we won't know for sure until year end, but we will continue to monitor, work with the bureaus, and the bottom line here is the risk to overspending in the general fund as a whole. Financial planning is continuous to work -- continue to say work to insure that does not happen. There are some year end action that is we may have to take if forced into it, but we will bring those forward to you at that time. That would be in the spring bump. Our concern this is if the bureaus do not meet targets, we may have to recommend that those bureaus do have to reduce their budgets in the following year, and that would be after discussion with you all if we do that or not. That would be in the fall bump for the following year. This may be necessary because if we spend too much this year, the year end balance is lower than is what is in the forecast, which means the beginning balance for next year is lower than is what is in the forecast, which means that we would have to lower expenditures to make sure we live within our means next year. That's a quick summary of what we are up against,



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and the fact that we do believe we are -- we have instituted the controls with the bureaus driving this to insure that we are safe at year end. The questions or concerns from council?

**Katz:** Let me just add on the police bureau, what we are doing now is taking the reductions, some of the reductions that have been presented to us for the following year, for 2002-2003, and moving those forward. So that we not only capture those reductions earlier, but they also then transfer to reductions for the following year, as well, so that hopefully, we can accomplish two tasks at the same time. But, I have to be very honest with you, we are not quite there yet and may have to wait until we experience attrition with police officers.

**Francesconi:** And if I could just comment on behalf of fire and parks, it's a similar approach that we are taking there. On fire, we are delaying staffing of stations, and delaying some of the implementations of the cut that you will see in the next budget cycle. I think that that's going to be okay. On parks, we are doing the same thing in terms of some staffing delays, but then we have the energy costs issue. There is still some disagreements between the bureau, and I am not talking about water now, the water bureau has been very helpful in helping us reduce our water costs but there has been some differences in the utility costs and I don't think that we are quite yet on the same page, and, but we are working there, and that's -- so that issue is not yet resolved. I don't know that we need to get into it right now. The council wants to get to.

**Katz:** All right.

**Saltzman:** So, um, bureaus projected at this point in time to overspend their appropriated budget, in the past, that's been made up through reductions of your end balance and contingency, is that an accurate at the same time?

**Murray:** It hasn't happened in the past.

**Saltzman:** It hasn't happened in the past. This is the first time?

**Murray:** Since I have been here, commissioner. Last year the police bureau underspent by an extremely small amount in the general fund discretion.

**Katz:** Previous years return millions of dollars back to the gem fund.

**Murray:** It hasn't been an issue in the past but with the reduced revenues this year, we wanted to make sure that we met what is in next year's forecast for the beginning balance, which is 5.3 million, and in order to do that, we needed to drop, we, our figure showed another \$3 million from the 4.1, so you might say that the bureau, most of the bureaus were not really overspending but we needed to reduce reductions further --

**Saltzman:** For make sure we don't end up in a situation.

**Murray:** That's correct.

**Saltzman:** And if you do end up in the situation, you said that you will reduce the, that bureau's budget in the next fiscal year by a corresponding amount?

**Murray:** We may recommend that you do that. That would be your decision and an important policy decision, but we will take others --

**Saltzman:** And if he didn't go with that decision --

**Murray:** We will make sure that there is no over expenditure in the general fund this year.

**Saltzman:** Right, but if we didn't do it that way, we would be taking from our beginning balance, or contingency, is that correct?

**Murray:** Um, that would -- that might be one of the approaches, that's correct. Or for those bureau that is do overspend, you spread the risk across everybody, policy decisions for you or do you just focus on those bureaus that seem to have a problem.

**Saltzman:** And when would that policy decision come before us, in what manner?

**Murray:** Well, we won't know for sure until after year end, so about period 13-1, where we are beginning to run through year end final figures, so it would be in the fall, probably late summer.

**Saltzman:** Would it come to us in a bump or explicitly for a decision for us to make?

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**Murray:** We would incorporate it into a bump, so the actual action would take place probably about october of next year, if it is necessary.

**Saltzman:** One other question to switch gears on your response to the budget notes appreciate the response, first of all, the update on the budget notes. But, the one I wanted to ask about was the, the request that, the idea of a centralized collection office, revenue office for all basic city billing functions. That was in the budget note. You are supposed to look at it. You are looking at it right now, I guess. And you are saying that you will report to us in mid april, mid june and mid september with the final report and mid december, is that -- are we on track?

**Murray:** That's what we were told, commissioner. I am concerned about that particular one, given all of the other competing priorities during the budget process right now, but I will check back with them to make sure that that's correct and get it updated for you.

**Saltzman:** You were told this by -- somebody in another part of lmf told you this was the schedule and you are saying that you are not sure it's correct?

**Murray:** Given what we have heard in the last couple of weeks about other items that we are studying for you in the budget process, it is one more item, so I want to make sure that the dates are realistic, but certainly, it is being discussed during the budget process where we have a final proposal by the time the mayor's proceeds budget goes out, I don't know. That date of april, we will just have to check it.

**Saltzman:** Well, that wasn't for a final report. The final report was like december, but this is just like the first kind of update? You can confirm?

**Murray:** I personally haven't seen anything yet, so that's why I am redescent to say it will be ready to go on april.

**Saltzman:** Can you check on that?

**\*\*\*\*\*:** Absolutely.

**Saltzman:** Okay. Thanks.

**Katz:** Could you give me a copy of the budget note update? Thanks. All right. Further questions?

**Murray:** Thank you for your time.

**Katz:** All right. Anybody in the audience wanting to testify? Roll call.

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

**Katz:** Just want to remind everybody that we need to keep a close eye on the expenditure and even sometimes go beyond the responsibility for your own bureaus, so as a family, we are able to balance without tapping the contingency or the ending balance that really gets transferred to be a beginning balance. It's going to be difficult and we will have a conversation a little later on about why it's going to be difficult, but we are working hard to make sure that, that that happens. Aye. All right.  
198.

**Item 198.**

**Katz:** Gary and --

**Gary Blackmer, Portland City Auditor:** I will start. Gary blackmer, Portland city auditor, about six months ago I presented to you code to develop the independent police review. You asked me to develop a proposal for reviewing officer-involved shootings and deaths in custody. When I made my presentation to you last year, I explained that that system that I had developed had a tool for every kind of problem, except officer involved shootings and deaths in custody. At that time, I also expressed my strong concerns about reviewing these kinds of tragedies with ipr. Nonetheless, council asked me to come forward with a proposal and gave me some time to work with the director to be, who I had not hired at that point. With the assistance of richard rosenthal, the director of ipr, we studied the council hearings regarding that topic and we looked at the research out there and looked at what other jurisdictions had done. We also examined the relevant procedures of the

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bureau and other jurisdictions. What I am proposing to you is that we annually hire an expert consultant to focus on the policy aspects of these tragedies. The consultant will develop recommendations to help prevent future occurrence and insure quality recommendations. In the first year, we would ask the expert review three to five years of closed cases focusing on policy, not on officer actions. Then on an annual base after that, we will hire a consultant to conduct the same type of review of those cases that closed in the preceding year. To reduce future costs, we would like to ask that expert in the first year to suggest the kinds of data and information we can gather during the year to provide to future experts. Ipr staff can then gather the statistics rather than paying a consultant to perform that task. I favor this proposal for several reasons. An expert brings an objective professional eye to Portland police bureau practices and procedures. An expert brings strategies from other jurisdictions that succeeded in reducing these types of incidents. An expert will be reviewing multiple closed cases to better identify patterns among those cases, that can be affected by changes in policy. An expert brings credibility to the policy recommendations. And finally, neither my staff number the citizen review committee are in a position to successfully review the use of deadly force or deaths in custody. I would have the citizen review committee involved in a number of ways. I would ask the director of ipr to administer the process, but would include several members of the committee to assist in writing the specifications for the bid to hire the consultant, to participate in the committee selecting the consultant, evaluating the consultant at the conclusion of the contract, and monitoring the recommendations that made by the consultant to insure that the bureau follows through. We would also involve the entire citizen review committee in discussing issues with the consultant at the beginning of the contract engagement and get briefed at the end. I would also encourage council to consider that first multiyear perspective of having a joint meeting with the citizen review committee to get a briefing from the consultant on that. I presented this proposal to the policy work group, the citizen review committee, as well as to the entire committee. The members all expressed support for this proposal. In addition, a majority of the committee is bringing an amendment to you providing an additional review by members of the committee of closed cases. They believe that citizens should also have the opportunity to review closed investigations. I see significant problems, if council approves an additional review by members of the citizen review committee. I have explained my position to the committee and listened to their position. For a number of reasons, I disagree. First, I think that reviewing shooting incidents will require a very different set of procedures than reviewing complaints about administrative actions by the police. I think it will also be very difficult to develop policy recommendations one case at the time. I think it will be difficult to develop meaningful policy recommendations without the expertise we could bring in from outside. I then emphasized to them that it's not just identifying a problem. It's identifying a solution. I think, also, that the work to review each of these cases will consume a large amount of their time, and I think that it will conflict with the other important tasks that you have assigned them, hearing appeals, developing policy recommendations on administrative issues, performing outreach and a variety of other things that we have only started working on. The reviews could the citizens who are involved and the city to additional legal risks. Current, we have six levels of review of these cases, and the citizens would be the 7th and the expert would be the 8th. I think these reviews could jeopardize our working relationship with the police bureau and the police officers. I think it's a risk that we would encounter if we are looking at individual cases and delving into the particular aspects of an officer's actions, and I think that that poses a large risk, not only the relationship between the citizen review committee and the police bureau, but my office and the citizen review committee. The work exceeds the scope of duties set forth by council. I returned my earlier statement that our system isn't the right tool for reviewing officer-involved shootings. I guess finally, I think this is too much too soon. We are still busy developing procedures and work products and if we start looking at

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these cases as they close, it will overwhelm our ability to complete the development of this proposal that we put before council. I encourage you to accept the language on -- I am proposing. Not only do I think it's the best strategy, it's a strategy I am willing to oversee and insure success. If you approve, we will immediately begin drafting the request for proposal. We will distribute it through the national organizations on police oversight. We estimate that the first year costs, because we want to do three to five years of incidence, could cost about \$50,000. The auditor's office can put some of the money into that, and we are seeking other sources, such as the risk fund. In future years, the police bureau has expressed a willingness to cover majority of the costs, which should be in the range of about \$10,000 a year. After any questions that you have, I have chief kroeker here to speak, robert king from the Portland police association, and denise from the citizen review committee will present their perspective on this.

**Katz:** Okay. Come on up.

**\*\*\*\*\*:** Good morning, mayor Katz.

**Katz:** Good morning.

**\*\*\*\*\*:** Commissioners. I have --

**Katz:** Identify yourself.

**Mark Kroeker, Chief of Police:** I am mark kroeker, chief of police of Portland, and I have looked very carefully at the proposal that you have before you for the review of officer-involved shootings and in custody deaths, and conclude that it is a good and very wise approach to the review over these incidents. While we, in the police bureau, carefully look at every shooting, and we look at those in terms of holding the officers actions up to both the law and the policy and the tactical expectations of police officers out on the street, as well as their communication skills and responding to these moments, our approach is principally in the issue of, did they, did they comport to the policy and the law? And while we do look at these in terms of policy adaptations and shifts in the way that we go about our work, for example, in the past shooting, you have a report that delineates a long list of things and adaptations that we committed to make. Nevertheless, our review is around a shooting at a time, basically, over a period of times we, culture and harvest from these moments, those kinds of things, I hope that will make the organization better. However, to have an independent look at the shootings and the longitudinal way, over a period of time, and these in custody deaths would insist -- assist us, I believe, and the way that would happen is first of all, it provides for us a, an overarching approach, in other words, our focus on each shooting now takes the greater perspective, and we open up our eyes over a period of time where after a year may pass, we may, we may move on and then institutionally, the lessons that are learned are not, are not reminded in our history and we need to have a good reminder as to what should we have picked up three years ago, perhaps that we missed, and any adaptations in our policy that we should make, and so I believe what we have here is something that is longitudinal and overarching and that's an effective process. Secondly, it provides for us a fresh set eyes that come to this problem. In our experience, in our experience and mind over many years of police work, I apply the best of what I have in terms of reviewing the shootings, looking at them, and holding the officer's actions very carefully to our policy and the tactics that we teach and the expectations that we have, having to do with the law. However, it would be helpful to have someone who, as the auditor used the term, an expert. Someone who has a, the big picture in terms of a national perspective, and to have that person look at these would be helpful to us, I believe, and establish in matrix fashion from a wide range of experiences those things that are available for us to consider that we, in our police work, in Portland, may overlook. Finally, I believe that this process will bring to us a community and police dialogue, which will be healthy. As we focus on individual shootings, the dialogue that emerges out of that is also focused, and then so to approach this in a way that brings us systemic approach to our discussion with the community would be helpful so that as we bring the community in on the

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incidents and explain what it is that we did and why we did it and this expert perspective says, for example, that there should be some shifts in policy, or in technology or intactical approaches or communication skills that are needed, all these things that could change, this can be opened to a broader range of community discussion, rather than the initial discussion, which sometimes is hindered because of the implications of the civil action that's possibly involved, the implications that come to us from the contractual obligations with the union, and those implications having to do with care and concern for the police officers involved, and their status and their well being, and so in this approach that has been suggested and that you have before you, we have something, I think, that can meet all those objectives, that can be helpful for the organization and for the community, and in the end, we can make an improvement in this area that brings police officers into a very critical moment where they, as well as community people, have to live for many years with the consequences of decisions that are made. These are very critical decisions, and to give assistance, who are police officers, in terms of shifting the policy to be of help to them and to preserve the well being of people in our community, this can only be good, so I think that it's a policy, rather, a procedural approach that is well thought out, and I hardly endorse it.

**Katz:** Thank you. Questions?

**Francesconi:** Chief, just a couple of questions. Maybe just reaffirming something that we talked about a lot, so there's a need to strengthen this, the independent police review process, and that's why we did what we did, in order to get citizens to look. There's a lot that we can learn from citizens on individual cases, but ultimately the responsibility for police discipline and review rests with you, right?

**\*\*\*\*\*:** That's right.

**Francesconi:** I mean, the main, the people that we, the council, the mayor and the council hold responsible on discipline issues is really has to be the police chief, and that's the way you want it because that's how you can best influence the behavior of the officers.

**Kroeker:** Yes.

**Francesconi:** Okay. Now, is there anything -- there's a perception by some that there's an increase in police shootings. Is that perception accurate? And then, can you tell us kind of why that's either happening or why there's a perception -- why it's not happening, I guess?

**Kroeker:** When we look at a longer range of our shootings, I can tell you that it is, it is important to look at whether there are increases or decreases, and we have that information. We can, we can produce it over the last three years, very definitively. We have to look at it. There's not a sudden spike or an increase that I can see in uses of force and officer-involved shootings. These come upon a moment very spontaneously, and violence arrives at a moment just out of nowhere, sometimes, and there it is. And so you have, you have a, yes, you do have a tracking of, over a period of time, but it focus on a, a period of months where you might have two or three just all in a sudden flurry, it would seem, and to consider that that, that that flurry indicates that there is an increase over time, I think is a bad assumption. Because you have these moments -- the question is, if there is an increase, are those in policy? Are they proper? Do the officers perform appropriately and is there a longer range approach, and that's why in looking at this over 2 to 5 years, we will see in tracking in a longer sense, whether over a period of time the numbers have -- are showing a shift in the levels of violence, and are we tracking the, the levels of aggravated crimes that are out there, in other words, the moments where people are involved in committing person crimes and police officers respond, they end up in that confrontation and violence, sometimes, take place, and are those two tracking each other so, there's a lot of -- there's a lot of looking that can be done if a personal comes with those fresh eyes to the problem.

**Francesconi:** Well, and hopefully with the benefit of this expert opinion and then the comments of our independent police reviewers maybe we can learn some things, looking retrospectively, but

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because of the tragedy to the victims, to the families of the victims, and to the officers involved, I know that you don't want to wait for any reports of any outside people. Is there anything that you have identified in terms of our training that we can do to lessen the odds of this happening?

**Kroeker:** There are some things. I mean, I could go into probably a lengthier discussion than you would want right here, but when it comes, for example, to the world of mental health, I have asserted many times that our police officers have encounters with people who are mental health care patients, and they should not be on the street. They should be provided the mental help that they can -- that they need, and we have these confrontations, sometimes violent, of a person acting out in a way that, that leaves an officer no alternatives, so the whole mental health care, let's say, you know, disintegration of services based on the funding that has taken place over a period of time has put people in the street that should not be there, secondly, when it comes to the, implication of drugs in our society, the, the issue of people acting out as a result of the drug induced psychoses that come to them, they put people in a violent state, and we know that. So, we see that as things that we should look at in a systemic way. Internally, of course, yes, we look at a situation. We ask ours what about the technology? Should we have better tools for our officers so they can have different options at their disposal in their tool kit of uses of force, they escalate through the various levels of force. Should they -- should we have a policy that, that is more restrictive or more open so that the officers can, can operate within that? We ask this question, for example, in the, in the moot shooting, what about our policy in cases like that. That is a shooting that, this whole issue of mental health became very widely discussed. And I am happy to report to you that local public safety coordinating council in its next meeting is going to be discussing specifically the whole world of mental health and the implications in public safety and how that comes to a head. And are we really providing for a way for our police officers to take people who are patients and put them directly in the care of mental health providers. These are just some of the questions that I could -- I could go on --

**Francesconi:** That's fine.

**Katz:** Gary, did you want to respond?

**Blackmer:** I did want to add something. The questions you are raising, commissioner, are ones that I think, having an expert come in and talk to, to talk to you about in terms of the results of the research, would be most helpful because we really are trying to get an understanding of the relative frequency of these incidents, and also relative to national other departments around the country and seeing where the best practices are and trying to match up to those. So, those are the kinds of issues where, I think, we can really focus on strategies for solution, and again, I think that it's important to have the citizens engaged in the follow-through on it, but formulating the strategies for solution really, I think, becomes a management issue, and that's where the experience and the insights and the knowledge come to play the most. I think -- I talked last spring about the concerns I have of formulating policy, one case at a time, and that there's -- there's some real risks in doing that, which again, doing this in a, in a methodical basis with a group of cases, I think, allows us to focus at the policy level, which council was strongly enforcing, or feeling like we ought to focus on.

**Francesconi:** So just following you will on that one or two questions. So, would the expert report to this citizen panel and would the citizen panel have the ability to ask the expert to do more work or to come back with more specifics on things, based on the cases reviewed?

**Blackmer:** Well, I would hope that the rfp, the contract that ultimately this expert agreed to would have anticipated all those, but there certainly would be an opportunity to probe with additional questions to understand the basis for recommends or what the expert saw or didn't see in the review of those cases. So, you know, it depends on how much money we have got, if we want to keep sending the expert back or we flag it as an issue to, to look at in more detail in the following year.

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**Francesconi:** Okay. My last, maybe point. Your idea of a joint session, then, with the citizen reviewers and the council, I think, is a good idea. I think the idea of expanding it to a public meeting where citizens can learn from the expert and from others might be a good opportunity, and so consider a regular public reporting at which we invite our citizens to have a debate and a discussion about this. Is something that could be worthwhile.

**Katz:** That -- we have been through that, and that's fine, but you have to come to --

**Francesconi:** I have been there --

**Katz:** But you have got to come and stay until the very end. [ laughter ]

**Francesconi:** But, if you had it a little more structured with some questions and have the work done ahead of time as the issues that need to be discussed and do it in a little more systemic way.

**Katz:** Thank you.

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

**Katz:** Robert? I didn't see Denise, is she here? There you are.

**Robert King, President, Portland Police Association:** Good morning, I am Robert King, the president of the Portland Police Association. And here to talk just a little bit today about the proposed ordinance. We really weren't going to weigh in opposition to or in support of the ordinance that included in our review of deadly force by an expert. I am here today largely to say that I don't think the citizens' review committee should be a part of that review process. That, and I believe that because hire an expert to come in and look back at police involved shootings, I am confident about what the expert is going to find. I know that the work that's done by officers in the use of deadly force is legally and morally justified as appropriate, a tactically sound, and our experts within the police bureau, officers, working officers on the streets, those, the sergeants, people in our tactical teams, those are the experts that we have relied upon to do the bureau review to look at what we have done, make changes and improvements along the way. We have done that. So, I am confident about what this expert is going to find. The citizen's review committee, however their involvement and review of what the expert finds is a concern to my officers, and it's a concern to officers because there's a delicate balance that exists in providing public safety. The point of service out in the community where officers are in contact with citizens and in cases where there's violence or potential danger is -- there is a delicate balance there that has to do with officer and citizen safety, and the officers in the city right now that are managing and negotiating that balance and providing for the safety of citizens in Portland, the reviews -- there are reviews that are already in place. There is substantial reviews. It is an extensive review process where there is an investigation. Where there is a grand jury proceeding. Where there is an internal bureau review. Where there is state and federal review. One of the things that's happened over the years is that our officers have been -- they have participated and cooperated fully, both in the investigative process and in the grand jury testimony process because the actions that they took were right and were good and were necessary under those circumstances. There's a recent case that comes to mind. One at 31 southeast Powell where officers had to use deadly force to stop a man from seriously injuring or killing a baby. So, that delicate balance is one that I want you, as council, to be sensitive to and aware of, and that -- and aware of, and I know that we have done work, the police association has done work with the auditor's office, with Richard Rosenthal be with the citizen's review committee to get a review process in place that meets the concerns of citizens about alleged officer misconduct. We have been working on that for these last months, but I guess finally, the inclusion of the citizens and the review of the experts, outcome or the experts' report is a concern to officers because they simply don't have the experience or the expertise to be able to evaluate their, the actions of officers and the policy implications. That that really ought to be left truly to the expert, whoever that person is, and to the experts in the police bureau, and that's what, I guess, I am here largely to say.

**Katz:** Thank you, Robert. Questions?

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**Francesconi:** Well, I guess I have one question, and it's the same question I asked the police chief. I think you know from personal experience and on behalf of your members the trauma involved to officers, as well as the public, so you want to lessen police shootings as much as possible. Is there - - but you -- I am not -- what can be done -- is there anything that can be done in terms of officer training? To lessen the odds? Of a police-involved shooting?

**King:** I guess the initial struggle that I have in responding to that is, well, the first response is that police officers in Portland don't want to use deadly force in their encounters with citizens, period. That they are in a world that's -- that isn't one that they control, and that they are at times called upon to do that, and when they do it, they do it with the law and the policy. So to answer the question, what can we do to reduce the ones -- at least as I have perceived the question or I am thinking about it, that we have been involved in the use of deadly force in cases where there could have been prevention, that -- that's difficult for us because we think --

**Francesconi:** In some future case, I mean, the question does presume that there might be something in terms of training that could help lessen the odds. You could say that your answer could be no, there isn't anything.

**King:** I guess what we are open to and what we will -- what we will participate in is the auditor's efforts to employ the expert and to conduct the review. And that we think that through the work that the expert does that maybe they could arrive at recommendations on policy. We will be very interested to see those recommends on policy or potential training, and we will have -- we won't be able to evaluate whether we think that those changes are ones that could prevent shootings in the future or not until we see them. But, at this point, we would be open to that. What we would not be open to, though, is to have a group of citizens who have no experience in the use of deadly force. I have used deadly force as a police officer in Portland. There are many of my members who have used deadly force in the performance of their duties as police officers in Portland. And it's a serious matter to us. It's a very serious matter to this community, so we are saying that we are open to the notion of reviewing this, not very pleased about it, but open to it, we will participate in it, but our concern -- but largely are concerned, I guess, with how it is done because that there is as great a potential to do harm, we believe, as there is to do good. But, we will come to the table and we will participate in the discussion. We are clearly a stake holder in this because we are the ones who are putting ourselves in harm's way, and we are the ones who are using deadly force and we are the ones who are in many cases, killed in the line of duty or seriously injured in the performance of our duties.

**Francesconi:** Yeah, and I recognize that, and I guess I want to thank you for being open to allowing experts to look at this. My request, you don't need to respond to this, but for all the reasons you just listed, my request is to not wait for the expert or anybody else, but because you are already experts, to work with the chief to see if there is anything that could be done.

**King:** Yeah. We have made that commitment. We will make it here, and we certainly will be working with the chief. We think, in fact, as we are having this discussion right now, that that's occurring in the training division. And throughout the organization as each one of these incidents occur. I mean, it is important for citizens to know that after each one of these shootings, after each use of deadly force or each occasion of death in custody, that the police bureau conducts an extensive internal review. And that there are adaptations to training that is ongoing. We are a learning organization and have been participating in that process for the decade plus that I have been in the police bureau. So we are doing that now. We, yes, we make that commitment.

**Francesconi:** Thank you.

**Katz:** Yes, gary.

**Blackmer:** Let me add one thing, which is that the expert could also be assessing the bureau's response immediately after these incidents, as well, and commenting on it, so it's not that, that



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nothing can be done until the expert makes recommendations. You know, I think that it's something that the expert can follow through on and interview the bureau personnel to determine what they have -- how they have reacted and assess whether that fits best practices elsewhere.

**Sten:** Let me clarify that. The recommendations would come forward, then, publicly, but no detail on what led those?

**Blackmer:** It would be on a broad scope level. It wouldn't talk about a particular case, but it could say that, you know, that there were several incidents that involved, you know, I can't think of anything off the top of my head, but it would refer to a group of things or a pattern of things without talking about a particular case, and it would, again, focus on those things where training, supervision, equipment, those policy level procedural, you know, general orders, those things can be affected and affect the possibility of it recurring.

**Sten:** We are going to hear testimony from the citizen's review committee, so sort of getting ahead of that, but I mean, I think their argument is having a small number of that committee able to review the evidence that led to that recommendations would, you know, allow, I mean, I understand the opposite argument but I think, the two sides would be, to allow some citizens who are not trained in the way that police officers are, but do have training and background in be looking at these things to add some credibility to those recommendations, perhaps, without sharing the details of the cases. I mean, I think if I understand it, they want to have a couple of people, a, both to look at the cases themselves, but not enter them out publicly. It seems to me, that would add some credibility to the process because it kind of, the problem we run into is, is that I think we are all trying to solve is, is, and we will never solve it completely, but is sort of public trust that everything is, is, has been done to the best of our ability, and I think to -- you know, to be -- I think the idea that saying that, that a citizen can't understand these things rankles people, and I think that there is some truth to the details of it, but I am trying to look at a way of, you know, their recommends seems to be having a couple of citizens who are trained involved in that discussion, but not doing it publicly has some merit to me, but guess I want to get more information on why that is something that you, that you guys would not want to do.

**Blackmer:** Well, I guess from my perspective, the policy issue is clear. We would like to prevent unnecessary officer-involved shootings. So community values are absolutely clear and unambiguous, so the question is, how do we do that, and, you know, my career is built on trying to get organizations to improve, and we go through an incredible process in our audit reports to build credibility around how we can tell other people how to do their job better. And that is not necessarily just that, it's not a good thing to do, it's a necessary thing to do because it also reduces the risk of recommending the wrong thing. And my fear is unintended consequences from recommendations that haven't been thought through. My fear is that we will, we will, essentially, undermine the credibility of the citizen review committee if something comes forward from them that is not necessarily the best idea in the world for preventing these incidents from happening. And I mean, I think citizens are -- we want to encourage participation. We want to create a transparent government, but we really have to be careful where we draw the line between input and advice and management direction, and so I guess I don't know what added credibility we would get from having citizens involved when we, we have them involved in selecting the best expert out there, and involved in following through on those recommends. Having them also just looking, looking over the shoulder of the expert, I just don't see it as, as a significant contribution but it's a huge demand on their time.

**Sten:** But, I mean, it's their time and they are saying that they are glad to do it, so I don't think that's a good argument.

**King:** I guess, commissioner, I don't know if this helps at all, I don't know how to respond to the rankling. I can imagine that as a citizen, if I were told that the, that my review of it, that I am not

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able to understand it, and that my comments or recommendations wouldn't be helpful. But, I guess that really is our position. At least it's the police association's position. These -- one of the things we think that this is, that this accomplishes, it was in June that you said, as a council, you wanted to have, you wanted to add a layer to the review of these cases in the independent police review division. And the mayor points out that, that, and I don't really know what good comes from a public hearing of these matters. I've been to them and they are not -- I don't find them productive. I don't think that they are helpful to the police officers or the police bureau, who is the service provider. What I do think this accomplishes, and this is the part of it that we can be supportive of, is that if we have somebody come in and look at these various cold cases, closed cases, and they look back, they are not looking at the individual actions of the officers but they are looking at it from a policy and training standpoint and they deliver that information to the police bureau, that we think the police bureau is best run by strong centralized internal control, that it goes to the chief of the police bureau and that he, then, delegates out to the training division and planning and support division and others to evaluate this information and see if we can adapt our training and/or our policy in a way that would help meet your goals. I think, I think the ordinance as it is written does that, in that way. And for us, I will just tell you that it would be difficult for me to go out, outside of the council chambers and be involved in the use of deadly force and sometime later have it reviewed by the expert and citizens and have citizens try to tell me what it was that I did right or wrong or good or bad, according to the policy or my training because they don't have the experience. They don't have the expertise. Whereas officers can be more open to that, to recommendations for changes when it comes from the people that they have -- who they have confidence in, confidence in their experience and/or in their ability and who they respect, and who they are working as officers to learn from.

**Sten:** Well, I guess, you know, I guess, you know, I think it's, it's a fine point but it's the point we are on. It's an important one, I think, basically I agree with the premise that you are both putting forward, that, you know, this is something that really has to be -- and I don't think that, that it would be productive to have citizen members who are second -- let's use your analogy since you put yourself in there, your actions on this case that hopefully never happens after you leave these chambers, but the idea that citizens, you know, who were, you know, entrusted by this council to be the citizens' review committee, on a limited basis not publicly had some access to, to see how the recommendations of the expert made, and then, because I mean, what's going to happen is the expert's recommendations are going to be second-guessed, guaranteed once they come forward, and, you know, I think the basis of our problems in this community, which are pretty deep, if you look at the ballot measure and all the organizing that's going on, maybe some folks are right and some are wrong, I'm not trying to take sides, but there's deep divisions in this community in terms of how the different folks look at the police's actions. I think it is in trust, more than good or bad actions, so I think it would up the communication level to have a few more citizens who the council has now entrusted and asked to spend hours and hours of their time looking at this, understand why the policy recommends are what they are, which you can't really do without any -- I mean, I can't understand a policy recommendation if I don't have any access to why the recommendation was made, and that's why I am saying, on a very limited basis, having some of that communication seems to me like it would help build those bridges > that's where I would ask the consultant to be willing to speak to council members when the, after the report has been submitted, to provide more insight onto why that recommendation was written. You know, I think that's an important element, and I guess, let me see, this ends up being my problem, more than council's problem, if you enact it. And I have some serious concerns about being held accountable for what this group does. If we all -- if, I mean, you can say that this is a citizen group, it's not under the auspices of the IPR system, but it is going to be associated with it. It's going to be the same citizens, and I have a serious concern

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about that. And frankly, I really don't want to be held accountable in any way for the recommendations that could come from those citizens. The second-guessing that could come from them saying, you know, we don't, we don't buy what that expert says. So, I guess i, you know, to be polite, I would say, if you think it's a good idea, we can probably come up with another citizen group and one of you can take on the responsibility of managing a review of officer-involved shootings.

**Sten:** You know, I understand the argument but, I mean, I think that, I guess, you know, the second-guessing is happening outside these chambers as we speak. It happened yesterday during the paper with people yelling at you, with your picture about it. It's going to go on, and I don't see how the second-guessing gets worse by the fact that some people actually know what you are talking about. But, I mean --

**Blackmer:** Well, and that's why we would seek out an expert, in all honesty. I am not looking to hire someone who's pro police or anti-police. I am looking for someone who can solve problems, and that's my commitment as a public official is constructive improvement in an organization. You know, I feel like the ipr has been working well so far. We still have more, and, you know, things to introduce in terms of our mediation and other elements of it, but I really am committed to making that succeed and I am really concerned about what this could do to undermine our abilities to succeed on that front.

**Saltzman:** Are you through?

**Katz:** Go ahead.

**Saltzman:** Why don't you run through for us again under your proposal, there would now be seven layers of review of shootings?

**Blackmer:** Eight. Well, undermine, seven.

**Saltzman:** Yours, seven, want proposed amendment, eight. What are the seven layers of review? Of shootings in custody that now occur?

**Blackmer:** There's a criminal investigation by investigators, and this is the multiagency major crimes unit. A review by the district attorney's office, a review by the grand jury, and an internal review by the Portland police bureau. There's a potential review by a federal agency. Either the u.s. Attorney or the fbi in civil rights violations, and there's also the possibility of a lawsuit. Those are the six. And in many of these cases, lawsuits are more common than not. The 7th would be the expert under my proposal. The 7th under what the citizens, citizen review committee is proposing would be a couple of their members, as cases were closed and then the 8th would be the expert coming in and looking at all of those closed cases as a group.

**Saltzman:** And as you said it earlier, one of your concerns, also be is simply the sheer amount of time, that the current citizen's review committee needs to spend doing their core mission, which we charged them with back in june. I think that that was --

**Saltzman:** A time management issue here, too. They are very busy right now, and they still have a lot of work ahead of them.

**Blackmer:** One of the cautionaries we heard from one of our counterparts in los angeles was that he was trying to set up an office like ours and one of the responsibilities that was given to him was to review these. What happened was he got swamped with these cases. They consumed large amounts of his staff time and he really has had a difficult time getting all those administrative complaints addressed, which, as I emphasized before, if we want to reduce the likelihood of escalation, we need to focus at those places at the bottom of that use of force ladder and make sure it doesn't go to the next one because the very last one of deciding to pull the trigger in deadly force is the hardest one for us to second-guess, whereas I think we can have a bigger impact, not only on those incidents, but on all our contacts with the public if we focus at those lower levels and see if

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there's ways that we can reduce escalation and that's, I think, the core mission of what the citizen review committee is about and our independent police review staff.

**Saltzman:** And I think just to remind ours when we did task you with this review, coming back to us with a proposal on review of shootings and deaths in custody, it was for recommendations on policy matters, only?

**Katz:** Yes.

**Saltzman:** And what you are presenting us with is consistent, I think, with what we are going to hear as a proposed amendment establishes a potential for case-by-case citizen review, and I think as you said, it's very hard to develop policy on a case-by-case recommendation? Or basis?

**Katz:** Gary, let me ask you to be specific in terms of after the review is done, by the consulting expert, that information then can come to us or, or, but certainly would go to the citizen's review?

**Blackmer:** That's correct.

**Katz:** Okay. At that point, do you not see the possibility for them to have a conversation about a, the policies and b, what led to the policies? I mean, you would have to have the conversation without necessarily going into the great details, though, I need to tell you, some of those details are in the newspapers on a running basis, so it's not like it's a secret about what happens and so what's wrong with that? I mean, why do they feel that they --

**Blackmer:** Well, I really should let the citizen's --

**Katz:** Okay, fair enough.

**Blackmer:** They may have some other, you know, what I am expressing are concerns based upon what I heard from them last time I talked to them, as a committee, so they may have some other ideas, as well, and I am happy to respond to those.

**Katz:** Okay. Thank you. Denise, why don't you come on up and then we will open it up for testimony. No, I only called Denise.

\*\*\*\*\*: They are part of the CRC presentation.

**Katz:** All of them are going to testify?

\*\*\*\*\*: Yes, but we will keep it very short.

**Katz:** Okay. Come on up.

**Denise Stone, Vice Chair, Citizen Review Committee:** My name is Denise Stone and I am the vice chair of the citizen review committee and I am also the chair of the CRC policy work group, and we appreciate you allowing us a few minutes to let you know what our position is on this proposed code by Gary. I am going to speak to the recommendation. T.J. Browning is our -- the CRC outreach chair. She's going to speak to how we came to make this recommendation. Rick Alexander also a participant in policy and outreach on the CRC, is going to explain why it's necessary to involve independent citizens, and Erik Terrell, also another member, will speak to why the CRC is the vehicle for independent citizen involvement. Auditor Blackmer made a presentation of the details of his proposed code to cover the review of closed investigations of officer-involved shootings and deaths in custody to the policy, to the citizen review committee policy work group. Members of the work group discussed the proposal and formulated a recommendation that includes the members of the citizen review committee in the proposed review process. To facilitate a discussion of this proposal, of this proposed code among the full citizen review committee, Auditor Blackmer made a similar presentation of his proposal to the full body. From that discussion in a vote of 6-2 the CRC adopted the following recommendation. Recommendation is that the citizen review committee recommends code 3.21.070, include a provision that allows the citizen review committee to review the case files of closed investigations of officer-involved shootings and deaths in custody for the purpose of evaluating the quality of the investigation and identifying any policy-related issues. With this recommendation, the CRC seeks to participate in the review of close investigation -- closed investigations in these cases because according to the original ordinance, the council appointed the

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citizen review committee to recommend appropriate changes towards the goals of holding police accountable and promoting higher standards of city police services. It was agreed upon by the crc that in order for us to uphold this charge and to instill public confidence in the system, and it's processes, we can't be restricted to a review of a second or third summary. What we seek to achieve by including citizens in this review process is addressing any investigative deficiencies as well as the identification of any policy-related issues. What we seek -- what we seek -- what the crc is not seeking to achieve with this recommendation is to review closed investigations for the purpose of speaking to specific incidents or to individuals, officer actions. We don't see our role as affecting officer personnel files and other bureau, officer bureau records and we don't see our role as recommending any level of reinvestigation of specific cases. In essence, the crc doesn't claim to be expert investigators. What we claim is that we are expert independent citizens. We think this level of, of involvement by the crc could have significant value in addressing some of the general public's concerns about the secrecy surrounding the investigations into such cases.

**T.J. Browning, Chair, Outreach Committee, Citizen Review Committee:** I am t.j. Browning, a member of the crc and chair of the outreach committee and I am addressing you as the voice of the outreach committee. Gary blackmer's proposal is really a good proposal. I am quite excited about it on a personal level. It's such a good beginning but that's what it is, it is a beginning. While he has concerns about jeopardizing the relationship with the police, frankly, I am concerned about jeopardizing relationship with the citizens. We need to have both voices heard. Democracy requires that the public not merely be a spectator, and citizen involvement is mandatory for a healthy government. That's true for any government agency. An engaged public is necessary for a healthy democracy but it's up to you to provide the vehicle for that engagement. Crc involvement, public forums, dangerous? I'm sorry but this isn't rocket science, okay. This is, to me, just common sense. You have citizen involvement, and that promotes a dialogue between the citizens and the police department. From this dialogue, hopefully we are going to garner understanding, and we cannot have trust if we don't have understanding. And trust is paramount to successful community policing. This is a very key important issue. Nothing shatters community trust quicker than shootings or death in custody. All you have to do is read a newspaper. Rioting and public arrest in the cities, fortunately not here, is usually because of a breakdown between community and police relations. Notice I didn't put a facility on either party. I said, a breakdown between the relationship between the community and the police department. We are fortunate here in Portland. We have a high level of citizen involvement. Over the last few years, countless efforts have been initiated to strengthen citizen oversight in review of shootings and deaths in custody. The mayor's work group made the same recommendation. The Oregonian has issued two editorials requesting public input on shootings. We had public forums. You sat through so much public testimony with people requesting citizen oversight. Citizen input on shootings and death in custody, what the proposal does not recognize is the inherent value of the citizen's voice. This is an opportunity for you to have the best kind of government. Government that's proactive, instead of reactive. And I ask you to please allow us in.

**Katz:** Thank you.

**Rick Alexander, Citizen Review Committee:** I am rick alexander and I am a member of the citizen review committee and I am here predominantly to say, to state how really important the majority of us feel it is that citizens be involved in this. I have had -- I come from a background of about 14 years as a management and training consultant. Every job I came into to start. Everyone's concerns were the same. It's an outside person. They are not going to know about this. Can we trust this person to review it? And the way we got around that was involving all the stakeholders and the citizens are surely a stake holder as is the police department, as is the city government. And by involving everyone and making a collaborative effort of it, of it, we are able to overcome those

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fears and build to a successful, a successful training and improvements in operating techniques as a result of that. We are asking simply for the same thing. We want to be involved, and we want to be involved on a first-line level. One of the things that I found as a consultant was the, the most information you can get is by studying the people that you are working for and the people -- that being the citizenry, getting their input as to what the problems are and incorporating that into the, into the process. We would like to be able to do that, and right now, while blackmer, mr. Blackmer's proposal is really effective, by tying our hands from seeing the actual information, we are not going to know what the, the, what the consultant has passed over. Every consultant comes in with, with a set standard of background information that they have, and particular things that they are strong in. Often they will ignore some of the very city-specific, very, very specific items because they don't see that as important because they have a focus of what, of what they are looking for. What we are asking for, and if you were a professor and you had, and you had a group of students, would you rather them learn from the original book? Or would you rather them look at the cliff notes and write their papers based on that? Essentially this is asking us to write our papers and to approve of this by simply looking at an abridged version and the cliff notes of the process. What harm could be done in allowing us to review it? We are willing to dedicate the time.

**Katz:** Thank you.

**Eric Terrill, Citizen Review Committee:** Good morning, I am mr. Terrell, member of the citizen's review committee. Just wanted to discuss two very short points. I think when I volunteered to be on the crc, my intent, and I think it's the intent of all the members, is to help create and sustain the very best police bureau in our country. Part of that endeavor, we believe, is for the citizen review committee members to have access to, an opportunity to review the closed files. I suspect, and I believe the committee feels the same way, that our thinking or any possible recommendations that might come out of our reviews will not be holy empathetical or contrary to what the expert might be saying. I suspect that there will be much overlap, much overlap, much common agreement and there may be areas of where there are, there are different viewpoints on matters. That's very healthy. National perspective from the expert, wonderful, but I also think that it's a great balance to have a local perspective, namely, via the citizen review committee members, and to be coupled or augmented to or augmented with the national expert, so I really see the crc involvement as a value-added dimension to what the expert is surely going to bring. We don't see it as contrary or empathetical. I see our efforts being in concert, but a local perspective coupled with a national perspective. My second point briefly, we have been involved in the committee since october. Tremendous amount of, of work going into getting set up, getting ours organized, and reviewing cases at iad, and the other discussions that we have had. The point that I am trying to make is, I think all of us are surprised at just how much effort has gone into that, to this effort thus far, but you know what? We are committed to the crc charge and we are committed to insuring that we have the very best police bureau in this country. We believe there is commitment and dedication and resolve and we have the wherewithal to make that happen. I guess in closing, let me say that to our work on the crc, I hope that all parties involved have seen our dedication, our being responsible and professional citizen members and that we are, in fact, independent. I suspect some folks think that we are too conservative in our actions and some think we are probably too extreme, so we are probably doing a good job. But we are independent. And the final word is, in making this recommendation, we are also committing to the commissioners and to the mayor that we are prepared to put in the time and effort that might be needed for us to follow through on the recommendation if approved.

**Katz:** Thank you.

**Francesconi:** Just a couple of questions, so do the rest of the three of you agree with denise's statement that you are really not interested in looking at the propriety of the officer's conduct?

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\*\*\*\*\*: Yes, that's correct.

**Francesconi:** Okay. Do you have something in writing, by the way? I don't have that amendment in front of me. Do you have it?

**Stone:** I do have it in writing. I can make copies for you and provide that.

**Francesconi:** The second question, on the quality so, that leaves the quality of the investigation and then looking at individual cases, that can add credibility to policy recommendations, being the two areas. On the quality of the investigation, how -- I think Denise you even said that you are not expert investigators, you know because we are back into that old standard. How can you add value to the quality of an investigation given the amount of investigation that happens on this? On this issue? On a police shooting?

**Browning:** I think that there tends to be a lack of trust when the public is shut out of any process, and even if the process is good --

**Francesconi:** I am going to come to that next issue.

**Browning:** So, I think that the value that we add is just a citizens' viewpoint, a citizen's oversight and perspective, that's the value we add.

**Francesconi:** But how does that help the quality of the investigation issue.

**Browning:** We look at quality of investigations. That's what we do. We do it at every hearing, and so, and that's what we do. That's our job now.

**Francesconi:** Okay. On the question of the training, I mean, policy issues, I guess I can see the argument, much more clearly, what it's worth, that you are making. Anyway.

**Katz:** Okay. Further questions? Thank you. Anybody else? Do we have anybody else, Gary, from the, the citizen's review that wants to testify? Come on in. Come on. Anybody else from the review committee?

**Bob Ueland, Citizen Review Committee:** My name is Bob, and I am a member of the citizen's review committee, and I hardly support their right to bring before this body their recommendation. I did not vote in favor of that particular policy, or their recommendation. In talking to the community leaders and the neighborhoods and the folks out here in the community, they tend to agree that the investigation is, is being done by experts, and when it is closed, the, the looking at it by another group of people who are not experts is only going to, to add fire to the fuel, or fuel to the fire, which always arises when a decision is brought in. It's always controversial. As you say, Mayor, our news media, amongst other things, seems dedicated to polarizing the community before we can even get a decision. And that happens every time. And that's okay. That's their job. I think the other thing is -- the community, the people out there are intrigued by this idea that once, and the local perspectives, by the way, are in the decision that is arrived at. They are in there. All of this investigating is being done by local people, the grand jury is local people. So, the local perspective is in there. The idea of bringing in somebody from the outside, who isn't weighted down with any particular feelings about the local issues or the community, intrigues people. They are not sure it will work. I am not sure it will work. But, I certainly think the, the auditor's -- the auditor's proposal is sound and well thought out, and I would like to see it given a chance to operate, so I would endorse the auditor's ordinance, proposed ordinance.

**Katz:** Thank you.

\*\*\*\*\*: One quick question.

**Katz:** Hurry up because we have a sign up sheet on this, I think.

**Blackmer:** I guess what it boils down to, in listening to the testimony, is if citizens are not involved we don't have a credible process. I think that sells me short, I think that sells you short. This is a government of representatives, and I think we need to basically recognize that there are other ways to build credibility and constructive improvement, that don't depend upon having citizens looking over our shoulder with everything. I think that we have opportunities here with

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experts to bring information that we wouldn't have within our community and i, from that standpoint, I think that we need to step back a little bit and talk about where citizens can best contribute to our community.

**Katz:** Thank you. All right. Karla?

**Lila Schwartz, League of Women Voters:** Mayor Katz, member of the city council, good morning. My name is lila schwartz, and I am with the league of women voters. The league of women voters places a very high priority on the citizen's right to know and broad citizen participation in government. The proposal under consideration for review of officer-involved shootings and deaths in custody diminishes those principles and we cannot support it. The city recently created the independent police review division to help restore public trust in government. We now have a nine-member citizen review committee that is devoting significant time and energy to reviewing citizen complaints and in so doing, is developing the skills and understanding needed to evaluate deadly force cases. If you remember, committee members have expressed a willingness to review such cases. Officer-involved shootings and deaths in custody are among the most serious incidents that occur in the city. The public's confidence in their elected officials is directly related to a full explanation of such events to avoid recurrence. Employing an outside expert to come to Portland, analyze closed cases, make recommendations to council, the police chief, and the crc, is likely to arouse public suspicion and mistrust. And an open process led by members of the crc is more likely to result in decisions supported by the public. Public forums are a key component of any system that examines and evaluates police shootings. Frequently shootings are extremely troubling to the public. And the public needs an opportunity to share their concerns, as well as requests for changes in police procedures. The league of women voters proposes that you increase the role of the crc and officer-involved shootings and deaths in custody, and allow it to review closed cases for thoroughness and fairness, hold public forums, and recommend changes in policy or training that they believe you and the police chief should consider. Should you decide to employ an outside expert to assist the crc in reviewing closed cases, we recommend that these reviews take place on a frequent basis. Above all, keep the public informed and create a process that leads to positive change in the community. Thank you.

**Katz:** Go ahead.

**Dan Handleman, Portland Copwatch:** Mayor Katz and city council, my name is dan handelmann with Portland cop watch, post office -- we at Portland cop watch have come before you many times on the issue of civilian oversight of police misconduct. We have consistently stated the community will be best served if training civilians review the cases of police involved shootings. Today several of our members will be addressing issues surrounding the auditor's proposal to farm out the job of such review to an outside expert, we will address both the strong reasons to support civilian review of deadly force cases and the flaw and the arguments presented by auditor blackmer. When the council adopted the ipr structure, they requested these cases be reviewed by the new board and wanted public forums to voice the concerns before the board recommends changes in police policy. Council seemed to agree with the ideas of civilian review and public forums, neither of these are deflected in the auditor's plan. We support the citizen review committee's request that they have access to the closed case files of incidents involving police shootings and deaths in police custody. We support the committee's desire to be part of the development policy recommends. Deadly force investigations are currently handled by detectives, and detectives in the homicide division or by the Multnomah county crime division. It does not -- they do not necessarily keep such files in the office. The language should allow the ipr and crc to review the case files regardless of who the investigation. While we do not object to the crc members working with the expert, the proposal appear to say dismiss local residents concerns. Portland police policies should reflect the concerns of the Portland community, an outside expert is not necessarily going to understand local concerns.



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Whether you are to hire the expert at all, when the city's budget is strapped should be a serious question on council's mind. Since the crc members are volunteers the city could save money by and achieve the same goals by completing the crc training and leave the experts to a consultant's role. The crc members find themselves overburdened by the case load. We definitely think that if an expert is hired to come to Portland, the crc should have completed background reviews of the cases before the initial briefing, they should work on this -- with this person throughout the process of their review, and they should have final input into any report. The crc should have the ultimate responsibility for crafting any recommendation and is highlighting investigative problem. While concerns were raised the ipr has no credibility on this issue that is only a matter that can be resolved by their taking on the review and doing so in a competent manner. Credibility will come by diligently doing the homework over time. Ipr director, richard rosenthal expressed his reluctance for the cases. If he cannot or will not perform the duties, he should be replaced by experienced trained unbiased professionals. Last June the auditor postponed implementation of the review of police shootings until december 31. Such reviews are one of the more four major elements of the naacp, pac 2002 initiative and the mayor's majority proposal. Adopting the proposal as written will only further delay this important function. Please put off the vote long enough to add the language to allow the crc access to these case files.

**Katz:** Richard, I will ask you to come up, not now, but I just want to give you a head's up, since he sort of is our, our expert right now. Okay. Go ahead.

**Diane Lane, Portland Copwatch:** Diane lane, Portland cop watch. We firmly believe that the crc should review closed files of deadly force cases. The committee reflects most of the city's diversity and with its ability to gather citizen's concerns has a better chance of earning community trust than an outside expert. While a consultant provides expertise in handling these cases, the community won't trust someone unfamiliar with Portland issues unless the city allows the crc to work in conjunction with him or her. If the expert works alone, behind closed doors, and endorses police investigations, such endorsement will appear biased to the public. Other localities have oversight systems with citizen board members reviewing deadly force cases. For instance, the san diego county review board has this ability. According to john parker, their executive director, the board has chosen to review those cases, which number about ten annually. A review happens as soon as the sheriff closes the case but it proceeds regardless of pending lawsuits. While an investigator examines the sheriff's case file and presents a summary report to the citizen board members, those members can review the file. According to parker, the board members often examine deadly force case files. They have a smaller budget than the iprs. Additionally, at least two additional jurisdictions with citizen review of deadly force cases include orange county and st. Paul. In respect to liability issues, parker stated during a recent phone interview that liability cannot be the concern of a review board. That the board must provide independent review of deadly force cases and the results have to come out to the public. Court discovery or subpoena power would bring out such information anyway. Parker stated if the police department takes corrective measures after problems are identified, liability will eventually be reduced. The review should happen immediately after the chief closes each deadly force case. If an investigation is not adequate or policy issues are not quickly addressed, further deadly force incidents could occur. In 1997, former piac examiner, lisa bosco examined a deadly force case only because iad was asked to supplement the detective's investigation. Her review revealed serious investigative deficiencies by both the detectives and iad. As a result of those deficiencies the chief overruled iad's recommendation that the case be sustained, meaning that even though iad believed the officer used excessive force by discharging his gun, the officer continued to enforce the law without proper sanction, additional training or counseling. Thank you.

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**Saltzman:** There seems to be, putting aside the issue of consultant versus the citizen review committee, there seems to be a lot of disdain expressed with the notion of a, quote, outside consultant. Given most of these consultants are retired law enforcement or prosecutors, would you prefer if we constrained it to local, if we go this route be we hire somebody local, ex-law enforcement? Local ex-prosecutor as opposed to somebody who doesn't know the players in the community? Just, just a straight yes or no on that.

**Lane:** Well, the point is, that we -- don't necessarily disdain an outside expert. The point is that the community won't trust the expert working alone without the local crc members bringing public input in, their diversity into the issues. We are talking about working in conjunction. We have no problem with the expert coming in, sharing his or her knowledge of these particular -- of handling these particular cases. Our problem is that the person would work alone without the crc members, access to the files, and working together in coordination.

**Katz:** Thank you. Karla? How many more are there?

**\*\*\*\*\*:** Four more.

**Katz:** Four more, okay. Let's go.

**Kristian Williams:** My name is kristian williams, a member of Portland cop watch. Bob clarified what this debate is really about. The police don't trust citizens to oversee their work. But, why should we in the public trust the police to regulate themselves when many of them, as king's testimony showed, won't admit to the possibility that the police killed people unnecessarily. King says the citizen input is not wanted but this isn't about what the police want. It's about what the public needs. With that in mind I will discuss with the idea of public hearings and the layers of review. The public's repeatedly expressed its desire to have some sort of public forum to discuss shootings and deaths in custody. Having the mechanism set up to do so can help them avert crisis like those in los angeles and cincinnati and other cities. The public responds to the shooting of mr. Poot shows the people of Portland demand assurances that the policy and procedural issues will be addressed. The ipr can use public forums to gather input regarding police policy and behavior relevant to specific incidents or general policy concerns, and to present their findings on the quality and thoroughness of investigations, and policy issues involved in the closed case files. Auditor blackmer has worried that this sort of thing could cause a break with the bureau or a lawsuit because members might make errors or use poorly chosen words in their reports. It shows an extreme is distrust of the crc members and if you remember, blackmer's warning replies the police bureau, who punish those who criticize their policies. Concerning layers of review, those who would cut citizens out of the review process and deadly force argue that there are six layers of review for shooting already. But none of these offer community oversight. Four of the layers do not involve citizen input at all. These are investigation by inner agency task forces, district attorney reviews, interim review for policy violations and federal civil rights investigations. The other two, grand juries and lawsuits, involve juries who have little or no training in police issues, whereas crc people are receiving training on police procedures and civil rights. The grand jury has a closed door policy and their information is not available to the public. The other layer entails the use of lawsuits, which is problematic because not all victims or their family members take the step. Likewise, grand jury investigations, federal civil rights investigations and lawsuits are not particularly effective ways to resolve community police trust issues after a death has occurred. A federal civil rights investigation is usually reserved for protective classes of citizens, racial minorities, women, sexual minorities and not necessarily everyone shot by the police. The number of lawsuits may ultimately be reduced if the ipr can bring out important information that changes the bureau policies, reducing the misconduct thereby. If you remember the officer does not necessarily receive discipline and police policies and procedures are not necessarily addressed in any of the existing layers of review. In conclusion, it seems important to include these most serious

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cases in the regular duties of the ipr. These reviews will do what grand juries, district attorneys, lawsuits, civil rights investigations and multiagency investigations and internal police investigations will not do. They will audit investigations of shootings and deaths in custody to determine if some procedural policy, lack of training or other factor contributed to the incident.

**Katz:** Thank you. Grab the mike.

**Barbara Vickers:** Good morning, mayor Katz, and commissioners. My name is barbara, I am richard dickie dow's mother, I am here to just say briefly, I do strongly endorse the citizen involvement in overseeing shooting and indeath custody. I am sorry, I am very nervous. The reason for my support of this, the fact that a carotid was used on dickie and never brought to light was clearly deadly force, and it was used on an unarmed person. The decision of the grand jury clearly sends the message to the public, the police department can not police themselves effectively without some sort of overview from the public. The input needs to be there so that the public can rest assured that everything has been addressed to make sure that these kinds of things don't continue to happen. That people do not suffer. The citizens of Portland do not need to suffer through these kinds of things. The city doesn't need to pay. They don't need to go in debt to pay families. For the loss of a loved one. When they can do something to fix it. And if for no other reason, then to just put the public's mind at ease that at least knowing somebody from a citizen's review board did look into it and a decision was, was brought forthrightiously that nothing was covered up. Nothing was hidden. Because of the fact that there was a deadly force issue in dickey's case, and I have that in black and white, that was never brought out, simply because we settled out of court. And I think that the public is, is very, very aware that there's problems. And they need to be insured that those things are addressed. Thank you.

**Elizabeth Perry, Director, Workers Rights Education Project:** Good morning, my name is elizabeth perry, the director for the workers rights education project. Our project works with immigrant latino workers. Prefacing my remarks what I wanted for our organization is dedicated and has worked directly with the police to improve relationships with the latino community, particularly the members we work with, we work on the hispanic police advisory committee as regular members. We have dialogues on the corner with police officers, as well. And my reason for being here today is to remind the council that a member of our community was tragically killed at the hands of the police last year. While our community was stunned and outraged at the circumstances of jose poot's death, hundreds of people from the community came together to address the nation's responsible for his death. As you listen to the testimony expressed by the various experts, I would like to remind you of the many forums held last year. And for you to hear what the community thought, you participated as well. These encouraged our community to express their thoughts to the officials who are accountable to the various systems and sought solutions to these problems. One of the key institutions that we addressed at the time was a Portland police department. We believe that our community spoke clearly on the issue of police accountability. Organizers of the forum took the time and gathered the testimony of the hundreds of community members that participated in these forums. It is clear from the testimony of the people who participated that many of our community feel strongly that a civilian review in the matter of deaths in custody is urgently needed. While you deliberate on the review of deaths in custody be I believe you can trust that thoughtful citizens, educated by the policies that guide officers in the use of force can be trusted to be fair to the officers and to the community that we all live in. The anniversary of mr. Poot's death approaches now less than a month away on april 1st. Please think about the message you send to our community with your votes on this matter. I ask you to support civilian review of deaths in custody.

**Katz:** Thank you. Further testimony?

**Katz:** Alan, why don't you start.

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**Alan Graf, Chair, National Lawyers Guild:** Thank you. Mayor Katz, council, alan graf, I haven't brought any surprise letters with me today. I appreciate you letting me speak with you. I am the chair of the national lawyer's guild, the Portland chapter, the guild has 10,000 lawyers and legal work is nation-wide, and we are very concerned about police accountability. That's one of the issues we address. I think what you are hearing today from gary blackmer and the police is a, what I would term the cheney doctrine. It has been -- you could describe it as, we know best. We are the experts. We work better when the public doesn't know what we are doing. I am sure some of you have difficulties with that at the national level when it applies to energy policies and corporate contributions to politicians. We are looking at something that's maybe even more important in terms of government intrusion into citizen's lives and energy. What a government agent takes the life of a citizen, that is something that the cheney doctrine should not apply to. Here in Portland, we are a leader in terms of innovation, when it comes to environment and open government. We should not fall into the trend of closing down government to the people. I want to address what jim Francesconi talked about, quality. Quality is tied to objectivity. As a former lawyer or a former practicing lawyer, jim, I am sure you remember that we don't put 12 doctors on a jury when there's a malpractice case. We put citizens on there. Why is that? We don't have 12 police when we have a murder case. We trust in the power of the citizenry to come to an objective reasoned decision, even though there may not be experts in that field. That's part of it and why we do that is because those people are going to bring more objectivity to the final decision and people who are very much ameshed in that particular area. In this case, what we are actually looking at is a combination of the two. Expert and the citizens. It's really quite a good combination. If we have both of them actually delving into the actual details of these cases, we are going to come up with the best of both worlds. Objectivity and an expert. The other thing want to say, the ipr is your baby. Now, I sat on a committee that was appointed by mayor Katz for about seven months. We put together a proposal, you all rejected it, and instead, put this ipr in place. This is your baby, and now these people who you appointed are coming back to you and asking you to give them some more tools for the job that they need to do. This is a halfway point where they are asking for you, for your vote of confidence in the committee and the project and the people that you voted for. Give them that vote of confidence. And finally, I want to talk about community policing. I am really saddened that the police union resists this and looks at this suspiciously because ultimately, if you have more citizen involvement, if you have citizen, real citizen involvement in shootings and deaths in custody, this will lead to more community confidence in the police, and when these things happen, people will feel like okay, well, the investigation was done. It was reviewed by citizens who didn't have a stake in this matter. They weren't protecting their own. They were really looking at it. It's just going to be a stronger, stronger for everybody.

**Katz:** Thank you. No, no, thank you.

**Martin Gonzales:** My name is martin gonzales, with. I was before the -- I was before the city council last year. First of all I want to thank mayor Katz for closing the schedule of the budget and the tone of taking it as a family. Hopefully as you discuss this as a family, also, take into account all the elements of the family and that is us as part of the community, in particular, part of the latino community that suffers from loss at the hands of the police already. I am here to express my opposition to the, to the city auditor in terms of its proposal. Even essentially on the basis that, of this attitude before the council or this decision before the council, either you do it my way or you find somebody else to do it. Which is basically amounts to, I can't take the heat, therefore, you find somebody else that can take the heat. And in that sense, you know, it is expressed, also, in his perspective in regards to the Portland police union in that, you know, it will jeopardize our relationship with the bureau. Which is, again, I can't take their heat, either, so, you know, deal with that. So, I think that that's, you know, part of the, part of them, that's what feeds to be looked at.

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Whether we are going to have public people responsible and take into account a process in which the public is involved. It is said, or been argued here that there are no merits in regards to that process, even by the city auditor in that there is a process in place that will build confidence. Well, the process has been in place and mentioned and outlined here, and have not done that. And I think that, you know, commissioner Sten has stated clearly, there is a problem with communication. There is a problem with building trust, and I think here's an opportunity to address that, and as commissioner Francesconi also mentioned, I think in the line of questioning into the union, is a question of, also, looking at training interests of the police, which to the police officer representative here, was a new thing that, that sort of, it did not occur to us, ie, if you have not killed somebody, therefore, you can come and give us no expertise on that, so means that, in some ways maybe we should bring some other repressive people, repressive regimes from central america to give special expertise to the cops over here. I participated in demonstrations where i've been, you know, shot at by the cops. That doesn't make me an expert in regard to how to handle mass organizations. I hope that when we look at the participation of the citizens' review board, you look at, what do you bring to the table? You bring experience, you know. Hopefully you bring some smarts. Some common sense to the table, and I believe that those people that came before you here have that. Have the intelligence to be able to sift through stuff and make policy recommends useful for all of you and the whole community. Thank you.

**Katz:** Go ahead.

**Merrick Bonneau:** Hi. My name is mr. Bonneau, I am a concerned citizen and police brutality survivor. I believe that, that this, this thing put forth is not fair. It only looks at one issue. If you are only dealing with the policy and procedure, you are not looking at the, the actions behind it, and it takes actions along with policy and procedure to enact a wrongful death or shooting by the police. So, that's really not a fair look. Basically this is not a very fair proposal. The police chief is responsible for looking at these issues. Well, it is my understanding that mayor Katz is above the police chief in regards to -- she's above the police, so basically, mayor vera Katz, it is your jobs, not the police chief's to look at these issues and I don't think that you are doing that fairly. I believe that the only way that the citizens can ever be completely trusting in our police force is if all cases, including information, including evidence is presented to the citizens for review and the police are held accountable for the action, further actions. That is not being done, and that is a disgrace to the citizens who pay for basically their own deaths at that point. And brutalization.

**Katz:** Thank you.

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

**Mike Dee:** Howdy, mike dee, 1338 northwest 8th avenue, Portland, Oregon, 97209. Okay. There's a problem. We are trying to come up with some solutions. We have worked -- you came up with some so far that are trying to work. You have the, your crc, your citizen's review committee, and you have your independent police review committee. And you have your six, seven, eight levels that we have heard testimony of review. I think that on level one, if you took the criminal review, if you actually just did criminal charges, I think that that would slow down a bunch of stuff. If they went in front of district attorneys and there was a case in front of the people and they had to show their side and evidence against them came into court, I think that would be a proper way to do equal protection of the law for the citizens and a good use of the law there. The police chief is asking for help, I think we should help him. The city auditor's concerned that the iprd doesn't have enough resources. I think that would be a good opportunity for the council to have the police accountability ballot initiative go through and then the citizens can decide if that's good way to do the, to come up with a solution. I am happy that there's multiple work groups in the area. Just having that has made me feel a lot more comfortable, maybe I don't intend all those or every event, but having that opportunity is, is definitely makes me feel more comfortable. I think you do need to

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involve all stakeholders. At multiple levels of this input, and I do agree that it shatters public trust when, when stuff is done in secret. And I would like to see this government proactive, and multiple people are willing to dedicate their time and I think we need to continue to follow the, the, to uphold the constitution and the human rights stuff and I think that when we hear testimony about someone getting their, you know, blood, their carotid artery holed or something like that, that's a human rights violation. That would also be, you know, constitutional stuff, as far as, you know, unusual punishment or torture or everybody has a right to life, liberty, and I guess the pursuit of happiness.

**Katz:** Thank you. All right, richard? I have asked richard to come up. It's probably a little uneasy for him to testify on this because of his, of his personal beliefs and also his work with, with the citizens' committee, but I asked richard to share -- I asked -- well, I think it is. Maybe I am wrong. Maybe I am too sensitive. But I am going to, nevertheless I am going to put him on the stand because he comes to us with a background in an area that really, for many of us, is brand new and I am sure, very brand new for the citizens' review group, as well. So richard, what can you tell us in terms of the training or the expertise that needs to be done with regard to reviewing the deadly force cases?

\*\*\*\*\*: First, mayor Katz, what I can say is --

**Katz:** Identify yourself for the record.

**Richard Rosenthal, Director, Independent Police Review Division:** Richard rosenthal, director of the independent police review division. Mayor Katz and members of the council, I conferred extensively with the auditor about the proposal and strongly support the current proposal as it is, and I conferred with the assistant review committee and heard the comments and the majority, as well as the two members who voted against the amendment. And my -- he have a couple of concerns. One goes to the training issue. Before I could review officer-involved shootings, I had basically four years of college, three years of law school and ten years as a felony trial prosecutor, and even then when I started to review the shootings, I had an extreme learning curve in order to be able to adequately and effectively review the shootings and just from even just from the perspective of criminal prosecution, not including what is a more difficult area, which is the issue of policy and training. The citizen review committee has received extensive training above that ever received by piiac and for the job they have been assigned, which is that of appeals and policy recommendations, I think the training has been excellent, although it's going to be continuing on an ongoing basis. I don't believe that the training that's been provided is sufficient to specifically review individual officer-involved shooting files and in essence, take an expert to task. One of the things that ipr is required to do is, in fact, take the expert to task. My job would be to facilitate the selection of the best expert available for the kind of money we can pay, and to make sure that the recommendations and the policy issues are discussed by this expert, this consultant, in the next possible means. Part of my job will be to answer the crcs questions and facilitate their involvement in the process. And one of the things that concerns me is the idea that just because the citizen review committee does not have access to these particular records, that they are not involved in the process, and auditor blackmer and I have agreed, we want them involved, but we want them involved in a way that's consistent with the current process and one where they can continue to do the job they need to do. They are currently doing two jobs. Appeals, which is taking an enormous amount of time, and policy, which they have not, just started to get to work on. I am concerned that if they do get involved in actually reviewing the individual files, that they are going to be overwhelmed, just as the civilian oversight agency in los angeles has been, auditor blackmer noted. It's a difficult process. The -- there are experts in the nation who have assisted bureaus in communities, and improving policies and training and reducing shootings, and I think that can be done in Portland. We will find out, you know, whether or not it can be done, but we will only do it if we involve the

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ipr and the professional staff, the appropriate consultant and have the crc involved in the sense of facilitating the process as opposed to creating yet another review.

**Katz:** In respect to the training, richard, what kind of training? I am particularly interested because I do review those cases and I -- I don't have that training, so what kind of training is it that we all need to be involved in?

**Rosenthal:** Oh, boy. A lot of it is, one, knowing it from the officer's perspective. So in essence, seeing the training that they receive, reviewing that training, comparing it to other agencies and other communities, trying to determine what the best practices are that are out there. You know, i've reviewed a lot of shootings, and some of them have been filed on as criminal prosecutions. In others, we have seen issues that we felt were policy issues, that needed to be addressed and interestingly enough, sometimes when we, we faced the police department and addressed these issues, we were then convinced that this one case did not warrant a change in policy. It's, it's a process that requires the involvement of a lot of people and a lot of background. I am not sure -- I am trying to answer your question but it's a little difficult because what I am in essence trying to do is take the five years of taping I received in the special investigation division and condense it into just a minute or two of explanation. Did I answer the question?

**Katz:** Partially.

**Rosenthal:** If you want to follow up, I will try and do better.

**Francesconi:** I was going to ask you a similar question. I think you answered it from, at least the question I was going to, but a different question. Across the country, are there examples of where citizens have gotten involved after training on reviewing, not the individual case, the officer, but for purposes of looking at the question of training?

**Rosenthal:** I'm familiar with a lot of individual experts who have done it, in similar methods that we are proposing here. I don't know personally of, of an individual public, or citizen review-type committee that does it in another city but that's not to say it doesn't exist and that's one of the things that I would be asking the expert. One of the issues that we can have the consultant address is, our review process of officer-involved shootings.

**Francesconi:** Well, Diane Lane testified to some examples. I would like you to kind of explain if there are other examples before next week that you can get that information to us. That would be one specific request, if you could do that. The second, but maybe we should save this -- I will stop.

**Katz:** All right, everybody, this passes onto second for next week. All right, let's get onto the regular agenda. And we will take 218.

**Item 218.**

**Francesconi:** So, Nancy, do you schedule these after controversial issues on purpose? So that there will be less scrutiny? Is this a strategy on your part?

**\*\*\*\*\*:** No, no, so I can learn new things while I am sitting in the council chamber and I learned a lot today.

**Katz:** Identify yourself for the record.

**Nancy Jesuale, Director, Communications & Networking:** I am Nancy, bureau director of comnet. The action I am asking you to approve today is to authorize pte contract with the nwp associates, Norm Peterson has been working with them for a year. He's changed employers. I think it's extremely important to the project continuity in the phase that we are in, which is the implementation, that we keep Norm's expertise at work that you the next critical months, which is between now and November. So, that's why I am bringing you a sole source pte, which normally I would not do.

**Katz:** Questions? Anybody want to testify? We have anybody signed up?

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

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**Katz:** Nope. Roll call.

**Francesconi:** I had a briefing yesterday and we are extending this information superhighway to our public partners in a very efficient and terrific way for the good of our citizens and for the good of our public, so public partners, so good work, nancy, aye.

**Saltzman:** Aye.

**Sten:** Aye.

**Katz:** Yeah. I am going to vote aye. But, you all need to know that I questioned the sole source and nancy gave me a reasonable response, and I am supporting it. Aye. 219.

**Item 219.**

**Katz:** Anybody want to testify on this issue? All right. There's a question? David, why don't you come on up. And identify yourself for the record.

**Dave Logsdon, Office of Management and Finance:** I am dave with the office of management and finance.

**Saltzman:** This is a contract to, to study the coliseum, future uses. 106,000. I appreciate, first of all, the fact that you have worked diligently to include the office of neighborhood involvement in doing a lot of the public outreach. I mean, that makes a lot of sense in terms of saving. Saving additional public dollars. But, I guess i, I do have to ask, didn't we already do this? It seems to me like a year ago, as we were reviewing the idea of a proposed blazer master plan, that I saw a very extensive report from lmf about the future of the coliseum. I know we raised the issue in our discussion but tell me how, what, what -- we had a thorough review that concluded a lot of things about, it's future. What is this going to do differently other than sort of more outreach to the community?

**Logsdon:** Well, primarily what we brought to you last october was the urban design plan for the rose quarter area, which was geographically a larger area than the memorial coliseum, and in fact, the primary recommendation from that study was that in order to restore more of a neighborhood in that area, it may be best to remove the coliseum, and that was certainly was an option identified in that study. But at the same time, this was a lot of interest expressed among testifiers in the council about, it is an important building. It is a building that has a lot of value to the community. Should we take a further look at -- could we use it in some other way. Because, I think we understand that with the, the development of the garden arena, that the coliseum will always remain a secondary facility, you know, to the rose garden, so the question was raised, can we keep the building and put it into an alternative use? Which we really did not study in any detail, and that's the purpose of this study is to look at retaining the building, convert it to another active use that has a public need and a public benefit. So that's specifically, we have not done.

**Saltzman:** Yeah, I guess we did see a very sensitive review about the future as a sports venue, though.

**Logsdon:** We did look at that issue.

**Saltzman:** And that's part of this study, too, right?

**Logsdon:** We are not going to look at retaining the building, keep it is as it is, and functioning as it is. That's not a part of this scope. We did look at that piece of work, and the basic conclusion was, it will, it will be a marginal operation at best, more than likely it will lose money over time. This one would be -- this would require some type of major investment to change the building, change its function and create a whole bunch of new uses.

**Saltzman:** Of course one of the, this says right here, one of the three things they are looking at is to make improvement and is retain it as a secondary sports venue, it seems that question was already answered. It's more important to look at converting it to an alternative public use or redeveloping the property?



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**Logsdon:** Right. That really, that section of the memo really describes kind of the broader issue about what are the alternative futures for this building. One is, you keep it as it is. You make the necessary improvement. That's something that we are not studying as a part of this. The second option is take a look at converting this building to an alternative use. That's what we are doing.

**Katz:** Let me help you out. I think the issue that, raised is a distinction between maintaining it at its current use or looking at an alternative. I think the issue is the obliiss recommendation of a major innovation of the inside of the building for public use, and that still is a possible alternative as you make that report.

**\*\*\*\*\*:** That's certainly one of the --

**Katz:** So I want to make the distinction between the for.

**Logsdon:** That's one of the potential uses that will be studied as a part this far process.

**Francesconi:** How will this relate to the blazers or the other study that somebody is doing about alternative uses if the coliseum comes down.

**Logsdon:** We are looking at this as we are on parallel tracts, one what the arena corporation is looking at doing to redevelopment. The second tract is what we are doing through this study to change the building to other uses, and then the third track is, we keep it the way it is. And so we are -- we are trying to schedule these activities to some point in probably fall to next winter to have the information on all those options to present to the council, so that the council is in a position of making a long-term judgment about the future of the building.

**Francesconi:** Are we doing more work on the third option because I think that's the one that, that I recall is settled. Along commissioner Saltzman's question.

**Logsdon:** The retention of the existing use?

**Francesconi:** Just the way it is. Were we study that go some more?

**Logsdon:** I don't think that we need to at this point.

**Francesconi:** Don't spend money on that.

**Logsdon:** I guess we need to recognize that to keep it viable, we are going to have to invest in maintenance and upgrades to some of the infrastructure. It's a 40-year-old building, so even to keep it functioning as it is, it's going to require, you know, some additional investment.

**Francesconi:** Not saying it's a possibility. I thought that we had the answers on that.

**Katz:** No, we don't.

**Francesconi:** Okay.

**Saltzman:** One last thing, you say parallel tracts, we are he sure they are parallel tracts and not on a course to collide. I thought we agreed to give them 18 months to do a comprehensive master plan, they will come back with a proposal and then at the same time, we may have a very conflicting proposal. Is that what we intend? Is that what we intended when we entrusted the corporation for 18 months? Will this be viewed as acting in good faith?

**Logsdon:** No, we have been in consultation with the Oregon arena corporation on this scope of warning. They are comfortable with the way we are proceeding. I think they see it as a necessary step you know in the long-term in terms of making a decision about the ultimate future of the facility.

**Katz:** Trust me, it is necessary. First, we don't have anything from them yet. But, if we did, I am sure that the council then would probably ask the same question that you wisely asked in october, what are the other possible uses of the, of the facility. I will be very honest with all of you that, that I don't have any great desire to tear the memorial coliseum down. I do have a desire for it to be used for public use and I do have a desire maybe to have it pay for itself, if at all possible. All right. Further questions? All right. Anyone want to testify? Roll call.

**Francesconi:** Well, I think this is a very good idea. I mean, doug has brought a really exciting idea, but we have to be able to independently evaluate things ourselves. I mean, it's our

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responsibility. It's our fiscal responsibility. And so this is very good that we are doing this. Secondly, we have selected a very good person in, I don't know the extent of his company but Larry, I mean, he had extensive negotiations with us at the Rose Quarter. We wouldn't have such a good arrangement if it weren't for Larry Duly and he was also very helpful with the Civic Stadium, so we have also selected somebody who is highly qualified to look out for the public interest. Aye.

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

**Katz:** Mayor votes aye. Thank you.

**Item 220.**

**Katz:** Anybody want to testify on this? Roll call.

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

**Katz:** Mayor votes aye. 221.

**Item 221.**

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

**Francesconi:** This is the right policy to do for three reasons. It's fiscally responsible because it's going to help us reduce overtime, especially for our managers. It will also help with the efficient delivery of city services, which is given the budget situation, is very important that we do. And third, it will also give us the tools to our managers and to us, as a council, to help diversify our workforce by, by allowing us to specifically hold our directors accountable for that. And I think it also is sensitive to our workers. I particularly appreciate the effort, the redeployment language, which specifically allows the freezing of positions and gives a priority to workers from other bureaus to be redeployed. And finally, in terms of the future, I am concerned, especially for smaller bureaus, about the redeployment issue, so I think that we need some work from dhr to make sure that the smaller bureaus aren't going to be a problem for some of the workers. I would like dhr, also, in the future to look at the issue of training of our own workforce and workers. We don't have the resources right now but the private sector is doing some in the private sector, some not, are doing a better job on the issue of, of upward mobility for our own workforce, which I think would help, not only in the efficient delivery of services to the public, by better trained employees, but would also contribute to uplifting the morale of our own workers. If they saw that we, the council, were investing in them. For purposes of upgrading their skills and their ability to serve. Having said all that, this is a terrific bit of work that was long in the making. The mayor and the, and the bureau of human resources and Yvonne and Anne in particular deserve a whole lot of credit for the work that you've done to make us a more responsive organization to the public who funds us. Aye.

**Saltzman:** I appreciate all the good work that's gone into this. Aye.

**Sten:** Aye.

**Katz:** I want to thank Yvonne and Anna, this has been on the calendar for a long, long time, and one of the reasons is that we are an organization and we should be looking at uniform rules for our city employees, and uniform human resources and rules for them to be consistent from bureau-to-bureau. This is an attempt to do this that. It will be clear for everybody working in the city. I am pleased with the bumping rules but permanently, I don't believe in bumping, and I think what we got in this set of rules is a compromise between full bumping and no bumping at all so, thank you for your work on that. Aye. All right. 222.

**Katz:** Anybody want to testify? On this? Okay. Passes on to second. And we will stand adjourned until 2:00.

At 11:44 a.m., Council recessed.

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

**Katz:** Present. Commissioner Hales is on vacation. All right, let's do item 223.

**Item 223.**

**Katz:** I can't see you but I am listening.

**Frank Hudson, Deputy City Attorney:** Good afternoon. Today's hearing is an evidentiary hearing, where we submit new evidence in support of your arguments. This evidence may be in any form, such as testimony, letters, petitions, slides, photographs, and drawings. If you haven't given the counsel clerk a copy of the evidence you plan to submit, you should give it to the council clerk after you finish your testimony. Any photographs, drawings, maps, or other items you show to the council during your testimony should be given to the council clerk at the end of your testimony. Make sure that it becomes part of the record. The order of testimony today will be as follows -- opdr staff will have approximately ten minutes to present a staff report, following the staff report, city council will hear from interested persons in the following order -- the applicant will go first and have 15 minutes to address the council. After the applicant, council will hear from individuals or organizations that support the applicant's proposal. Everyone will have three minutes to testify. In light of this time limitation, please consider prioritizing the issues you intend to discuss today. We will insure that the council hears the issues that are most important to you. Next, council will hear from the area neighborhood association whose representative will have ten minutes to address the council. After the neighborhood association testifies, persons or organizations that oppose the applicants' proposal may address the council. Again, everyone testifying in opposition to the applicant's proposal will have three minutes to testify. The council may then close the hearing and deliberate. After the council has concluded its deliberations, council will vote to either accept or reject the hearings' officer's recommendation. If the vote is a tentative vote, council will set a future date for the adoption of findings, a final vote on the hearing officer's recommendation. If the council takes a final vote today, that will conclude the matter before the council. I would like to announce several guidelines for those presenting testimony and participating in today's hearing. These guidelines are established by the city's zoning code and state law. And they are as follows -- any testimony and evidence you present must be directed toward the applicable approval criteria for this land use consideration. Or other criteria in the city's comprehensive plan or zoning code, which you believe apply to the decision. The planning staff will identify the applicable approval criteria as part of their staff report to the council. Before the close of today's hearing, any participant may ask for an opportunity to present additional evidence. This kind of request is made, council may grant a continuous or hold the record open for at least seven days to provide an opportunity to submit additional evidence and will hold the record open for an additional seven days to provide an opportunity for parties to respond to that new evidence. Under state law, after the record is closed, to all parties, the applicant is entitled to ask for an additional seven days to submit final written arguments before the council makes its decision. 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.

**Katz:** Okay. I don't know whether I need to do it or not but I am going to do it anyway. Conflict of interests? Members, ex parte contact? By silence, does anyone want to challenge us on both issues? Nobody wants to challenge us. All right. Let me just also find out, representative merckley, did you want to -- not now, but did you want to testify?

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\*\*\*\*\*: Yes, please.

**Katz:** Okay so, I will get you up after the neighborhood association, is that all right? Okay. All right. Applicant. Come on up. I am sorry, staff report. I did want to get out early but not quite that early.

**Duncan Brown, Office of Planning and Development Review:** I will try to be brief, then. Thank you. I'm duncan brown, opdr. You have before us a land use review for comprehensive plan amendment and zone change from single family residential, r-7 to multidwelling residential, r-2, for a two-plus acre lot in a newly platted subdivision of northeast 165th avenue and sandy boulevard. The approval criteria would have to be met for the comprehensive plan amendment are found in city code section 33.810.050. And also the requirements of the metro functional plan for the zoning map amendment, the criteria of 33.855.050 must be met along with the transportation element of the comprehensive plan. The application was received last august, august of 2001. There was a public hearing before the hearings officer in november. The hearings officer recommendation came out in january of 2002 and recommended approval of the, both the comprehensive plan amendment and zone change. The site is in the far northeast corner of the city.

Bordering sandy boulevard. It is shown by the star on the map before you. This is a generalized comprehensive plan map and zoning map of the area. The orange-colored areas are multifamily residential zoning. The yellow is single family residential and the pink is commercial, also along the north half are the, or the upper half of the screen, it's gray, and that is the columbia south shore industrial district, which is zoned industrial. The city of gresham is immediately to the right of the las brisas subdivision. The site is shown in the circle, and the hash marks indicate lot "d." should be coming up on the aerial photo pretty soon. It is thinking about it.

**Saltzman:** Does gresham's zoning adjacent there also residential?

**Brown:** No. It isn't. It's industrial and has been developed as the honda regional facility.

**Katz:** Have you stuck?

**Brown:** Yes. [ laughter ] what you will see, what's being manufactured here --

\*\*\*\*\*: Are you getting anything? Oh, --

**Brown:** This is an aerial photo of the area. And this was taken about two the year 2000, and you can see the site is indicated by the orange circle. At this time, it was -- it used to be an agricultural field. The field off to the right is now the honda regional facility. So, you can see that to the left, to the west and to the south, is developed pretty much in strictly residential development. This is the old las brisas. It was to be platted in three phases. The first two phases have been platted. The third lot "d" remained unplatted, and is still to this day a single lot platted only as a single lot. It was approved for 11 single family residential lots, which are shown in the dotted line here. To the south, you can see green area. There is some environmental zoning on the land. A large part of which has been kept in a common open area. There's a future access point. Right now, there's only one access point to the subdivision that's on 165th and sandy boulevard. The future access point is, is a dead end street and there's several hundred feet of, of underdeveloped property between that point and 162nd avenue. There were a couple of major issues before the hearings officer. The first one dealt with traffic impacts, the congestion along sandy boulevard, or more specifically, the congestion at 165th avenue, as it entered sandy boulevard. The level of service on sandy boulevard is within acceptable limits, both at the time of the development, which is estimated to be this here, and in the future, 20 years down the road. However, in 20-20, the 165th avenue intersection with sandy would be degraded with the proposed development or without the proposed development, if it were simply developed in single family residential development. This is because, primarily, the traffic buildup on sandy boulevard. However, odot has -- it is a state highway along sandy

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boulevard there. Odot has taken a look at it and feels that from their standpoint, that the level of traffic or level of service along sandy boulevard is acceptable, and that this would not hinder the traffic flow and also Portland department of transportation has reviewed it and finds no glaring flaws in the proposal.

**Saltzman:** So even if you have that second access point it, degrades to level "f" in 20-20?

**Brown:** No, it would -- it would remain an acceptable level. Glenn pierce is here, and can answer that issue, I think, a little better than I can.

**Francesconi:** No glaring flaws? Does that mean that there is some less glaring flaws.

**Brown:** No, no. The second issue is that of timeliness, that the review for this proposal should have been done as a same time as the subdivision review a couple of years ago, and although that may be preferable from a comprehensive land use point of view, it isn't required by our city code, and the applicant has chosen to have this reviewed separately.

**Katz:** Let me ask you this, on page 26, it references a letter that tom mcguire wrote to opdr at this time that that was not appropriate for multifamily use. Can you respond to that?

**Brown:** Tom mcguire was speaking from the standpoint, at that time, the clean streams initiative, and from the environmental impact initiative, and he felt that, that the timeliness aspect was an issue, that they should have asked, at the time of, of the initial subdivision for planned unit development and if necessary, comprehensive plan amendment in order to have higher density housing or clustered housing up to the north in this lot "d" area. I think the applicant could, could probably explain why they didn't -- they chose not to go that route.

**Katz:** Go ahead. We will ask some questions later.

**Brown:** Okay. This is the las brisas subdivision and lot "d" is in the foreground just behind the sign. Right now it's used for temporary stockpile area for ground that's been excavated for construction of homes that you see behind. This is lot "d" looking west toward the commercially zoned property. Which is now a motel. And then looking again to the south toward the single family residential area. The treed area in the background is the environmentally zoned area. Large portion of it, which is retained in a common open area.

**Brown:** Looking to the north across sandy boulevard toward the columbia south shore planned district, there are some older commercial and industrial areas. This is an old lumber mill or -- and then immediately to the west of that is a gas station. You can also see the intersection of 165 and where it enters sandy boulevard. And this is a little different perspective of the intersection of 165.

You can see the left turn lane for people traveling east on sandy boulevard to turn left into the subdivision or in this particular case, the campers turning into the gas station. And then looking east into gresham, you can see this is on a transit street. There's a bus in the background there. And the honda facility just off to the right. And here's another picture of it. And then the intersection of 165th enters into the las brisas subdivision. And then sandy boulevard, again, looking to the west from the same point. 162nd avenue off on the very right, right-hand side of the picture is the signalized intersection. And then the sidewalk improvements along sandy boulevard, the, the telepoles are temporary location, and will be moved out of that sidewalk sometime in the future. In conclusion the, the hearings officer found that the proposed multidwelling residential development meets many of the city goals to provide affordable and higher density housing and locations that are near employment centers on transit routes and in places that do not impact nearby single dwelling and other established neighborhoods. This is primarily because of the exit point goes to sandy boulevard and away from the established residential area. The wilkes community and rockwood corridor plan, which has been adopted by the city, doesn't specifically address this site but it does give some guidance for location of multidwelling development. That guidance

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largely mirrors the comprehensive plan that is that multidwelling development should be located on arterials, transit streets and near employment centers. The long-term transportation, as I mentioned, is somewhat problematic for the residence of the subdivision with that single entry and exit. By 2020, however, in the next 20 years, when potential failure could be experienced that the second access point should be in place and that should alleviate the situation. Other services, such as sewer, water, stormwater and pretty much all of the transportation services are, can be made available. So, in conclusion, the land use hearings officer recommends the approval of the land use amendment and the zone change.

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

**Katz:** Okay. Applicant? 15 minutes.

**Mike Robinson, Perkins Coie LLP:** Good afternoon. Mayor Katz, members of council. I am mike robinson, I am representing the applicant, pacific western homes.

**Katz:** Would you, mike, also grab the other mike. Your voice doesn't carry.

**Robinson:** Okay. Is that better? Before I turn to the approval criteria and explain why bodes staff and the hearings officer found we met the approval criteria and as a have recommended this application be approved, if I can, I would like to answer commissioner Francesconi's question about transportation, if there was a question there, and mayor Katz's question. Let me turn to mayor Katz's question. The letter that the hearings officer referenced is a may 10 e-mail from tom mcguire who, at that time, was in the bureau of planning and who --

**Katz:** The 10th of last year?

**Robinson:** May 10th of 2001, yes, and who you know is no longer with the bureau of planning. He wrote the e-mail to sheila in preparation for the preapplication conference for this application. And he did not say that this was a bad site for multifamily housing. Here's what he said. He note that had we had gone through the las brisas subdivision. I think it had just concluded earlier that year, february, march, something like that. And he said that during that subdivision, here's what -- I am going to quote him. Quote, the applicant was allowed to build some units within the environmental zone because they made the argument that alternative types of housing attached units, condominiums and apartments were not practicable on this site. Had they proposed multidwelling in the original application we could have prevented any intrusion into the environmental zone. Now, he didn't say that the site was inappropriate for multifamily housing. He was responding to a discussion that we had in the context of the las brisas subdivision, and I can tell you having done that for the applicant and the duncan was the staff planner for that application, as well, we did not talk about multifamily housing at all. The applicant had never thought they were going to do multifamily housing there. We certainly didn't talk about it in the context, that issue did arise. We certainly didn't talk about it in the context of multifamily housing on sandy boulevard. The discussion that we had and the record reflects this, is whether we could have done some type of more intense housing back towards -- back towards the e-zone, and what we said is no, we didn't believe it was practicable back there for a number of reasons. First of all, we would have had to have gone through exact this will kind of hearing, and if the number of people sitting in the audience for any reason, or any indication, that's why we didn't want to do it. We wanted to try and do what we could in the existing r-7 zone. Secondly, we didn't think that putting multifamily housing adjacent to what is now become tract "a" in the subdivision, which is, encompasses the remainder of that forest area, made any sense. We hadn't talked about putting multifamily housing there. So the context of that discussion that tom referred to had to do with additional housing back at the rear of the site, not at sandy boulevard. And commissioner Francesconi, you asked, I think, about the odot comments. Before we turn in the application, we had our transportation consultant,

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lancaster engineering, talk with Oregon department of transportation, region one about, what they wanted the traffic city to look at. We did a traffic study after we had talked to them and incidentally, after we talked to glenn. Their comment to the bureau said, we think you meet our standards for sandy boulevard, which is our facility. They did discuss to go back and amend the study and take a look at 2020. The 2020 planning, which we did and as I will tell you in a minute. The only reason that we have done that is not because your code requires it or your plan requires it, but because this is an amendment to your acknowledged plan and zoning ordinance. We are subject to the transportation planning rule and the Oregon highway plan, both of which require us to look at that planning horizon, and we did that and without getting too detailed just trying to answer your question, we had no adverse comments whatever from either the department of transportation or the Portland department of transportation. Both of those agencies' written comments conclude that based on what this application does, we meet the approval criteria relative to transportation. I should do one house keeping matter, just for the record, I am assuming that the entire planning department file is physically before the city council and duncan is shaking his head, yes. As duncan said, this is an application for both the plan map amendment and a zoning map amendment to multidwelling residential and r-2 on northeast sandy boulevard and as duncan and I have told you, both your staff and hearings officer have recommended this. I want to cover three main areas, if I could. And I am sure there will be some things I will want to tell new rebuttal, but let me focus my application on the issues that came out of the hearings officer hearing. The first is location, and there are a number of approval criteria in your plan that requires us to determine whether this is the best location for multidwelling housing. The evidence that was before the hearings officer is that it is. It is on sandy boulevard, which is a major city traffic street and a major transit route. It is across sandy boulevard from industrial and retail uses, as duncan noted and as the photographs before you showed, were now adjacent to a major distribution so honda, we are next to commercial neighborhood zoning just to the west that runs from the end of our property to northeast 162nd. Urban development policy 2.12 is entitled "transit corridors." it's in the hearings officer's report but I will just read one sentence out of it. It says "increase residential densities on residentially zoned lands within one quarter mile of existing and planned transit routes to transit supportive levels." that is exactly what this kind of application does. It is on an existing transit route. It is near shopping. It is near job opportunities. And as you know, as you go further east on sandy boulevard, there is a, an extremely large area in gresham, fairview and wood village. In fact, it's one of the largest remaining areas, about 50 to 60 acres, which will eventually be developed for industrial use. Also on page 21 of the hearings officer's report, he notes that the wilkes community and rockwood corridor plan calls for multiresidential family development amongst aeriels, such as northeast sandy. If you think the slides that duncan told you, the larger zoned area, there is significant multifamily housing in r-2 zoned areas along sandy boulevard as you go west from northeast 162nd. Now, I was out there a couple of weeks ago, and I have to tell you the single family homes around there are very nice. The area is well maintained. I have been out there for another application, but I have been out there at different times during the day, and I see virtually no impact from having those multifamily units south of sandy boulevard and west of northeast 162nd in that single family area. They appear to exist together quite nicely. The second area I want to talk about is services, and this is, again, relevant to some of the approval criteria, this is an issue that was considered by the hearings officer. Goal 11 policy "a" of your plan requires that we be able to demonstrate that there is timely, orderly and efficient arrangement of public facilities and service to say support the proposed land use pattern and is densities. The evidence that is before you shows that services are not only available but they are adequate to serve

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this multidwelling designation, and if you look at page 4 of the hearings officer's decision, he listed the comments from various service providing bureaus. Bes said that storm sewer is available and incidentally, the evidence in the record -- one of the issues, mayor, was whether going to discharge a lot of the water in the area, and the fact is we are going to retain most of it on-site, discharge it at historic levels and bes was quite comfortable with what we were proposing. The bureau of transportation, engineering said that services were adequate. The water bureau said that services were adequate. The fire bureau said the services were adequate. And the Oregon department of transportation said that services were adequate. The parks bureau, did the parks bureau did not comment negatively on the application, but I would note there is no criterion for this kind of application that we provide additional recreational facilities or amenities for this type of plan map designation. The last issue is transportation. As I have already said, both your agency and the department of transportation, at the state level, said that we meet the applicable approval criteria. And without being too confusing, I am going to try and explain why we do. We are required by state law to look not only at the year we developed the property, but at a 20-year planning horizon, which is 2020. And that's what our tia, our transportation impact analysis did. The only problem, and this is not -- this is not a problem now. The only problem that will occur, occurs by the time you get to 2020, and it's during the pmp when folks are trying to turn out of 165, left, or westbound onto sandy boulevard. The reason that that -- the intersection goes down to a level of service "f," at that point, 18 years out is because of the increased background traffic on sandy boulevard. In other words, there is simply more traffic headed east in the evening. There are fewer gaps in that traffic, which means folks have to wait longer on northeast 165 to turn. It's fairly simple. In terms of the legal standard, however, your plan and the tpr and the Oregon highway plan are almost identical. Your plan is policy 6.8.7, requires the plan map amendments that significantly affect the transportation facility be consistent with the level of services of that facility. The term "significantly effect," comes directly from the state law. And significantly affect has a meaning. What it means according to the court of appeals is that we have to cause, the application for you has to cause an intersection to fail, to go either initially below the level of service or over that 20-year planning horizon below the level of service. Now, there are two reasons in this instance why we meet that test. Why we don't -- why this application does not cause that intersection to fail. The first is, as glenn pierce tells you, the northeast klickitat street is dubbed to the boundary line of the las brisas subdivision. We did that in that subdivision application specifically for the point of providing a second way out of the subdivision. Eventually it will hit northeast 162nd, which as duncan told you, was a signalized intersection with sandy boulevard. Early on, incidentally, the bureau had wanted to us provide a local street connection south to fargo, which would have given one a second way out of the subdivision for obvious reasons because that is an environmental zone. We were unable to do that. But, there will be a second street. There's a high probability that there will be a second street. That area that is between the west property-line of this subdivision and northeast 162nd consists of one underdeveloped large lot with one single family home on it. So, what glenn's comment is and what the hearings officer found to satisfy the criteria is that with that second connection, folks are going to have a way out, and they don't have the necessary wait of 16 a 5nd because they can get on sandy -- at 185 because they can get on sandy at 162nd. The other piece of relevance to you --

**Saltzman:** Does the applicant own that piece of property?

**Robinson:** No, we don't. We have had it under option but we do not own it. But, if I -- if I can, I think it is a fair expectation that because it is undeveloped or underdeveloped, that it will develop in the next 18 years. The other and probably in my view, the more important piece of evidence is



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contained in the January 4th, 2002 letter that I put into the record before the hearings officer. Exhibit, if I can flip back. Exhibit 1 in that accelerate a December 20th letter from the engineering firm that we retain to do the original tie. Keep in mind the standard is whether, according to the court of appeals under the TPR, which uses the same language your planned policy does, we cause the intersection to degrade sooner than it otherwise ordinarily would. What the letter says is, we do not. Even if this property were not zoned multidwelling designation, by the year 2020, the intersection will still be at level of service "F" for folks trying to turn left on Sandy Boulevard because of background traffic growth. In other words, we don't cause it to tip over any sooner. We add some traffic, but candidly, our traffic that's coming back on Sandy Boulevard isn't the problem.

It's now going past 165, it's turning in. It's the folks that aren't related to this site that are going on east. The hearings officer adopted the argument in my letter and the letter from landcaster engineering in their entirety. So, for two reasons, Mayor Katz, we believe that we meet the relevant approval criteria for transportation. The reason that Mr. Pierce has given you and the evidence contained in my January 4th letter. If you have other questions, I would be happy to answer them, and I would encourage you, if there are things that I have not answered that you are thinking about, please give us a chance to answer them. Otherwise, I will save my remaining comments until rebuttal and we would ask you to follow your officer's recommendation and approve this.

**Katz:** I don't think we are going to have rebuttal? Okay. If necessary.

\*\*\*\*\*: I am sure it will be necessary. [laughter]

**Katz:** Questions?

**Saltzman:** You have been out there a lot, you know at certain times of day it's very noisy due to airport traffic. We do have a standard in the city that if new construction occurs within a certain decibel of contour, which this project is not in that contour, but there is a standard that new construction has to add extra insulation to deal with noise impacts from the airport, any thought given or has the applicant, in its current development, done extra insulation or any thought doing it in this new development?

**Robinson:** Commissioner Saltzman, you are correct that it's not in that contour and no, no one has raised that, I don't believe, before today. I would be happy to talk with the applicant about that.

**Saltzman:** So it wouldn't be done in the prior housing that's been built by the --

**Robinson:** I couldn't tell you. If it's not required by city code it was probably not done. Does that have a bearing on this application for you?

**Saltzman:** It may. I have some questions that I may want to ask our council.

**Robinson:** Please do because it has not come up before and I am happy to try and answer it.

**Katz:** Would you share with us what it is that you are going to be building? Your client?

**Robinson:** Apartments, Mayor Katz. Not attached single family homes. Not rowe homes but apartments.

**Katz:** How dense? Tell you what, I don't know -- I will make a note and answer your question on rebuttal. I think I recall but rather than positively be wrong I will get you a correct answer.

**Katz:** Refresh my memory, is this an area for design review or not?

**Robinson:** No, it is not.

**Katz:** Okay. Further questions? All right. Anybody --

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

**Katz:** You are welcome. Anybody want to support the application? All right. Let's have the opposition who, who is the spokesperson for the opposition? All right. Is ten minutes good enough for you?

\*\*\*\*\*: I don't need that long. I talked to somebody in your office and they told me to come by.

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**Katz:** You can have ten, and how many other people will be testifying? All right. I was worried about equal time, but I don't have to worry about it. [ laughter ]

**Katz:** All right. And following your testimony, if the public is all right, we will ask representative merckley to come up. We extend the curtsy to our legislative friends. Or some legislative friends. [ laughter ]

**Katz:** Go ahead.

**Ross Monn, Chair:** Mayor Katz and the commissioners, my name is ross monn, chair of the wilkes community group. And I reside at 16449 northeast fargo circle. This nice lady is passing these out but you have already brought that up. I feel that's one of our strongest documents, although it was -- well, when I get there I will tell you so I don't get off track. The hearings officer has done an adequate job of considering the fine points of the city zoning code, I am hoping you can step back a bit and consider the impact, an additional 47 units crammed in the center of a single family neighborhood. I would like first to bring to your attention a letter from tom mcguire. Then an employee of the city. I don't think I need to read t it's in your packs. I can read it over if you want me to put it on the record -- I believe it's in your packets. I can read it over if you want me to

--

**Katz:** You don't need to read it. Just submit it as part of the record.

**Monn:** Okay. It was rebutted in my testimony before the hearings officer, but this was in the pre-op conference. However, nothing has changed since this plan did not respond to the zone change. I called carrie, and she stated yes, we need to get better at responding because planning didn't respond to this new zone change. I guess I didn't make that clear. Planning did not respond to the zone change. I was saying it all at once, and parks did not respond, when he's counting his deficiency in park space.

**Monn:** So, I was reading, um, 8 mr. Robinson's thing here. He says bureau of planning, it's not common under this application, and -- thunder application, and mr. Buyers is no longer a city employee. Somehow, I have done something here when I got papers out for some of this. Just a second. This particular development is given an adjustment to build a number of units, this is, this is going to sound repetitory because it's already covered but, the development was given an adjustment to build a number of units in the "c" zone under the initial review. A request for a zone change should have been done concurrently with the initial lur, so as to eliminate encroachment on the "c" zone and allow extra units in a zone other than the r-7. With this request for a zone change, there will be over 1,000 vehicular generated trips per day, using one access road into this development. There is a future plan for another access, but not until 2020. In the meantime, the amount of traffic that will being up through the intersection at 162nd and sandy blocking access to local business and other neighbors is unacceptable. There is a, I don't know. But, by 2020, I am sorry, there is -- the second access is at klickitat and 162nd, should be in place. However, the land to achieve this goal has not been purchased. What guarantee do we have that there ever will be a second entrance? In place? There is a type 3 environmental review in place for this development. Until these violations are satisfied, I believe we should not consider any additional applications. If this zone change was to go forward with the replat of tract "d" as lee halverson stated he states that there is a lack of information provided by the applicant. I need to see the proposed lot configuration. The configuration must show all public and along with future lots. Presently tract "d" is platted with 11 r-7 single family detached homes. The new proposal with the zone change creates up to 47 units in the center of the existing r-7 zone. We do not -- wait a minute. We do not oppose all development in our neighborhood. This mass will significantly alter the character of the neighborhood with spot zoning. In a letter from commissioner Hales, dated january 16th of

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2002, he states "each new project should incrementally improve the built environment, rather than result in a detrimental mix of zones and uses." so, if you have any questions for me, that's really all that I have to say.

**Katz:** Okay. Questions? All right. Thank you. All right, let's have representative merkley first and then we will call the public.

**Representative Jeff Merkley:** Greetings, madam mayor and commissioners. Representative jeff merckley. I am here at the request of several neighborhood leaders. I also attended the earlier hearing on this particular development and shared some of the thoughts I will present to you all now. The -- I want to provide a little bit of perspective about the broader feeling that has many neighborhoods in far east Portland concerned and many neighborhood leaders in far northeast Portland concerned. The basic underlying premise is that we have a comprehensive plan that balances many different types of development, insures that there will be single family communities, insures that there will be apartment opportunities, density long transit corridors and so forth. But the impression in far northeast Portland is that the existing comprehensive plan is under assault. And it is in a variety of ways. There is a zone, I believe it is 2.5 zone, that is one unit of housing per 2,500 square feet that was established as a maximum density, and that is being converted into a must-be density. So that areas that were presented during the comprehensive plan as they can be developed by the developer as lower densities are being required to be done at the higher density, then there is something called the "a" overlay, and I am not an expert on these things, so I will apologize if I get these details wrong. But, my broad understanding of it is that in exchange for design review, existing densities can be increased. And so an r-5 or r-7 can be developed at higher densities. And I believe this is coming into effect this year or just did come into effect. But the third piece that has citizens concerned is there seems to be a one-way rezoning tool that takes lower densities and converts them to higher density upon request. Adjustments, exceptions, and rezoning. And so -- and to broaden that impression, it's that you buy a piece of land with one zone, a lower zone, that is in the comprehensive plan at a lower zone to create the balance that was inherent in that comprehensive plan, but you buy that piece of land, and then you say I can make more money doing this at a higher density so I will go down and I will argue that it should be rezoned and there are things in the plan standards that can always justify higher density. There's phrases about providing for population growth. There are phrases about transit support density, there are clauses about range of housing types and under all these, one can argue that at any given instance, an area should be rezoned to a higher density. But if you take those individual cases that are made, they essentially, as a group, represent an assault on the comprehensive planning process that had balance written into it when the zoning areas were laid out. I think there are some very legitimate concerns here that will be presented better by the people who will testify. Those folks living in the small enclave of r-7, expected to be able to make a left turn onto sandy knowing it is very difficult to make that left turn, without a huge number of homeowners backing up trying to make that turn. So there's going to be a direct impact on the quality of life of those who live in the r-7 because you now have 47 rather than 11 additional units that are going to be transitting in and out with this difficult left turn, and it's one lane, so if you can't take a left turn, everyone else is backed up behind you. So there's that factor. Second, in the plan, there is a case for the character of established neighborhoods. Since this other area is all right plat and had under construction, it is essentially an established neighborhood. There are about ten houses who have back yards that look onto this new area, and they look back onto this new area and they know that that represented an area that was going to be r-7. Houses consistent with the character of the neighborhood. And now they are being told, or could be told, well, we are sorry, but that's been

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rezoned and you are going to be looking back onto apartments. And folks will say, but I thought that we had a zoning system, a comprehensive plan to protect against this kind of spot-by-spot conversion. Second, or third, or somewhere in there, in terms of the urban diversity argument, this argument can be made depending on how big of lens you take. If you look along any small neighborhood that's a single zone you can increase the diversity by changing a piece of it to a different zoning, but the intention of the comprehensive plan isn't to focus just on that single small neighborhood. It's to take a larger picture and see within the larger picture the diversity that was written into the comprehensive plan to begin with and if one goes along sandy and one sees lots of apartments, lots of commercial, in fact, having this little piece of r-7 along sandy, itself, may be, in itself, a very legitimate form of diversity embedded into the planners of the comprehensive plan. This small enclave of houses is now going to be, if this is approved, behind a wall of, of high density apartments, and that's another piece that is reverberating in the neighborhoods of far northeast Portland, is the sense that because every major street is a transit corridor, it has buslines, that there is a rezoning that's creating a wall of high density behind which the remaining r-5 and r-7 are, are shrinking. There is, in this case, also an additional concern because it feels an awful lot like what my father would refer to as a bait and switch. That is, the existing exception for this development was granted under the application that said we are going to develop this as r-7, having received that exception, the applicants are now coming back and asking to do something quite different than what envisioned when that exception was granted. So, those are the broad concerns and some of the specific concerns. I think the people in the neighborhoods have, have legitimate reason to be down here today to raise some questions about the appropriateness of this particular rezoning. Thank you.

**Katz:** Thank you. Questions of jeff? All right. Thanks, jeff.

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

**Katz:** All right, let's start.

**Katz:** Let me ask everybody. You would help all of us if you focused in on the goals, whether they meet the goals or not. Okay. So, who wants to start? Since many of you haven't been here before, see the timer on the screen? And when you hear that buzz --

\*\*\*\*\*: Oh, okay.

**Katz:** I will let you finish your thought, but then we will have to move on.

**Jack Taylor:** I am jack taylor. I lived in this neighborhood for about 30 years. I live at 14414 northeast scyler street, a little ways away from the site. A little bit of history. Going back before the -- before you carpet baggers came out to the east county --

**Katz:** That isn't going to help you. [ laughter ]

**Taylor:** I know. But, well, but you changed some zones. You wanted to change again veer, 148th and halsey, and now you want to change this, and another thing I haven't seen in this particular thing is what impact it is going to have on the school district. Commissioner Saltzman brings up a good point about the air noise thing that's going through that area. And you haven't agreed on the impact of that. The second thing I want to bring up if you start at 122nd and you look at the traffic and you look at what, what was done with all the apartments in there and the impact on the parkrose school district and the turnover of the impact on the school district, and I was on the budget committee in reynolds for ten years so I know a little bit about what is this is about, and I think you need to consider those two things. The other -- last thing I want to mention, you change from r-7 to r-2. It's the beginning stages of the next step in the next step, and thank god we were able to stop the gleneveer thing, because what we would have had today is a complex with a traffic jam on glisan and halsey, and I suspect you saw the best pictures here of what's happening with the

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honda site on what sandy boulevard looks like, and mayor, you know what 138th and sandy looks like with the costco problem, and all the parking along there, and you are going to bring all this traffic and people making left turns. Thank you very much for your consideration. I am sorry if I offended you by calling you a carpet bagger, but in a way, you are. [ laughter ]

**Katz:** All right. Thank you. Go ahead.

**Sheryl Reinisch:** I am sheryl reinisch and I live in the highwood subdivision and my house backs up to the zone. On april 20, 2000 we attended a hearing to oppose the proposal of the las brisas development because it included the elimination of the environmental zone, which we very dearly love. At that meeting, we were pleasantly surprised when the developer submitted a revised plan and saved three acres of the e-zone. There were some compromises. Some lots were decreased in size so the cluster-style homes could be built. However, all lots were single family dwellings. We knew some trees could be removed but felt the developer brought forth a good-faith compromise. On may 1st, 2000, we wrote a letter to elizabeth and carbon copied it to duncan brown commending the developers and the land use commission. We were happy with the new proposal and helped the -- held the developer in high regard for his creative solutions. Now two years later, I feel like we have been deceived. This new proposal violates the agreement we made two years ago. Trees have been cut down as planned, but now multifamily zones are being proposed. That was not part of the plan. We trusted the process and now we feel like its being manipulated for personal wealth and gain. Please enforce the original plan. Don't allow this new proposal to pass.

**Katz:** Thank you.

**Ann Bonner:** My name is anne bonner, and in these trying economic times, I am searching for new sources of income. I live in the development, highwood directly adjacent to the proposed las brisas. I want to thank the attorneys for the footwork and the legal research that may make my retirement more lucrative. You see if the zoning change goes through, my two neighbors and I will be able to raise our houses, we will have collectively over 30,000 square feet of land and will build apartments. This will be on a desirable lot with street access, despite objections from our neighbors and the accompanying devaluing of our surrounding properties, it would be legal and possible. Of course, the current amount of almost one quarter million dollars of real estate taxes paid to the city by my neighborhood will shrink to a mere \$50,000. If you allow the rezoning of las brisas you are setting a before he is dent, and that will allow for similar projects in northwest, southwest, north, south, east, and in the existing neighborhoods throughout Portland. Thank you.

**Katz:** Thank you. Somebody start.

**Karen Bissell:** I am karen, I live at 16436 northeast fargo circumstantial. And we bought in that area eight years ago and we bought because of the characteristics of that neighborhood, and we would like it to remain the same. That's all I have to say.

**Katz:** Thank you.

**Charles Oliver:** I am charles oliver, and I live at 16424, northeast fargo circle. I am one of the original residents of highwood, which is the subdivision just to the south of the environmental zone. I bought in there because it was an area that was, that was completely surrounded with woods or farmland at the time that I purchase it had, about 23 years ago. We had significant, significant -- what do you call them. [ laughter ]

**Oliver:** Rules in place that, you know, in regard, we wouldn't cut down trees. There were a lot of that kind of thing. And it was just the kind of area that I thought that I wanted to raise my children in. And for about 20 years, it, the character of the neighborhood, itself, really remained the same. The trees and the environmental zone started worrying us when about two years ago, they started

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clear-cutting the brush and stuff out of the bottom, taking a lot of the trees out and trimming the branches on the big trees up to about 8 feet. An april 20th, 2000, I also attended the, the meeting about rezoning and was fearful at the time, but then I also was happy that the gentleman said that he was going to put in single family homes. You know, i, too, feel like sort of stabbed in the back, maybe that wasn't the plan at all. You get it in on one, and then you, you try to rezone it after you, you have got it already approved. So, I just would like to, to add to some of the other comments here, we sort of feel like we are stabbed in the back a little bit, and we would like to maintain the neighborhood and the area around it as, as r-7. Thank you.

**Jan Johansen:** Good afternoon, mayor, commissioner, I am yan, johanson, I live at 16421 northeast fargo circle. My property abuts up to the environmental zone. I attended all of these meetings. The original proposal, as it, as it was changed met with a lot of our approval but as we have already heard the changing of the ideas seem a little bit counter productive. It seems that an argument may be made that these larger single family properties will not sell, so the only way for the developer to get his money out of this, this development is to make it multifamily dwellings, which was not the original intent, I believe. Having them a single family is, is a much better, better plan. As the applicant is made aware, the, the traffic zones are along there. The multifamily -- about a quarter mile west, there is quite a significant development of apartments, so we don't feel that this is, this is necessary for them to add any more multidwellings, and then I believe -- I am sorry, slipped right out of my head. Thank you for your time.

**Katz:** Let me ask you, since you mentioned you were there from the beginning, forget tom's e-mail for now, because I think that it references the housing units against the environmental zone. But what was the discussion with regard to this particular area at the time that the subdivision was established?

**Johansen:** If I remember correctly, they were -- the developer was quite excited to have access to this, one of the last remaining r-7 areas in the city, having large lots. They were excited to be able to develop on it. That was the, the impression that I received from that.

**Katz:** We were all here at that time, and I can't -- I don't remember because we see a lot of these cases. I thought that maybe somebody else would remember the more detail. Thank you.

**Kerry Brown:** Kerry brown. I live on northeast --

**Katz:** Grab the mike. I will know -- I know now who will remember. Linda will remember. All right. Go ahead, kerry.

**Kerry Brown:** Why does the city feel that the developers are smarter than the citizens that live in the neighborhoods. I believe that a lot of these cases are to generate revenue and therefore, more money in the pocket of the developer. You cannot allow developers to change the zoning once they have established their plans. There is heavy traffic congestion on sandy boulevard more so to the west. The streets all back up, and his workers know that they cannot take a left and go westbound on sandy boulevard. Portlanders have vehicles. They drive to the mountains. They drive to downtown Portland, they drive to the coast. The city transportation will be an issue. There is one busline, there is no max. How many of these multidwelling are going to be subsidized? All up and down sandy there are multidwelling. There is apartments. There are condos. There is vacancies. There are homes for sale out there. I just feel that this is very inappropriate.

**Katz:** Thank you.

**Neil French:** Good afternoon, vera Katz and the commissioners. I am neil french and I live at 1941 northeast 143rd avenue. I have been asked to submit and describe this map. Did you guys get the map?

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**French:** This is mainly of the wilkes community. To provide additional background and context for the discussion of the zone change proposal, which is, if approved, approximately four times the number of family units previously approved, this over 2 acre lot, which is lot "d," and I had that marked in the yellow, the little -- the orange is the las brisas, the yellow is the two-acre lot "d" that we are talking about. The map is intended to give you a visual sense of what the wilkes designation of park and natural resource deficient, means in our area. Its relevance will be addressed with a subsequent speaker. The whole north side section of wilkes, between sandy railroad, the union pacific railroad and marine drive is industrial sanctuary, and it's marked up there and has been mentioned directly across from lot "d" is the lumberyard, factory outlet and the service station. The gresham area to the east is zoned business, park, moderate commercial, and heavy industrial. The property to the west along sandy is zoned cn-2, as you can see, it's hard to read there, but it's small, and those, from there on at 162nd is all, like they have been saying, large apartments. Further on the west side of sandy all the way to 125th, are multiple recurring r-3 and r-2 zoned apartment complex, including in the pacific western homes subdivision of the riverview. That's at about 157th. Almost a mile to the west of lot "d," is a two-acre wilkes park. That's the little green area over there. Which provides community recreation space for the over 100 already existing households north of i-84, which in the year 2000 data we think that there is more buildings that have been going on since then. In two miles to the west of that is the nearest park, which is the community park, the far green section off of sandy. Then the next -- the only other part that we have is the gueneveer golf course, which is the large green area so the south with the walking trail in the golf course. Our ec-zoned areas are the natural resource streamside on the southeast of the wilkes park, which is that blue area next to the wilkes park, and then the other area is at the edge of the las brisas where it's wooded and the blue area.

**Katz:** Sir, your time is up so, what I am going to give you an opportunity, so --

**French:** What we are saying is, we are just more condensed and we don't have any -- the parks are very small in this area. And to put in more housing in the smaller area is not in agreement with what we are trying to keep or improve with.

**Katz:** Thank you. All right. Linda?

**Linda Bauer:** Linda bauer, 6232 southeast 158th. This is not -- this map is not of this area, but it has some of the same flaws as the las brisas plan so I want to show it to you. Here is 162nd and here is foster. Here -- this is crosshatch, and that's because it is private property. But, pdot thought that these private property owners wouldn't mind if people, all of these people used this way, as well as this way out. So, after a year and a half of speeding, littering, dust, everything, these people closed their street and said, you are not going to drive on our private property any more. Now, these 500 homes have one way out, period. It gets worse. This is the only through street for all of these 500 homes. Last month, the first ice, there was an accident right here, four-car accident right here. Nobody, all of these people, all of these people could not get out or in for an hour. Paul served snacks to the kids on the school bus because it couldn't go anywhere because this is the only through street for all of these homes and it was blocked. Um, pdot told us, told you that this was going to be all right. Well, things are getting worse. This is closed, and now we are having accidents here. It's not getting better. It's actually getting worse. And the same thing as this one, it only has one access. And also if you -- if you approve the zone change, then you will be -- it will bring this subdivision more out of compliance with your code. 33.60.010 says, a cul-de-sac shall be as short as possible and shall normally have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a turnaround so, if you

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allow apartments in there, they are going to be more than 18 dwelling units, so it will bring it out of compliance with your code. Thank you. Questions?

**Katz:** Thank you. Duncan, we will need a response on that one. All right. Questions of linda? Thank you.

**Katz:** Now we truly have some history.

\*\*\*\*\*: Well, that was cruel.

**Katz:** I didn't mean it to be cruel.

\*\*\*\*\*: You didn't say dinosaur.

**Katz:** Indoor carpet baggers. [ laughter ]

**Alice Blatt:** Hi. Excuse me. Mayor Katz and commissioners, my name is alicia blatt. I live at 15231 northeast holiday, Portland, Oregon. I'm here today, I think, as an ex-everything. That's a little arrogant, I guess, an ex of several things. My primary purpose in testifying today is to suggest that this, in fact, is an inappropriate place to site a multifamily complex. And having just heard that that is, in fact, what is being proposed here as we would have expected, being an r-2, I would like to say that something that, number one, the city code early in its policies and objectives states very clearly that livability is a prime concern. As far as I am concerned, for our community group, livability is the bottom line. If livability is not assurable, then that which is proposed should not be approved. I would also make another statement, which is personal but seems to me holds merit. The smaller in a proposal, in a subdivision, in an apartment complex, the smaller the unit size, the greater the number of units, the greater the lot coverage, the absolutely greater care must be exerted by every involved bureau to make sure that the amenities are even more carefully thought out and provided. In this case, I asked neil french to, in fact, explain the map because I didn't want to go through it myself. I needed to emphasize again that the wilkes community is still park deficient and natural area deficient. I understand -- and I should have mentioned that I appreciate the fact that amenities, not only include outdoor recreational areas, which is of concern to me. I do understand jobs are important. There is access to a bus line here. There is access to a bike route, which albeit, is on a seriously poorly improved state highway, whose improvement is not listed on any 6, 12, or 18-year odot plan that I am aware of. But, my concern is that, as you see by the map, that in all directions, the closest outdoor recreational area is the wilkes park a mile away. And that park is currently servicing a huge number of people north of i-84. Neil said 1,000 households, that's households, that's over 2000 to 3000 people. Oh.

**Katz:** Why don't you finish your thought, alicia.

**Blatt:** Okay. I think that that's -- may I say that the applicant has said, sdc would solve our problem. Can I quickly say that there is no applicable property, and sdc is very helpful if you have property to buy. On the map it is clear that we have little or no property to buy. Rsdcs will buy recreational space some place else in the city, open space, but will not help us. And the other -- they also mentioned the wooded area. There is a distinction between a wooded natural resource area to preserve and an outdoor recreation area. Can I sneak in one more thing?

**Katz:** With the approval of the council. Okay.

**Blatt:** I think that the current multifamily complex provisions for outdoor area are woefully inadequate. I can't go through them, but the minimum is -- it should be changed, and I think people have been trying for years. This is not the subdivision code, which eventually will be changed and we wish that we had had it when this proposal was first, first came up. But to add now an apartment complex with terribly inadequate outdoor -- we have nothing to offer these people, except jobs, buses, and a bike lane, which is very nice, but the rest we don't have.

**Katz:** Thank you.



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**Bonnie McNight:** Mayor Katz, members of the council, my name is bonnie mcknight, live at 1617 northeast 140th street. I'm the land use chair of the russell neighborhood association and a member of the east Portland neighborhood office. Land use committee. I want to oppose the requested zone change for lot "d" of the las brisas development within the jurisdiction of my neighbor, the wilkes community group. I do so because this requested zone change will provide an unacceptable precedent for future zone change requests. The proposed zone change is for a single lot in a development which completed its review process in 2000. The development initially required a number of special condition and is tradeoffs in order to meet the needs of the developer and the community. The nature of the development along with its constraints makes the requested zone change carry with it a number of significant impacts which are not addressed. Some examples, goal three, neighborhoods, meeting this goal is predicated on assumptions that the developer will provide a number of mitigating developments during development. Mitigation elements required as conditions to the development of phase one and two still have not been provided by the developer. Goal 6, transportation, the hearings officer speculates that access from the development including lot "d" can be provided by sending a street to 162nd avenue. All of the land between las brisas and 162nd is owned by other individuals and not under the control of pacific western homes.

In addition, a comment made here about the intersection at 165th appears to be a logical sense, 165th only serves las brisas, and so any condition of that intersection should be a responsibility of that development. Although sandy boulevard is considered a major city transit street, it is largely undeveloped and in fact, is not under the jurisdiction of the city of Portland. It lacks adequate traffic signals and crosswalks, pedestrian crossing, sidewalks, transit waiting areas, and is generally poorly lit. Pedestrian and transit ridership goals cannot be met by limiting consideration to the site only. The zone change simply makes the situation less adequate by adding more need to the area. The new zone for lot "d" would provide for 47 units on a cul-de-sac as linda pointed out, that will come into conflict in the next phase with your own title 33, which says that number is far too high.

And there is no connectivity possible for the single streets serving lot "d" so, further exceptions to your code will have to be granted at that time. The developer wants to change the zone of lot "d" of the development bringing back into play all of the problems addressed during the initial approval process, but without any flexibility to address them. A zone change for a single lot of an approved subdivision must be looked at as a dangerous precedent. It should only be justified when some significant public good would result. That is not the case here. It is apparent that this zone change is being requested because the developer guessed wrongly -- wrong initially about his development and his ability to sell single family homes in the area. Should you grant it, we will feel bound to test this precedent through the process. We ask you to reject this request for a zone change.

**Katz:** Thank you. Questions? All right. Anybody else want to testify? Come on up.

\*\*\*\*\*: Since I didn't sign up --

**Katz:** You need to identify yourself.

**Barbara Oliver:** I am sorry, I am barbara oliver, live at 16424 northeast fargo circle. My husband and I have lived there for 20 years, 22 years, actually, since the inception, and you asked the question of, what was the original intent of the developer of highwood. The landowner had so many covenants on that, about the type of siding you could use. You had to have a wood roof. You couldn't have vehicles parked outside your home, and it was really hard to have this developer come in and just do whatever, and we agreed as long as it was single house dwellings, but I will tell you the truth out in east county we feel like the wicked stepsister of Portland. Because so much gets dumped on us. Sandy boulevard, from 125th to 162nd is almost all, all apartments. We don't need more apartments out there. What we need is homes and families moving in and making a

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substantial aid to the neighborhood. And we are all neighbors there, and they say that shopping is nearby, the closest shopping is 182nd and halsey. That's where the nearest grocery store is. You know, there's not -- and the busline only runs very seldom down sandy, and not at night, at all. And so it's like -- we're already maximized with people. People coming down 162nd and come down there so they can get on the freeway to the 200 -- the 205 highway, and we have lots of traffic there already. We really don't need another apartment building. There's enough of them out that way. If you don't believe it, please just drive down sandy and see what I am talking about. Thank you for your time.

**Katz:** Okay. You probably need to come up. You don't want to come up?

**Robinson:** Oh, of course I want to come up. [ laughter ]

**\*\*\*\*\*:** You want to hear from duncan first on the code questions?

**Katz:** What's -- no, let's -- come up. You first.

**Robinson:** But whatever he has to say I would like a chance to respond to it, so would you hear him first or? I am happy to do my response --

**Katz:** Let's do your rebuttal right now.

**Robinson:** Given the fact that we have heard 13 witnesses, would council grant me a little extra time?

**Katz:** No, because actually the chief opponent got less time than they normally would get, but --

**Robinson:** Very good, thank you. Mayor Katz, members. Council, mike robinson, again on the record, I wanted to answer your question, first, mayor Katz, this zone allows 21 dwelling units per acre, 2.1.5 acres. We would expect to do about 45 units, and I would note if you look at the tia, the traffic impact analysis that was done, the impact was predicated on 60 units, so we are doing between 10 and 15 fewer units than the traffic impact analysis thought. That's the traffic impact analysis is attached to the application and dated june 6th, 2001. Let me, if I can, before I rebut, and if I go quickly bear with me because I only have 4.5 minutes. We heard without exception very few criteria and I appreciate the concerns that the neighbors have raised. I think it is our obligation to respond to those. I also think it's our obligation to stick with the approval criteria that governed this application, and that's what I am going to do. I can't do anything about other decisions that have been made out there, nor can I do anything about unrelated departmental decisions regarding parks. What I can do is tell you why I believe this application satisfies your criteria. And that's what we are here to hear about today. Duncan, can you put the subdivision plat up? One thing I want to indicate, mayor, is I candidly do not see how the folks who live in highwood or in any, are in any way affected by this. If you look at the subdivision plat, first, we are not talking, perhaps there's a misperception here. We are not talking about rezoning the entire subdivision. We are talking about rezoning a fairly small lot, a little over 2 acres on sandy boulevard, it is not as mr. Mann said, crammed in the middle of the subdivision. It's on a major city street and the remaining area that's platted is going to stay r-7. That doesn't change. The highwood who, live on streets below the green area are not only separated from this area by geography, they are separated by a densely wooded area, and they are separately by a single family home. Let me mention one other thing, the single family subdivision that we sought approval for and received did not involve any exceptions for uses and did not involve any exceptions for densities. We had an adjustment for some front yard setbacks. Nor was it a rezoning, we developed in that single family zone, but candidly, there's nothing about that rezoning that has anything to do with this application. That rezoning -- or I am sorry, subdivision. That subdivision neither hurt nor helps us. Let me talk about traffic. Several witnesses said the sandy boulevard is inadequate. Here's what the hearings officer said about page 4 from the Oregon department of transportation comment. Quote, "they

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have no transportation concerns at this time as there appears to be adequate roadway capacity, northeast sandy boulevard for the proposed amendment." that's odot talking about its own facility. When we talk about 165th. This is part of the updated traffic impact analysis. It's year 2003 background plus trips in the a.m. and p.m. Peak hours, during the p.m. Peak, there are 28 trips total out of the subdivision turning left on sandy boulevard. That rises because of this application by 11 from 17 to 28. That is what we are talking about. We are talking about 11 extra trips, and that is why the problem with, with respect to deterioration of the traffic at that intersection doesn't have anything to do with this application. It has everything to do with the growth on traffic elsewhere. The last on traffic I want to show you is the capacity analysis summary in the transportation impact. This is buildout. This is 2 003. We have the level of service, "b," which is virtually free flowing during the p.m. Peak, that's your level of service, for odot, we have one of .57, which is, again, virtually free-flowing. Let me make a few other commence, if I can, in response to the testimony, and I will try and stick to the main issues. With respect to impact on school district, goal 2, policies 11.60 through 11.62 have no relevant tie-in to applications such as this. There is no criteria regarding school capacity. With respect to noise, policies 8.19 and 8.21, 8.19 requires noise abatement construction, meeting construction standards, so whatever your building code requires is what we will do. 8.21 has to do with the noise impacted area from the airport. This area is not apparently in the noise impact area. We have not eliminated any e-zones, mayor Katz. In fact, the mitigation planting plan which planted over 1,000 additional trees and shrubs in the e-zone was approved by opdr in september of 2001. And in fact, we have enhanced that area. So, I guess I would conclude by saying, and I don't -- I have now 20 seconds so I will finish this way, I recognize that there will always be far more people in opposition to these applications but I think that we have done everything the code requires to justify the application, your staff thought so, mr. Pierce thought so, your hearings officer thought so. If there's a criterion you felt that we have not met. And us about it, I will respond to it but that I believe we have met every criterion and I will ask you to follow your hearings officer's recommendation and approve the application. Thank you for your time this afternoon. Questions?

**Saltzman:** The point was brought up about cul-de-sacs only having a maximum of 18 units? What's your response to that issue?

**Robinson:** I think Duncan was going to talk about that. But let me try and respond to it, too. That was brought up in the hearings officer's hearing, as well as, I recall, that is a title 34 criterion that doesn't apply to this. What is, as I recall, it's not that clear. It is -- it's not that plain, in other words, commissioner Saltzman. In fact, it doesn't just cap it. There is some additional language. I don't have it in front of me. And the hearings officer, I believe, addressed that and was satisfied that we met the approval criteria. The other thing I would note in answer to your question is the fire bureau said if you only have one way in and out, which we do, then you may need to do residential sprink lesser and we are fully aware of that responsibility, and if we are required to do it, we will do that to meet the fire bureau's requirements. But I believe the hearings officer addressed that issue and found we satisfied it, or didn't create a problem with respect to that criterion.

**Saltzman:** You mentioned the p.m. Peak traffic, what's the a.m. Peak traffic?

**Robinson:** A.m. Traffic is not -- well, if I look at a.m. Peak, a.m. Peak in 2003, it is .62, the standard on this type of odot facility is .80, so we have almost an additional 20% of capacity available to you. The level of service, which is the city standards, is b and c, existing conditions or b, background by the time you add in the, the extra traffic coming from the other area. Background plus the trips from this site, keeping in mind that they did this study based on 60 units. We are

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probably not going to exceed 45 to 50, is "c." so we are well within the standard. Your standard for failing intersection is, I believe, "e."

**Saltzman:** So the level "f," that this could achieve and 2020 is based on the, on the p.m. Peak?

**Robinson:** P.m. Peak in 2020, but may I go on? Your criterion says significant affects, 6.27. We don't cause a significant effect because even if we did not build multifamily housing, even if we built however many single family lots, we could commissioner Saltzman, on this piece of property, you would still have level of service "f" at that intersection, not because of anything occurring on this subdivision, but because of the simply the growth and background traffic. That, unfortunately, is the problem with that standard the state has imposed. We're captive of off-site, just like these folks are concerned. We're captive of off-site impacts. What we try to do in our december 20th, 2001 letter from landcaster engineering is not under the standard the court of appeals used these criteria that we don't cause the intersection to fail sooner. It's going to fail anyway.

**Saltzman:** I am looking at the finding of the hearings officer. On page 15, under 8.2 7, the second paragraph. The future analysis does identify a level of service deficiency for northbound exiting northeast 165th onto sandy boulevard. Okay. And that analysis is based on the assumption 165th would remain the sole access for lot "d."

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

**Saltzman:** So seems to me that they are saying only unless, the lot "d" could be the straw that breaks the camel's back unless you add alternative access to the west.

**Robinson:** That's not correct, commissioner Saltzman. If you read down to the next paragraph, hearings officer said, quote "complicate submitted a final argument designated as exhibit g-9. The segment labeled one, this application satisfies," and I won't go into it. It's incorporated in its entirety into this recommendation. That's the argument that was contained in my january 4, 2002 letter that contains landcaster engineering december 20th, 2001 letter. That goes to the standard, and what the standard is, is we have to show that we don't cause the intersection to fail sooner than it otherwise would. The only credible evidence you have is from mr. Mobley of landcaster engineering. He says we don't. Even if you didn't have this before you, you get level of service "f" anyway. We don't cause it to fail. That's what all of the criteria, your plan, the tpr and the Oregon highway plan look to, commissioner Saltzman. They look to a connection between impact on the facility, significant effect, and the application, and in this application, there is no significant effect. We don't cause the failure. And I recognize, it is a difficult argument. But, that is --

**Saltzman:** We can also disagree with the findings of your --

**Robinson:** If you want to.

**Saltzman:** With the hearings officer.

**Robinson:** But I hope you would do so on other evidence, which you have not heard.

**Katz:** Further questions?

**Francesconi:** What about the goal on urban design?

**Robinson:** Which goal is that, commissioner Francesconi?

**Francesconi:** Goal 12, the hearings officer address itself at page 20.

**Robinson:** What page?

**Francesconi:** Page 20, goal 12.

**Robinson:** And which --

**Francesconi:** Well, I mean, their finding is based on kind of housing, and that the city encourages multifamily housing, but, I mean, can we interpret that goal broad enough to include parks and to include other things the way that some of the witnesses here have urged to us?

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**Robinson:** Well, you can guess what my answer would be. Look, I think the language, I am just flipping through this, the language doesn't speak to parks. What it talks about are a number of general goals the city wants to encourage with respect to the development. I think that the reason, the, the principal reason the hearings officer found the way he did was relying on the areas, wilkes and rockwood corridor plan, which he references at page 21, articulated in greater details, this site is a portion of a recently approved subdivision, locational policies encourage multidwelling residential development along arterial streets, as much as northeast sandy boulevard. I think if you are asking me, I believe that's a sufficient response to goal 12 because it reflects your very site-specific way to achieve the Portland's character, the enhancing variety and the preservation of neighborhood policies embodied in goal 12. If you believe you can -- you are the legislative body. I understand that you have the ability to interpret any way you wish. It doesn't talk about parks. There is a separate park section, 11-f at pages 86 and 87 of the comprehensive plan. None of those policies tie additional parks or set any sort of park standard to multifamily development so, I would tell you that I think that the fairer way to interpret that is if you want to tie multifamily requests, such as this, or any request for residential, you should make it very clear in your plan policy that there's a standard for parks area, that we are not going to allow additional development in park deficient areas, but in my view, commissioner Francesconi that, doesn't exist. I suppose you could find that in goal 12, urban design, but I think that -- my candid opinion is it would be difficult to do so because I don't think that's what it goes to. Thank you for your time.

**Katz:** Duncan, come on back. Duncan, we are never going to see this again, are we?

**Brown:** I hope not. I don't think so.

**Katz:** And there's where I always have the problem when we have a zone change and in the area of goal 12, urban design, it talks about enhance and enhance and extend Portland's attractive identity. It talks about respect for the fabric of established neighborhoods, when undertaking infill development projects. It talks about adding new building types to established areas with care and respect. For the contacts that past generation of builders have provided. And it also says that the comprehensive plan goals, policies and objectives are equally or better met with the proposal than the existing ones. So, not having seen or not, not knowing what, in fact, is going to happen, how can I make a decision on this issue? I have asked this question before. On other, on other projects, as well.

**Brown:** Okay. To a large extent, you can't, you are correct. It's difficult for you to address this. But what we are seeing here, is not an established neighborhood, per se. And development going on there. It is a neighborhood in the making. It is being developed at this point in time. And that although it is respecting this neighborhood in the making, by locating in a particular place in the subdivision, that responds to the other goals and policies, and responds to the general development principles that have -- that characterized the city of Portland, that is multifamily development that is located in areas that can be serviced, that are on the transit streets, that are near, in this particular case, commercially zoned areas, that are near employment centers. A lot of those design characteristics that we're trying to retain or build into the city of Portland are, are deflected in the other goals and policies, locational goals and policies.

**Katz:** I know, but, but and maybe I am way off base on this, but we have made terrible mistakes on the issue that I just described, trying to maintain those goals that you have just identified. And it's hard for me, help me out here, and maybe this is just not the appropriate time for it to happen, but we're being asked for a zone change that has to meet pretty high standards of a comp plan. This change has to be more -- it has to be better, equal or better met, and I don't know, I don't know what I am approving, quite frankly, other than a zone change. And "x" amount of units.

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**Brown:** Well, it has to equally or better meet unbalanced the goals and policies of the comprehensive plan, and if you will note the recommendation of the hearings officer and my recommendation to the hearings officer, virtually every applicable goal and policy of the comprehensive plan was found to equally or better meet the, the, be equally or better met with the proposal than the existing designation, and that's, that really swings the balance when every goal and policy is applicable.

**Katz:** Okay.

**\*\*\*\*\*:** Is equally or better met.

**Sten:** Two questions. When was the comp plan last updated for this part of town?

**Brown:** A while ago. Alice? Do you remember when the last time we did a comprehensive plan update for, for the wilkes area? I think it was the wilkes, with the adoption of the wilkes plan.

**Katz:** It was with the adoption of the wilkes plan?

**\*\*\*\*\*:** It has not been changed. We have we reformat it from the county to the city --

**Katz:** It wasn't changed at all when we adopted --

**\*\*\*\*\*:** I can't remember now.

**Brown:** It has been a good ten years.

**Sten:** And then when you made your recommendation, and I guess it's both how you looked at it and how you view the code on this question, to what extent did you answer the question on each criteria based on this lot and then to what extent based on how this lot fits into the bigger neighborhood, if that question makes sense? Because, I mean, I see the argument being made on the lot but i'm worried about whether or not, as I balance the, the comp plan is the city as a whole and the question as I view it, is does the zoning make the whole area work better under the comp plan because under that criteria, you could run into -- you could change anything to anything if you weren't careful as you are looking at the lots, how or, or how did you balance this lot with the view of the greater neighborhood in.

**Brown:** It was with not just the neighborhood related goals but also the other service related goals.

So, you are looking at a neighborhood in terms of, of, of, well, fitting in with the neighborhood and in terms of the total functioning. The functioning of the services, as well as the urban design. We looked toward urban design guidelines within the neighborhood plan, and as I mentioned, the only references that they had dealing with multifamily development, they did make specific references to certain types of development in specific areas within the wilkes community, but with regards to multifamily development. It made general conclusions dealing with the, the -- with the location on arterials near employment centers and on transit streets, pretty much reflecting what the general comprehensive plan goals and policies were. I think that the, the applicant is, to a large degree, respected the neighborhood by, in, in choosing this particular area of the subdivision or of the ownership, as opposed to other areas. In order to move it away from the established neighborhood to the south and to the west.

**Sten:** I don't know -- whatever happened to the prior team --

**Francesconi:** Whatever happened to the prior attempt and agreement with the neighbors, in terms of how it would look. Several people talked about that. How did it break down. Is that when they went to multifamily from single?

**Brown:** Okay. This was -- the agreement that I think that they are referring to was the subdivision application approval and the fact that the, the green space, the common open area along the south side, that borders the established residential area was actually enlarged at the expense of the single family dwelling lots that we did a cluster subdivision within that particular area, making the lot smaller, making the common open area larger.

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**Katz:** Let me follow up on that. Was there discussion on this particular --

**Brown:** Lot "d".

**Katz:** At that time?

**Brown:** No, so they chose not to talk about lot "d" at that time. They owned the property?

**Brown:** Well, the applicant talked about lot "d," but this was -- lot "d" and the 11 lots within that lot were not an item of, of conflict with the subdivision review.

**Katz:** Let me put -- follow up, jim.

**Francesconi:** Please.

**Katz:** In the discussion of that entire site at that early time, what did the neighborhood think was going to happen to lot "d"?

**Brown:** 11 lots. Single family development.

**Saltzman:** And where did they get that expectation?

**Katz:** From the applicant. Commissioner Francesconi, why don't you go ahead.

**Francesconi:** I was done.

**Katz:** Okay.

**Saltzman:** There was mention made of an "a" overlay. Representative merkley mentioned that. What is that? Does that have any bearing on this?

**Brown:** That doesn't apply to this area at all. There's no "a" overlay that's being proposed.

**Katz:** Could they have proposed an "a" overlay on the current -- let me ask, could they have proposed an "a" overlay and have gone through design review or not?

**Brown:** They could have, and I just got a note from the applicant saying that he would accept a condition of approval for the design review for lot "d," if, if necessary, if that's the, the major concern of the council.

**Katz:** He could have gone that route?

**Brown:** It will have been a little bit difficult because there's no "a" overlay within the area, and it would be more of the spot zone than even what some people perceive this is.

**Saltzman:** Under the hearings officer's discussion of the land use history, it says lot "d," which could be platted for 11 residential lots under the approved subdivision?

**Brown:** Yes.

**Saltzman:** So, that was part of the approval of the subdivision?

**Brown:** Yes.

**Saltzman:** To be residential?

**Brown:** If we could get the subdivision map up on the -- thank you. You can see within at that lot "d" area, there are 11 lots shown. This is the approved subdivision. That you see.

**Saltzman:** So why are you saying that you don't know where the neighbors got the expectation this was committed to be single family residential?

**Brown:** No, I am not saying -- I am saying this is where they got the expectation.

**Saltzman:** This is in june of 2002. Right? This was approved?

**Brown:** This was approved in 2000

**Saltzman:** I am sorry, june of 2000, less than two years ago.

**Katz:** So people bought the rest of the lots, bought the lots that are already built, thinking that lot "d" was going to be a single family?

**Brown:** Well, I am not sure.

**Katz:** Well, I see one, two, three, four, five.

**Brown:** 60 lots there, but what they were told, what the developers or the home builders were told when they bought those lots, I don't know. You could ask the applicant.

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**Katz:** But I just asked you in the discussion early on, on this whole area, they were told, were they not, that lot "d" would be single family homes?

**Brown:** The neighbors were, yes.

**Katz:** That's what I am talking about. That's what I am referencing.

**Brown:** I am sorry, I misunderstood.

**Katz:** All right. Further questions?

**Saltzman:** Well, one last question, I guess, is I still come back to this level of service intersection deterioration by 2020. And maybe glenn should come up here, too, but it's nice to make assumptions -- it's nice to make assumption that is certain property will be available for a road easement but when you don't own that property, it's a little harder to sort of bank on it, I guess, as linda power pointed out in gregory heights, so, I guess I still come back, this is a very closed subdivision, all the traffic on 165th is pretty much coming from the subdivision, as the applicant stated. But yet, he's also state that go somehow, increasing the density or the number of cars or trips of this particular lot will not contribute to that deterioration, and I guess I am -- I just can't get over the fact that it will until you have that other access but you can't really -- everybody says this access could be developed. I mean, do we, as pdot have the ability to make that?

**Glenn Pierce, Office of Transportation:** Glenn pierce, transportation, of course, we don't. What I tried to indicate in my comments were that with the analysis of the future year showing that the intersection of 165th and sandy fails, the failure is for the one motion, the, from inside the subdivision, left turning onto sandy, p.m. peak hour only. And that failure of that one movement curse whether or not the zone change occurs, so if there's 11 lots or there's 47 lots, in 2020, you have service "f", and as mr. Robinson indicated the primary reason for that is the increase in background traffic on sandy boulevard. Diminishes the number of gaps available for people to come out so, the failure indicates a level of delay -- an increase in the time it takes you to exit the subdivision onto sandy boulevard. I think, I think what you are getting at is, yes, if there's 11 lots or 47 units, there will be more cars with the 47 units trying to, to exit proportionately in the peak hour. You know, peak hour trips are typically 10% of the, of the daily volume, so there will be some increase in the number of trips, but the calculation of the level of service of the intersection doesn't change. It's "f," regardless.

**Saltzman:** And that's based on eastbound?

**Pierce:** The eastbound sandy boulevard traffic. The increase that will occur in 20 years. And what I tried to indicate with the alternative access was simply my best judgment that, we, in fact, were required the stubbing of klickitat street as part of the las brisas subdivision in order to provide alternative access. Part of the street connectivity consideration and is trying to provide more than one way in and out. And we, we clearly have the full expectation that when the opportunity presents itself, with the development of that underdeveloped proper, we will make a recommendation requiring the dedication and improvement of that street. We don't control the timing of it. We don't, you know, control any of that, we do have the ability to recommend conditions when it occurs, in my judgment, I indicated that I would expect that to occur within the 18 to 20-year time frame.

**Saltzman:** Okay. Well if the level of "f" services caused by eastbound sandy traffic, how is it alleviated by developing klickitat through to 162nd? How does that make it not a level "f" ta at that intersection because you will have a lot more traffic going eastbound on sandy.

**Pierce:** But the analysis was based on the amount of traffic, the additional traffic in 2020, and so if there's an alternative access, it would -- what it means is that everybody wishing to exit las brisas and turn left, westbound on sandy boulevard, they don't all have to go out 165th. Some that are



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further into the subdivision can choose to go out Klickitat, take a right turn onto 162nd and then left turn at the signal at 162nd. So, it provides alternatives. It splits the opportunities, lowers the total volume at any, any of the two intersections, and that would reduce it below the failure level of service.

**Francesconi:** I have a different question, but I want to wait.

**Francesconi:** So, duncan, if transportation is right and staff -- and you are right, that you can't use transportation as a criteria, if the applicant is right, you can't use parks, by the way, I don't think you can use parks under the way it's currently written in the code. I don't think that you think so, either. What could we use if we wanted to deny this? [ laughter ]

**Brown:** When I started reviewing this and when I attended the preapplication conference, the achilles heel that I saw with this proposal was transportation. That there were some concerns over transportation. They have been addressed to my satisfaction and to the hearings officer's satisfaction. And I quite frankly can't find anything, if I could have, I would have noted it in my recommendation to the hearings officer.

**Francesconi:** I don't know if it is appropriate, does our lawyer have a different response?

**Hudson:** I think council has the last word. On how the code is interpreted.

**Francesconi:** Okay.

**\*\*\*\*\*:** How we interpret the goals.

**Katz:** Okay. Further questions?

**Saltzman:** I have one question, that was, if we were to approve this, maybe this goes to frank, would it be within our ability to require the developer or ask the developer to meet the insulation standards that homes have to meet within our airport noise contour level? We would have to find in excess to that.

**\*\*\*\*\*:** That there's definitely that --

**Brown:** During the review, I had talked to a representative from the port of Portland who was thinking about writing a letter, and we have nothing in the record. They did not write a letter mentioning the noise issue. So, we have nothing in the record to substantiate that the level of noise is at such a height that --

**Saltzman:** How about my being, entering it into the record?

**Brown:** Okay, if that's necessary.

**Katz:** We don't have a ice skating system here where we tap our name or our foot or whatever, so I have no idea what the motion is going to be. But, if the motion is -- thank you, gentlemen. If the motion is for approval, there was a, a note that they would go through design review and they would do the insulation, so whoever makes the motion, and if it's a positive motion, I would recommend you including that. So, who is ready to make a motion?

**Sten:** Well, I would actually -- I would move to overturn the hearings officer. You know, it's a very close call, and I think that there's solid -- this is one of these, there's a solid argument on both points, but I think that changing the comprehensive plan is ultimately a judgment call and in my judgment, I don't think it meets the criteria of equally or better meeting for four or five of these pieces where the officer, the hearings officer has a close call on neighborhood plan, residential diversity, utilization of vacant land, neighborhood diversity, new residential development. There's a whole bunch in there that I think are just judgment calls and I am not convinced that this meets equally or better. With the comp plan has in mind, to make it r-7. I think there's a good argument that duncan made that it's r-2, makes it more, you know, transit oriented, a good reason to put density on transit. I could envision something that works but you have got a heated argument

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between two sides and I think both are showing good judgment, to be honest, and my judgment is on the side opposite the hearings officer.

**Katz:** Would deny?

**Sten:** Yeah.

**Katz:** Do I hear a second. Do I hear a second? Second. You know what I did? I just want to be transparent. I can't, unless I give the gavel over, I can't second it. Okay. Roll call.

**Francesconi:** I usually don't start talking before I know what I am going to do. Let me say a couple things ahead of time before I vote. One is, there's not adequate infrastructure to support density in some parts of our community, especially parts of east Portland. So, although there's a wilkes park there, it's not developed, and so, you know, if there was any tie between infrastructure, especially parks or schools for that matter, I definitely would support the motion. Because this is an area without sufficient parks or developed parks. But it's not an approval criteria. I guess second point I want to make is I don't particularly like this proposal given the fact that there is an -- there isn't an adequate infrastructure, so if the motion fails I hope that bonnie wins on appeal but now that, that leaves the ultimate question as to, and the problem I am having with commissioner Sten's motion is that that opens up a lot of subjectivity from my perspective in the comprehensive plan amendments, and here we have got a staff, our own staff saying that there's no way that we can legally do this. So I suspect it's going up on appeal anyway. By either side. So I suspect that what we do here doesn't really matter much because the courts are going to end up deciding it. Is what I think. So then, I guess, this is what's really tough, and because my constitutional responsibility to follow the law is at odds with my heart, which would be to deny this, especially when you have all these citizens here. And so this is what my thought process is going through. As I make my decision. Because it is such a close call, what I am going to do is go with the expertise of the staff and I am going to vote no on the motion.

**Saltzman:** I am sort of in the same situation. I think my heart is with the concerns raised by the neighborhood but I don't see how any of it fits into the criterion of approval and as you know, I dug pretty hard at where I thought the achilles heel was, and I think was not able to successfully convince myself that the northbound traffic causes the level "f." I think that there was good answers to those questions. I don't like the fact that less than two years after this subdivision is approved, it's being proposed for change, but again, that is within the applicant's legal rights to do. I wish that there was a way and maybe there is a way that we can fix that in the future. So, I will also vote against this motion and will make a subsequent motion.

**Katz:** Go ahead.

**Sten:** Well, I guess, I spoke a little bit, but I will say a little bit more. I think the bar to change the comp plan is a high bar. I don't think you give the benefit of the doubt that things are equal or better to the change. You give the benefit of the doubt to not changing it, otherwise there is no comp plan. And as I look at the housing goal, it's not immediately evident to me that putting apartments here makes the city's housing choices more diverse than putting single family homes, I mean, it's not an obvious question to me, and so I can't be comfortable that it is equal or better. To some extent, I think the neighborhood plan actually starts to become one of the more important criterias because it's one of the ones you have to really look at and the neighborhood interpretation of the neighborhood plan is part of it. My interpretation of the neighborhood plan, and so I just don't think that, and it is difficult, I mean, I wish this comp plan, this area had had a district rezoning because what we do, every once in a while, is go through an area and look at the properties and rezone them because I have a sense that this district could use an overall look but as spot change to put it in the middle. I think the bar for a spot change is on, on the comprehensive

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plan needs to be very, very high, and if it's close at all and very close to me, but I think that it's not obvious this makes the city's diversity of housing and other issues that are played out better. And so I am going to vote aye.

**Katz:** This, this is difficult, and I know the struggle of every council member here. It says here again on balance, the comp plan goals, policies and objectives are equally or better met with the proposal in the existing single dwelling designation. That's the hearings officer's opinion. Equally or better. And I really do think that the transportation issue, but specifically, the urban design. Let me repeat it again. Enhanced Portland is a livable city, and that means you folks on the east, whether you like it or not, you are still part of our city. Okay. And so that means this part of the city, as well as any other part of the city. Attractive in its setting and dynamic and its urban character by preserving the history and building a substantial legacy of quality private developments and I don't know what we -- what it is that we are going to be building, and public improvements for future generations. So, I have to support the motion and will vote yes. Now, I have -- I know I will take a motion but I have good problem. We are in a 2-2 tie. If there's a motion to approve, it fails.

**Francesconi:** So it just failed.

**Katz:** I will let you try it, but we will carry it over? Is that --

\*\*\*\*\*: We need three votes up or three votes down.

**Katz:** Okay, all right. I will take the motion now.

**Sten:** Technical point of clarification, I thought if it ties the hearing officer prevails but maybe it's your call whether you want to carry it over or not. I am against the hearings officer, I am just technical question. That's my memory.

\*\*\*\*\*: I think under the charter --

**Saltzman:** Your motion fails.

**Sten:** If the motion fails to act, I believe the hearings officer, I believe the hearing officer prevails and I don't believe that commissioner Hales is obligated. It's his choice whether he wants to listen to the record and vote or not.

**Katz:** You have a tie vote. The motion, whatever motion, fails. Either way. So, then --

**Francesconi:** Then what happens, the hearing officer's opinion stays in effect is what commissioner Sten was saying?

**Hudson:** That wasn't my understanding in the past what we have always done is carried it over.

**Francesconi:** What should happen is it is carried over because I don't want us to decide this on a technicality, so I think we should try to --

**Katz:** Hold on for a second. Commissioner Sten, I don't think that the hearings officer recommendation stays if, if there's going to be a failed vote, which is a tie vote. Tie vote is a failed vote. So we need to -- probably need to carry it over.

**Saltzman:** Can I make a motion to try to --

**Katz:** Go ahead.

**Saltzman:** I think what failed is commissioner Sten's motion to overturn the hearings officer, so I think we are able to make other motions, if we don't get there --

**Francesconi:** Put a lot of conditions on it.

**Saltzman:** Just two. I will move that we approve the hearings officer decision with two conditions that the proposal undergo the design review and that the structures built on lot "d" meet the airport noise insulation standards that exist in the current city code.

**Katz:** Do I hear a second?

**Francesconi:** I will second it.

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**Katz:** Okay. Roll call.

**Francesconi:** Aye. **Saltzman:** Aye. **Sten:** No.

**Katz:** No. Motion fails. We will carry it over for -- did you want to -- a date certain when everybody is here. May be difficult. Do you want a few minutes to, to --

**\*\*\*\*\*:** Give me a few minutes, I am resolve the question about --

**Katz:** Yeah, I --

**Francesconi:** I want to bring it back.

**Katz:** Any rules of order that I know is a tie vote is a tie vote --

**Francesconi:** We need to bring it back no matter what the rules are.

**Katz:** Does the council want to bring it back and have a vote on this?

**Francesconi:** Yes.

**Saltzman:** Well, the point commissioner Sten is saying is valid, then --

**Katz:** I don't think it is.

**Francesconi:** Then I want to bring it back for sure because I want to give the neighborhood a shot here at the third vote. I will bring it back myself.

**Katz:** When a vote is made on the floor and it is a tie vote, it fails.

**Francesconi:** But then what?

**Sten:** This happened once before and if -- council has to act affirmatively to overturn the hearings officer. So, this is my remembrance of the last time this happened, but I think commissioner Hales is, is -- commissioner Hales can review the record. He has to watch the tape of this and then vote, and so that's probably the best course.

**Katz:** I think so, too. And meanwhile, we will investigate and get a ruling on this and clarify that. Okay. So, Karla? When is everybody here?

**Moore-Love:** They are all here next week, the 13th. Next wednesday, the 13th and the 20th, two weeks out.

**Katz:** Okay--

**Moore-Love:** I am sorry, commissioner Saltzman is gone at 1:00 on the 13th.

**Katz:** He's not here?

**Moore-Love:** Right, gone from 1:00 to 3:30.

**Katz:** So the 20th?

**Moore-Love:** The 20th I have everybody, but that's the 6:00 p.m. Session, you would have to move it to there or the morning session.

**Katz:** What do we have at 6:00 p.m.?

**Moore-Love:** Nothing, nothing at the 6:00 p.m.

**Katz:** So can we move it in the afternoon?

**Moore-Love:** No, we can't move it to the afternoon.

**Katz:** To the morning?

**Moore-Love:** You have got an hour and a half, time certians already, in the morning. But you could put it on the regular agenda or squeeze it in.

**Katz:** Do you want to come in at 6:00?

**Francesconi:** All we have to do is listen to -- is listen to commissioner Hales' vote.

**Moore-Love:** It would be 11:00 p.m., or a.m.

**Katz:** 11:00 a.m. The 20th. March 20th.

**Katz:** Okay, everybody, thank you. Does everybody understand? What's -- the lawyers do. The citizens understand what just happened? Okay. Good. We stand adjourned.

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At 4:09 p.m., Council recessed.

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**Katz:** Council will come to order. Karla, please call the roll.

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

**Katz:** Present. Commissioner Hales is on vacation and commissioner Saltzman -- commissioner Sten is --

\*\*\*\*\*: Also on vacation.

**Katz:** Also on vacation, so you have the three of us. This is going to be a song about that one of these days. [ laughter ]

**Francesconi:** You got quality, not quantity.

**Katz:** Let's read 224.

**Item 224.**

**Katz:** Okay. I just to want flag to all of you, let us assume for now, because I heard somebody out there saying, she doesn't know anything. I don't think they were referring to me, but they were referring to, maybe --

\*\*\*\*\*: Probably me.

**Katz:** So I have to assume, let's assume, is john around?

\*\*\*\*\*: Yeah, i'm here.

**Katz:** They weren't refering to me. Absolutely not. [ laughter ]

\*\*\*\*\*: John forgets, john forgets -- the what? John forgets I was in the legislature on this matter, but that's because he's too young. [ laughter ]

**Katz:** Let's assume seriously that there is very little knowledge about this historically, the end or nightmare that went on in 1996, the fact that the state is -- see, john, I do know some things about this, that the state may not be terribly happy with us. Rick us a letter, which is unusual for him. He told us that they weren't terribly happy and that they had a recommendation, and I heard yesterday that there was last-minute discussion and is I don't know what the outcome of it was. So, the three of us, assume for now, that we have very little knowledge, and you are going to educate us and then you are going to give us a whole list of options.

\*\*\*\*\*: All right.

\*\*\*\*\*: Good afternoon, commissioners.

**Katz:** Why don't you identify yourself.

**Cielo Lutino, Portland Bureau of Planning:** I will cielo lutino with the bureau of Portland planning. The city's resources for this update began in 1991. Toward the end of that project, senate bill 588, that's what you are referring to, the update to the city's regulations on historic resources was adopted a year after the passage of sb 588 but it couldn't anticipate case law that would help guide interpretation of the bill. This project responds to case law in local and state regulations that have clarified the preservation of planning, it also allows them to continue the zoning code. The bulk of the amendments are minor and occur throughout the recommendation. The council is not likely to receive recommendation on the majority of the amendments. You will also note that federal regulations are not mentioned. That's because the federal government doesn't impose regulations on historic properties, except for those projects that receive federal funding. So, moving onto slide 4. Public outreach for this project includes one open house, three briefings with the historic landmarks commission listed here and additional briefings in the fall of last year. Three presentations today, the strike resources committee and three planning commission hearings, as well as meetings with various stakeholders. Moving onto slide five, the planning commission recommendation contain as number of technical amendments, such as typographical errors, so we will focus only on those six amendments that may be characterized as substantive changes. This first amendment has the current regulation that automatically designates resources listed in the

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national register as local historic landmarks. Automatic local historic designations conflict with state law. However, state laws requires local government to say protect resources listed in the national register. In compliance with state law, this amendment removes the automatic local historic designation, included in the current code. Instead, the proposal redefines history landmarks and districts to include those listed in the register. The effect of redefining those two categories, is the national register properties will be regulated as though they were locally designated but they will not be locally designated. Moving onto slide 6. This next amendment subjects construction of new structures and historic districts to a type 3 review procedure instead of the current type 2. It was requested by both the aia historic resources committee and the office of planning and development review. Crux of a new structure in the historic district significantly affects the historic character and it was felt the type two procedure doesn't adequately provide the evaluation effects of such construction on a historic district. So, we are onto slide seven. Currently the code doesn't state what review procedures should be used for removing a local historic designation. The planning commission recommendation establishes the type 3 procedure because it allows for the broadest public involvement and because of the potential loss of public benefit with the removal of history issuing designation. Next slide, number eight, under the current code, a resource must first undergo demolition review before it can be relocated. Such a regulation acts as a disincentive to the preservation of the resource since relocation can sometimes be the only option for its preservation, as we have all learned. The planning recommendation includes the approval of the recommendation. Relocation will include historic design review and historic designation review or historic designation removal review. Amendment number 5, slide 9, currently history issuing landmarks with no other designation, so for example, they are neither listed the city's historic resource inventory or considered as contributing resources within the district. Receive no protection from threats of demolition. There are 132 of such resource and is they include resources such as the crystal ballroom. The planning commission recommendation establishes protection for such landmarks by establishing demolition delay. Next slide, number 10. Currently the code includes maps of historic districts and conservation districts. The maps show the districts boundaries and some of the classifications of the sites within the district. The proposal recommends the removal of the maps for two reasons. The boundaries are also shown on the official zoning maps and the classification of sites within the districts may change, which requires that their classification be revised. However, of the maps part of the code requires a lengthy and expensive process, including two public hearings. This information is better kept elsewhere. This is the requested change. Slide 11. A revision to the recommendation has been requested. It's from the historic land maximum commission in the office of planning and development review. They recommend that some exterior alterations in the historic district be subject to a type three review instead of the current type two. This amendment would provide stronger protection of the district's character. It also achieves parity in the regulations afforded of properties within the design districts and those within the historic districts. We have draft language that responds to the request and that draft is the available today if council wishes to see it. Next slide, number 12, two issues have been raised with the recommendation --

**Katz:** I am sorry, go back to what you just said about draft language.

**Lutino:** Yeah. We have it available, if you want to see it.

**Katz:** Why don't you make available to us. You can do it after her testimony.

**Lutino:** Okay. The two issues. The first raises the removal of the maps. Some stakeholders have commented that the removal will mean the loss of public access to the information provided by the maps. The bureau of planning agrees that the public should continue to have access to the maps and the information they provide. We are refining our reference sources to make it even easier for the public to access that information. In fact, we are developing a source that would allow the public

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easier access to more information that's current -- than is currently available in the maps today. I have a mockup of that source also available if you want to see it.

**Katz:** Yep.

**Lutino:** Moving onto the next slide, number 13. This next issue has generated the most interest among stakeholders. Some folks believe that resources listed in the national register don't receive enough protection from threats of demolition. The planning commission agreed but recommended that the report be forwarded because the other benefits provided by the amendments. However, planning commission, along with the landmarks commission, bureau of planning staff, feel this issue should be examined in planning's next work program, and I am going to take a few minutes to take a closer look at this issue so, we are moving onto slide 14. What is demolition review here in Portland? Demolition review is the toughest regulation that could be imposed in the historic resource. It's in the current code and requires the on-site posting of application for demolition permit. The review is also type 3 procedure, which allows for the broadest public involvement. Finally, a potential outcome of the review denial, which means the permit would not be issued. Okay, so what is subject to demolition review today? The language that you are looking at on page, or slide number 15 is, is excerpted from the current code. As you can see, a property must meet two conditions to be subject to demolition review. It has to have a covenant with a city, and it must be listed in the national register. Currently, no property meets both conditions, in effect, the regulation is moot and no historic resources are subject to demolition review today. Okay.

**Katz:** And how long has this been going on, since 1996?

**Lutino:** Yes.

**Katz:** So we have had no demolition review by anybody? Identify yourself for the record.

**Rick Michaelson, Planning Commission President:** Rick Michaelson, planning commission president. This language has been in the code since 1996. At a certain point, and I don't know the date, it was interpreted it to meet both of these requirements, rather than one or the other.

**Katz:** Okay.

**Lutino:** Okay. So what is demolition delay, slide 16? It's another type of protection available to resources threatened by demolition and like demolition review it, requires the on-site posting of application for demolition permits. However, unlike the demolition review, it does not require public hearing, instead, the delay provides notice of the application to parties such as the state historic preservation office and neighborhood associations within 1,000 feet of the site. The permit is issued 120 days after the date of application. So, what subject to demolition delay now? As you can see on this slide, number 17, a number of historic resources are subject to it. However, under the current code language, many significant resources, such as the crystal ballroom in the deacon building, which I mentioned earlier, are not subject to either review or delay.

**Katz:** Let me just ask, how many have -- how many have we had in delay that have been demolished.

**Lutino:** I can look up that.

**Steve Dotterer, Bureau of Planning:** 22, something like that, since 19 the 6. -- 1996. And that's of all kinds of resources. Designated landmarks, inventory buildings. Ranked inventory buildings.

**Katz:** Okay.

**Lutino:** Okay. So what does the planning commission recommend? It recommends two substantive changes. Require demolition review for historic resources, have a covenant with the city and require demolition delay for national register properties, historic landmarks and conservation landmarks. We have a summary of the changes on the next slide, number 19. I am just going to go ahead and --

**Katz:** Woe, woe. Slow down.



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**\*\*\*\*\*:** Okay.

**Lutino:** So under existing regulation, these are the types of resources that have no protection and then you can see in the final column, the table, the proposed regulation is demolition review for the first type of resource, and then delay for the last three.

**Saltzman:** There is only one property under the first --

**Lutino:** Well, you see, it has to meet both conditions, and it doesn't, so it doesn't even have demolition review.

**Katz:** Let me ask another question before you move on to that. So, somebody identify properties that would have no protection -- that would only have the demolition delay, national register properties, locally designated historic landmarks, and conservation landmarks. Give us a few examples of those properties.

**Lutino:** Sure. An example of a conservation landmark is actually one close to maybe where you live. At 2566 northwest lovejoy, the clarence house, the property that was originally single family residence and it has been subdivided, on the corner of 25th and lovejoy. That's an example both of number one and for you and then the national register property that doesn't have any demolition protection today, would be the crystal ballroom and locally designated would be the deacon building. Is that right?

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

**\*\*\*\*\*:** I think so. Okay. Can I go on or --

**Katz:** Yeah.

**\*\*\*\*\*:** Do you have other questions?

**Katz:** No, go ahead.

**Francesconi:** How about northeast where I live. Can you --

**\*\*\*\*\*:** Yeah, actually, there is --

**Francesconi:** You are good.

**Lutino:** Yeah. The conservation landmarks, in fact, except for the one in northwest and then there is a log cabin in southwest, those are conservation landmarks but then the rest of our conservation landmarks are all in the northeast. I think that there are two, one address, 6905, northeast mallory, is one. And then natural register properties, we can name a lot of those, shriners, for example, is one. Shriners, for example is, one. One doesn't come right off the top of my head, except for the deacon building.

**Katz:** Other than that?

**Lutino:** Yes. But I have got the list of 132 with me, if you just let me finish. [ laughter ]

**Katz:** Okay. [ laughter ]

**Lutino:** I only have two slides left. [ laughter ]

**Lutino:** Okay.

**Katz:** Is this your first time you presented to us?

**Lutino:** No. We are at planning commission recommendation. Adopted ordinance that is before you. Adopt the planning commission recommendation report, amend the zoning code as shown in the report, and direct the bureau of planning to respond to the issues that I just mentioned, number one and two, the maps and demolition regulations.

**Katz:** And you had recommendations, is that included somewhere in the recommendations that you just identified? The requested change on exteriors?

**Lutino:** Yes. Yes. That's, that's the handout that -- yeah, okay. Last and final slide, the bureau of planning recommends three things that we amend the recommendation from the planning commission as requested by the landmarks commission and opdr. That's the handout you just received. Amend the report as shown in the memorandum that you received from bureau of planning on valentine's day. And then direct the bureau of planning to continue to refine the

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public's access to information about the city's historic districts and conservation districts. So, again, that would be the technological source, where folks can access the maps rather than through the zoning code. That's it.

**Saltzman:** I don't have the 14th.

**Katz:** Yeah, I don't have the valentine's day memo --

**Saltzman:** I have the february 12th from al michaelson, but. 8.

**Katz:** Okay. Who's next?

**Michaelson:** Good afternoon, I am rick michaelson. I am speaking today as president of the planning commission. I am also a member of your landmarks commission and one of the two Oregon representatives of the national trust for historic preservation. I want to emphasize what our 4-3 vote meant. Our 4-3 vote meant that the three who voted against it felt this ordinance did not adequately complete the project. More work was needed, and that they were not comfortable forwarding this to you until the additional work had been done. The four and the majority, and I cast the tie-breaking vote on that, felt that there were issues that this ordinance would resolve that need to be resolved, no matter what we do about solving the ultimate problem of protecting national register resources, and that it would be easier to deal with that issue if these amendments were taken off the table and dealt with, rather than delaying and bringing a more complicated package to you. We are satisfied with the work we did on these amendments, but we are not satisfied that the work on these amendments addresses the basic issue, which is protecting national register properties in the way that we thought that we had done in 1996, and the way that the policy of the planning commission and council did do at that point. So, this is a partial package, and we would urge you to adopt it, but immediately get to work on the real work, which is how do we adequately protect national register properties.

**Katz:** Let me interrupt you. Why didn't you address the real work that needed to be done?

**Michaelson:** We were processing this as code amendments, code clarifications, and a portion of the public felt that the change was not code clarification, but was major policy change and would need to be addressed in a much fuller forum so, we had the choice of dealing with these issues in two or three planning commission meetings, or opening up the process again to another full round of public hearings with a much broader participation, which we felt would take another three to six months. It was our judgment that these were important enough to help staff get their work done, that we should get these done now, rather than delay it. But, as I say, it was a very close call.

**Saltzman:** 3-6 months is how much time you would need to get us back a recommendation?

**Michaelson:** I think, I think it can be done -- well, there are different opinions about how complicated the process is the other reason we wanted to forward this to you is to get some sense from council about what direction you thought we should be looking in terms of demolition protection for national register buildings. The code that we have before us moves from 0 protection to 120-day delay. Frankly, 120-day delay is just about enough to let people know what is going on and get them there to watch the demolition take place, but not much more than that. There is some who feel that what we should do is go back to the old system in the '80s where we had a year's delay effectively. There are some who feel that we should have some demolition denial provisions in the code. But we did not hear public testimony in a full manner on those issues, and therefore, are not making a recommendation about that at this time to you. You could ask us to hold hearings quickly on that and come back with that additional work, if you choose.

**Katz:** We probably will, at least some of us will. The state, state is not happy with us?

**Michaelson:** The state feels quite strongly, and I am sure you will hear from them, that a 120-day delay is not the protection for national protection of register properties that the stay law calls for and requires us to do, and that we need to have the ability to do something more substantial than that if the protection is going to mean anything. Protection, I understand, is not clearly defined in

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state law and the regulations. But, I think that everybody agrees that the 120-day delay is not adequate protection for --

**Katz:** Let me ask the question a different way, are we out of compliance?

**Lutino:** Can we ask catherine that this.

**\*\*\*\*\*:** I think I am not the one to answer that.

**Katz:** Oops, we are turning to you so early, all right. [ laughter ]

**Katz:** Are we out of compliance, catherine?

**Kathryn Beaumont, Sr. Deputy Attorney:** I think the proposed amendments move us closer to compliance. I think that there are additional steps we can take to be in full compliance.

**Katz:** The answer is yes. Okay. Sometimes you have to interpret the legal responses. She answered both, good. All right. Questions?

**Francesconi:** Questions. Are they done with the presentation?

**Katz:** Are you done with the presentation? Questions, go ahead.

**Francesconi:** Just a few. John was really talking about me and not you, mayor.

**Katz:** No, he said she. [ laughter ]

**Michaelson:** I think that he said "we" was talking about john and me. [ laughter ]

**Francesconi:** So, what's the purpose behind the delay? I mean, ricky referred to it, what's the theory behind the six-month delay? Why do we have that? Or why do we want that?

**Michaelson:** The theory has been that if you have an adequate delay period, there are opportunities for people who are interested in saving a resource rather than tear it go down to attempt to buy it. Attempt to talk to the property owner and convince them that there are better solutions to the building. With the hope that through voluntary work, a better outcome will come to it. There have been a number of cases where the delay period and the proposed delay has been sufficient to encourage a property owner to pass the building onto somebody who is more interested in saving it. But that was back in the delays when the delay period was a year. Now with 120-day delay, it takes longer than that to get a building permit. So there's not much incentive to do anything different than proceed with your plans under the present proposal.

**Francesconi:** And anybody can respond to these questions, if you want, but you don't have to. Why did the council choose demolition review in 1996?

**Michaelson:** Um, we were, in fact, advised by the city attorney at that point that the planning commission and repeated at council that the state law require protection of national register buildings, required us to potentially deny demolition for those buildings, and have a review process. And so that's what we thought we had enacted at that point.

**Francesconi:** What incentives, you know, I mean, my own belief is you need a combination of regulations and incentives. What incentives were available in 1996, what incentives are available now?

**Michaelson:** We added a number of -- the biggest incentive for all of us used to be the effect on property taxes, of having a national registered designation and doing a historic rehab. With the changes of the tax system through measure 5 and 47, those benefits really were decreased substantially. In 1996, we tried to introduce a number of new incentives, one of which would allow additional housing density and units, and national or historic landmarks, would allow it to make it easier to transfer development rights from one landmark property to some place else in the district. We frankly were looking for as many incentives as we could have. In point of fact, since 1996, only one property has taken advantage of the incentives, so it's clear that the program we have today doesn't adequately, doesn't provide the adequate incentives. There are other incentives that are potentially available, like, except the conservation easement for a portion of the property that would then reduce its, its tax assessed value and reduce taxes on it. We don't have that in place here. Although, there are voluntary organizations that accept those easements in the area.

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**Katz:** Let me just follow up with the tax. Help me out for a second. We can't provide today a property tax abatement for, for these properties?

**Michaelson:** We provide the abatement but the way the tax system works, the benefit is less than it used to be. I looked at one of my properties I put on the national register and went through the program in 1989, and with the property tax abatement, I was paying about \$2000 a year without it, I would have been paying about \$10,000 a year. Now, I am paying about \$3500 a year and I have lost the abatement, my taxes would go up to only about \$4200 a year. It's just the way the tax system has changed, that big gap isn't there any more.

**Francesconi:** So what stronger kind of regulatory options will you be looking at through a work program? What are the options that the council ultimately will have on the regulatory side, and then what are you going to be looking at on the incentive side?

**Michaelson:** Well, I think the fundamental issue is, is whether there are cases where the resources are so important that somebody has to justify a demolition before doing it. And if we do that, then the hearing would, would look at, I think the language that we have in the code today requires that you demonstrate that there's no economically viable use for the property unless you demolish it. We could also, through the demolition review, and denial hearing, look at mitigation measures. Yes, you can -- the in between -- one side is you can go ahead and tear down the building, there is no economic building to it and it's not important, I will tear it down. The other is gee, this is a gem, we are not going to allow you to tear it down, unless you demonstrate that you have no value left. The in between is, yes, you may --

**Katz:** Excuse me, excuse me, would you please remove that? Thank you.

**Michaelson:** Yes, you may tear it town, but like the federal 106 process, these are the mitigation measures you must do. Preserve portions of the building, document it, do a variety of things, in order to make sure the character of that building isn't lost, totally, even if the building is removed, so it's that range, but the key choice is, are there resources in this community that are important enough that we should have the potential to tell property owner, no, you cannot tear that building down.

**Francesconi:** Okay. And my last question, how do other cities deal with this?

**Michaelson:** I believe we are getting some information -- a couple of examples, I know of are san francisco, which does allow demolition, but never allows a demolition of any building, unless there's already an approved development plan for the site. So, you don't get the speculative people tearing a building down and a site empty for years.

**Katz:** Oh, we have got the slide.

**Michaelson:** Maybe staff could go through the list better. The other one I was going to quote was new york, which was the key supreme court decision, where basically, they deny demolition for a variety of buildings, unless you can demonstrate that there's no economic value to it. Grand central station, a number of churches have been through those cases, and the demolition denials have been upheld throughout the court system. Do you have some more local examples?

**Lutino:** Yeah, actually, there's a list of about six cities here, locally and what they do. I didn't pull out what the, the results of the, of the review would be, but I believe it's only medford, jacksonville, and asheville, in which they can actually deny the issuance of the permit. Any other cases, denial means the delay. It is an extended delay so, it's, it's not quite the right word.

**Katz:** You would respect jacksonville and ashland, but I am curious about medford. That liberal bastion. [ laughter ]

\*\*\*\*\*: Southern Oregon.

**Katz:** Okay. Lights.

**Francesconi:** Thank you.

**Michaelson:** I will be available for questions later, also.

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**Katz:** Okay.

**Saltzman:** I just have one question, and so if we go with demolition, to demolition review, we do have objective criteria, or does planning have to develop those criteria?

**Michaelson:** There are existing criteria in the code and it's in your code draft because we do have demolition review for two cases now. One where it's both on the national register and has used the covenants, used the benefits, and two, one of the planning commission amendments to this, will allow people to voluntarily sign covenants with the city to then make their buildings subject to demolition denial and review. So, yes, there are criteria now.

**Saltzman:** So, if we do decide to kickback to you the and/or question, and you come back to us, would it also contain, assuming you came back with, with the "or" recommendation, would that include the additional criterion under which demolition review --

**Michaelson:** I believe it's clear that we are going in the direction of demolition review. There will be a lot of public testimony about what the criteria should be, and we will be, be adding or changing --

**Saltzman:** That will be part of the package, come back to us --

**Katz:** And denial by the possibility of, possibility of denial by the --

**Michaelson:** Right, I think if we are going to have denial, criteria have to be really clear, otherwise it's not fair.

\*\*\*\*\*: That's what I meant, I guess.

**Katz:** Go ahead. Identify yourself for the record.

**Dotterer:** Yeah, Steve, Bureau of Planning. I guess it's also probably true that it depends on which resources you decide to add to that list for possible denial, and you may end up with more than one set of criteria. In other words, those buildings and conservation districts might have a different set of criteria than national register landmarks, themselves.

**Katz:** Sir, we don't allow signs in here. Cow drop your sign? -- could you drop your sign? Did you hear me? We don't allow signs in this building. Go ahead.

**Katz:**

**Michaelson:** And also, with some discussion of the planning commission, perhaps we would have different criteria for publicly owned buildings versus privately owned buildings, so there's a variety of different criteria issues to look at if we spread this very broadly.

**Saltzman:** And we are still within the three to six-month framework here?

**Michaelson:** I think so, but others may be more conservative, but I think the issues have been discussed in the community for a number of years, and it just never quite got to the point where they can all gel and come to a clear recommendation. It gets so complicated in the, in the technicalities of the language, that the policy issues tend to get put off and put off. I think everybody sort of is geared to have that discussion now and resolve it quickly.

**Katz:** Okay. Is there disagreement?

**Michaelson:** I think that staff thinks it will take longer.

**Katz:** Well, they always do.

\*\*\*\*\*: They are usually righter than I am on the issue.

\*\*\*\*\*: There's also --

**Katz:** Identify yourself for the record.

**Jessica Richmond, Bureau of Planning:** Jessica Richmond, Bureau of Planning. The issue of just getting it in front of planning commission, given that there, they are booked solid right now through July with Marquam Hill, and North Macadam and the transportation systems, but Rick, he will schedule some extra meetings for us, I am sure, so.

**Katz:** Okay. I don't want this to linger on very long because I think there's more work that needs to be done. All right. Any further questions? All right. Let's start with public testimony.

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\*\*\*\*\*: Bill, why don't you start.

\*\*\*\*\*: Well, I had --

**Katz:** Wait, wait, you need to identify yourself.

**Bill Failing:** Bill failing. I live on hawthorne terrace, the city. I've been involved in the preservation projects, vintage trolley, --

**Katz:** Get close to the mike.

**Failing:** I don't want to get too close to this die. I was just going to say that I have been involved in some significant preservation projects, vintage trolley, was on the oversight committee, as dan knows, at the central library, and its preservation. I'm involved in the board of the simon benson house, on the board of the frank lloyd wright gordon house, and I have been a member, since the start of the milligan foundation to, create an architecture heritage center. I am really kind of befuddled by what I see today, and, and I thought maybe I would make a couple of general comments because really, this is the first I have seen the article on sunday, and that's what got me started on this. I think that, when people see these kinds of projects, like the library and the city hall and the gordon house, they think that, that, that, we all have had very positive and lasting impact or will have lasting impact in the community, that it looks like the ongoing process of preserving our architectural assets is live and well. I really don't think it is. I think it's become, as I said a minute ago, more complicated, than a lot of people can deal with. I think organizations and individuals are reseeding from, from being involved in these kinds of projects. I think that they see the financial incentives disappearing, the tax advantages disappearing, and I think the city's demolition policy, I hope, that the city will extend the time from 120 days, and again, this is part of what's confusing because I didn't know whether I was for or against it today. But, what I know are some real basics and really, that's what want to say, is that I think there has to be enough time to find alternatives to develop alternatives, and I can't believe that 120 days is an adequate amount of time to do that. I know a lot of this has been going on for a long time and what I would like to do is to have the commission take some heroic steps to cut through a lot of the red tape, simplify things, and get down to the basics of what's right and what isn't right, and I think that, that it's pretty clear that architectural assets need to be saved, I am all for housing and development, but not at the expense of tearing down parts of the city that shouldn't be torn down. I think it's very clear that once these are down, we don't get them back, so those are my comments.

**Katz:** Thank you.

**Nelson Abeel:** My name is nelson, I reside at 1325 northwest flanders street, Portland. And parenthetically, I was the renovator of that, the building at that address, which is on the national historic register in the 1992. Along with my wife I'm here today in front of you as a representative from the pearl district neighborhood association, and, to read a letter that has been crafted by our planning design and transportation committee on this issue. Honored commissioner and is madam mayor, the pearl district planning and transportation committee has voted in favor of the proposed changes to the historic resources code. While we understand that the demolition issue is not fully resolved in this proposal, it's our opinion that it is never good throwing the baby out with the bath water. We are confident that the demolition issue will be publicly resolved in the next phase of the work program. Today's testimony proves that it is too important of an issue to too many citizens not to be resolved in an acceptable manner. So, while we have reservations regarding the demolition issue, we feel that the changes to the review process are also too important not to implement today. We came before you last year regarding a proposed telecom facility in one of our neighborhood historic resources. Leaving the larger issue about telecom facilities out of the discussion. It is possible that had these code changes been in effect at that time, that proposal might have minimally been -- minimally acceptable to the neighborhood. While we were ultimately saved, not by the code in that case, but by the collapse of the stock market, we are not comfortable

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pending the success of urban design character of our neighborhood on the nasdaq. We are very comfortable having a seamless connection between design guidelines, historical properties, and the code. The changes will complete the functional circle between the code and the design guidelines. Our historical properties are important to the rich urban character of our city on the whole, the proposed code changes will keep them as relevant living elements of our neighborhood. We ask that you vote in approval of the proposal and reserve judgment on the demolition issue pending the future work of the planning staff. Sincerely, patricia gardner, chair.

**Katz:** Thank you.

\*\*\*\*\*: Hi.

\*\*\*\*\*: Hi.

\*\*\*\*\*: Don't usually see me like this.

**Katz:** No. Identify yourself.

**Ruth Roth:** Mayor Katz and council members, I am ruth roth, I reside at 2227 northwest johnson. I come before you today to both plead and reason with you to safeguard Portland's precious inventory of historic buildings. Historic buildings are not just pieces of architecture that raise our spirits. They are the fabric of our past that binds us together and they are the glue that holds us together as we go forward to the future. Once they are gone, they are gone. Historic buildings are not a renewable resource. In 1989, seven historic homes were threatened in northwest Portland. Five were in northwest pettygrove -- sorry, overton and two on northwest pettygrove. One was a ship captain's house, one the founder of the Portland garden society. One was the home of the beloved teacher who taught generations of children in northwest Portland. Philip received demolition permits to destroy all seven and build roe houses. The irony was that the planned roe house development would provide no greater number of development units than existed than onsite. Most of us in northwest Portland who cared passionately about our neighborhood to save the houses. United something that for me was out of character. Motivated by pure fury in a sense of moral outrage, I sat on the steps of one of the house to say block the bulldozers efforts. 23 of us were arrest that had day but I led the charge. Four of the houses came down, and the debris, really, put a hole in all our hearts. But three of the houses were saved. One magnificent wooden lewis house remains on-site, and two other buildings were moved to an adjacent block where they house social service agencies. The streetscape can't be returned to what it was, but out of that struggle did come some good things, the creation of, finally after ten years of the northwest alphabet district. But the district is a victory, for the city council has only -- the city of Portland has only the flimsiest of protection in place for historic buildings. And the proposal before you today, while an improvement over what is currently in place, stops far short of doing what is required by goal 5. The city commissioners -- as city commissioners, you are called upon to weigh and balance private versus public interests. How much regulation is too much. What are the rights that the property owner should have versus the rights of the public should have as we move throughout the world. You confronted that dilemma squarely and honestly when you adopted design standards that outlawed snout-nose houses, so I am asking you today to again look squarely and honestly at the protection that our historic resources need in the city of Portland. You should pass what this planning commission has brought to you today, but you shouldn't stop there. Please, please, please ask the planning commission to immediately schedule a series of public hearings to lay the foundation for substantially greater protection of our historic resources. Those hearings must lead to the implementation of a demolition denial for our highest category of historic landmark buildings, the national register buildings. Consider my, my testimony carefully and remember, that once gone, our historic resources are gone forever. It's up to you to be good stewards, thank you.

**Katz:** Thank you, ruthy. Thanks.

**Katz:** Why don't you start.

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**James Hamrick, Parks and Recreation Department, Heritage Conservation Programs:** Mayor Katz, commissioner Saltzman, commissioner Francesconi, James Hamrick, I am the assistant director of the parks and recreation department in charge of heritage conservation programs, I also manage the historic preservation office. I wanted to say right off the bat that I think that Rick Michaelson gave you a lot of really good advice and basically outlining what the problem was and is. I think that, from our point of view, I think that we just basically disagree with the way the planning commission wish to say deal with the issue. We have been involved with this process through our grant's program. In fact, the review of the ordinance came about because of the discussions that we had with Michael Harrison about the problems with the and/or and other things specifically demolition of historic buildings that were being done without any sort of public review.

We certainly think that the ordinance, as it is -- the current draft has a lot of really positive things in it, and I frankly felt kind of strange doing the opposition thing or the support thing. But I think what we would like to see, and this is supported by a letter that was sent to you from our attorney, who happens to be the department of land conservation development's attorney, which essentially, sort of goes a little further than Miss Beaumont was willing to go, and say, that, in fact, the revisions do not meet the statewide land use planning -- the statute and rule relating to historic preservation. Miss Beaumont said it was approaching that, and I certainly agree that that's true, but I think that it, it doesn't meet it and I think our big concerns really have to do with if this is not going to -- if this is not remanded, which is what we suggest, we are concerned that the process is going to go on and on and on and that the demolition review issue is not going to be resolved. When staff first mentioned to me how long they thought it would take, it was 18 months, and it's already been going on for two years.

**Katz:** You have got my guarantee. It's not going to go on for 18 months or for on and on, so. Okay.

**Hamrick:** Well, and frankly, I am encouraged that you say that, but I do, for the record, and want to make it clear for the record, that we -- that we do not believe that -- we believe that, essentially, it is not in compliance with the law, and if you all are going to allow this to go on, we would certainly think that it is absolutely the most minimum amount of time. You might know that, in fact, there are a lot of discussions before, between the planning commission meeting and this meeting about ways to go ahead and resolve this, and that had to do with what Rick Michaelson mentioned dealing with public hearings, which is essentially what we think there ought to be a type three hearing for every demolition request, and also to have demolition delays, as well, in place, sort of like the way they used to have them. We almost came to agreement about that, not quite, and so I think actually this can be resolved relatively quickly. So, just, just in closing, you know, I really urge you all to, if this is going to be approved, to make it not -- I'd say three months rather than six months.

**Katz:** Thank you.

\*\*\*\*\*: Commissioner Saltzman is also a stickler for time lines so don't worry.

**Katz:** Go ahead.

**Peter Meijer, Chair, AIA Historic Resource Committee:** I am Peter, the chair of the AIA, historic resource committee here in Portland. And this was an extremely difficult position for us to take, as you have heard, we have been pushing for some of the code amendments that have been proposed here for quite a number of times. Unlike the planning commission, we just stepped back and asked ourselves, well, do we want this to be half correct and had support a half-corrected measure, or do we really want to support a full correction of the problem, and the problem is, design review. And we still have some issues with the current language of design review proposed that it's a voluntary covenant by owners. Is that covenant transferable? Is it going to change every time a national historic landmark is transferred property? So, are we really, in essence, if we pass this, protecting those landmarks based on the language in here, or is it just postponing demolition? And as others



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were also concerned that yes, delay is good, but 120-day delay period doesn't really allow for enough other economic incentives to be brought forward to the issue. And thirdly, you know, it is controversial, but the language is to protect properties of statewide significance. It goes beyond just national historic landmarks because as you know, that time frame changes every 50 years so, there might be something that's 53-year-old today, that we don't protect under our codes, but yet it can come down. It can be demolished without the same type of protection. So, I think we need to look a little closer about what the incentives are for extending the delay period, so that we can look a little closer at going beyond the national register of properties, so it was difficult. We just felt that standing back, our 4-3 vote would have not push this had to have come forward. Thank you.

**Katz:** Is rick still here? Okay. There's a question I need to ask you, at the end of the hearing. Go ahead.

**Al Staehli, Secretary, Historic Preservation League of Oregon:** Yes. Mayor Katz and commissioners, I am Alfred Staley, the secretary of the preservation league of Oregon, and I am here representing them today. The historic preservation league of Oregon urges you to reject the planning recommendations and not adopt the zoning code as shown in the report. Our reasons for this are as follows the proposed amended code is a noble attempt to make some timely corrections in the code and to attempt to conform the code to the problems of owner consent. The result is a code that is just as confusing as before, if not more so. The attempt to satisfy owner consent concerns has codified the right to demolish landmarks without review, has effectively eliminated historic preservation as a planning tool element in the shaping of Portland. The ranking of landmarks in the Portland, as one, two, and three, continues an obsolete tool used in initial inventory work back in 1984. It was never intended to be anything more than an ex indicting tool. Unless periodically reviewed and brought up to daylight. After almost 20 years without review, the inventory is only a meager tool, at best. I challenge any of you to read through this code and to interpret it clearly and precisely. Many elements are repeated at least four times could go to my count am there are cross-references between general section 33.445 and the historic review section 33.846, which are unnecessary. Say it once and concisely but could not require the reader to flip pages to find out what it is saying in full. Information may belong in one place or the other, but not in both, if it is written correctly. A code is like a specification, and this one is unbidable. 33.445.100, designation of historic landmark is very poorly written. A landmark is a landmark is a landmark. That fact can be addressed by the code in many ways, and the simpler, the better. As written, the paragraph is daunting and in parts, needlessly negative and legalistic tone. Staff maintains that the code does contain a provision which protects the historic landmarks from demolition, 33.44150. Demolition of historic landmark. Then subparagraph a, removes the protection to any landmark not entered into a covenant with the city, which, I guess, I say nearly 100 is all landmarks and apparently it is 100% of all landmarks. This is foolishness. If Portland believes it is so truth less regarding the integrity of the fabric, the least it should do is require there be public notices for all demolition permits so the interests of citizens could marshal efforts for saving the imperaled landmark. That's what was done on behalf of the Gordon house but we have to know about it before the bulldozer is on the property. Inform the ai and hplo when the landmark is affected. We can act if there is some lead time but not if we are not informed. It is necessary for the city to have a policy of recordation to mitigation the loss of a landmark. Do not quote the secretary of the interior's standards. Include them by reference and provide copies, if necessary. Quoting them in context and with paraphrasing absent the interpretive documents, subjects the code to errors and obsolescence when the standards are periodically revised, and just add bulk.

**Katz:** Your time has run out do you want to suspend the rules and allow?

**\*\*\*\*\*:** You have copies of the letter there.

**Katz:** We have a copy of the letter.

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**Stahli:** Basically, why, in summary, why, just make some other recommendations about the, the ranking of properties and the other reasons that it is rewritten.

**Katz:** Thank you. Okay.

**\*\*\*\*\*:** Am I in trouble?

**Katz:** Your turn.

**John Tess, President, Heritage Investment Corporation:** Okay. Madam mayor, council members, my name is John Tess, president of Heritage Investment Corporation. Also co-chair of the vision's committee in Old Town, I am representing the Oregon Historic Property Owner's Association. You have on file a letter from Steve Janik, regarding our stance on this issue, and I would like to just read a portion of that into the record. Then make a couple of comments. I will just start with, we have been involved in the process of developing the historic resources code amendments. We have worked extensively with the staff representatives at the Bureau of Planning and the Office of Planning and Development Review. In addition, we have testified before the Landmarks Commission and the Planning Commission on these amendments. We would first like to express our appreciation to the staff, Landmarks Commission and the Planning Commission for providing us an opportunity to discuss these issues. We have appreciated the care and thoughtfulness of the staff and the commissioners and we appreciate their willingness to listen and consider our point of view. We support the historic code amendments as amended by the staff amendments in Miss Latino's memorandum of February 14th, 2002. We also support -- I also point out we support the other amendments from the historic landmarks commission that have been put in, from the Bureau of Planning staff. The staff's amendments are an important element of our support for the historic codes' amendment. A great deal of consideration and give and take is deflected in these amendments, as well as considerable time and effort by all of the parties involved. We urge you to adopt the historic code amendments along with the amendments proposed by staff. While there may be additional work that needs to be done, and we all agree to that, as indicated in Mr. Michaelson's memo to you dated February 12, 2002, we agree with him that the proposed amendments would be, should be adopted first and the interested parties can then proceed on the remaining issues. I would like to just make a couple other comments. I think that everybody in this room, whether we are speaking in favor or not, or opposed to this, is here to accomplish the same goal, and that is to create a program that preserves Portland's historic landmarks and is coordinated with the city's other goals. We had a program that did that prior to 1996, and it seems ironic to me that we are here discussing a lot of things that had been in place before in terms of demolition delay. We used to have an extended one. Some of those changes were made during the 1990 changes. So, I think if we went back and looked at some of that, you know, maybe we could put that back in place and it would resolve some of the issues that we do, in fact, have. I think we are all in agreement that all the -- that these amendments do not do all the concerns -- address all the concerns regarding the code. However, they go a long way to protect the historic resources and specifically, in our historic districts where right now, we have -- I am from Old Town, been there for a long time, 17 years. We have a lot of projects and a lot of things going on in Old Town. Those projects do not have to have the same type of design review that is required just to cross Burnside or downtown or even in the Pearl District, and it's important those projects be looked at and that the public has something to say with respect to those. The other thing it will do, it will protect 132 properties that haven't been protected, and finally, if I can just make one more statement with regards to incentives, Commissioner Francesconi had asked about those. I think some of the carrots we need to put back in place the urban conservation fund that, used to be in place. I know there's some tough times with PDC, but maybe we can, at least, put in place something that will allow, you know, some financing for historic properties. We could put coding incentives in place. I sat on the task force for seismic structures, and we really need to do something about that. We could take away the \$2500 fee that

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was put in place by the 1990 amendments to have your building designated. To me, that's a disincentive to have the building designated. There's a lot of people who have homes that, you know, aren't able to come in here and if they have a building they think is landmark, they should be able to go in and go through the process and not necessarily have to pay that fee. So thank you very much.

**Robert Mawson, Association for Portland Progress:** Good afternoon, my name is robert, I am from the association for Portland progress, 520 southwest yamhill, Portland, Oregon. You have a letter from our policy committee, which speaks to, in favor of the planning commission's recommendations, and the amendments you have heard today. I won't go over the letter again, but only to make a couple major points. One is I don't think that you can get to a strong preservation program through regulation. You have to have the incentives. Oregon used to have a great incentive program, as John mentioned, we had a great preservation program in the city. Many of the underpinnings of that incentive program have disappeared. You have heard that to add on regulation without any incentives, it's not going to get you preservation, it will get you demolition by neglect. The challenge is how do we make this economically viable? It's not an easy question. What Rick Michaelson is suggesting is that we need to get together in a room and talk this thing out. I think it's a smart strategy. There's a lot of different perspectives. There's a lot of complexities and potential, unintended consequences. And so it takes -- it makes sense to take a step back and figure out how do we get Portland back to the point of having a great preservation program, which may include demolition review, as appropriate. So I think, I think that that's, that's a laudable goal and I support the planning commission's position.

**Francesconi:** How long of a delay did there used to be? The demolition delay?

**Mawson:** As I recall, the delay was 180 days with the council's ability to extend is another 180.

**Francesconi:** Thanks.

**Katz:** That was one of the questions I wanted to ask Rick, and of course, staff on the time delay.

**John Czarnecki, Chair, Portland Historic Landmarks Commission:** Good afternoon, mayor, and city commissioners. Pardon my glasses. They are falling apart. I am John, I reside at 2742 Northwest Savier in Portland. I am chair of the Portland historic landmarks commission, and it's in that capacity I come before you today. To express enthusiastic, though conditional support for the proposed historic resource code amendments. We also ask that you adopt the addendums proposed jointly by our commission and the OPDR as part of these amendments. Thanks for the hard work of staff and concerned citizens. These amendments will incrementally increase the level of protection for the character of historic resource and is support the integration of those resources into the urban fabric. The support is conditional. Well, the support is conditional because the central issue of demolition review has not been addressed in these amendments. Protection for national register of properties is one of the central and most vital responsibilities. And we look forward to seeing the issue resolved in favor of protecting those resources. Much effort is already expended by staff toward this resolution to not much avail. Staff has insured the commission that resolving the language of the demolition delay procedure is a high priority. We have faith in the professional competence of staff members and the other stakeholders involved and understand that this process may, may take a considerable amount of time. There are legal, as well as policy changes. At the same time, we are concerned that if the process is prolonged, momentum will be lost and specific properties will remain unprotected. We, therefore, suggest that council ask to have staff return with a recommendation for addressing the demolition review issue at a time certain. We obviously encourage the inclusion of all interested parties in the process. We particularly are encouraging this process to include specific outreach to neighborhood and city-wide preservation groups. Many of whom have studied the issue carefully over a long period of time. Please understand that members of the landmark's commission will make themselves available throughout the process both in direct

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discussion and providing outreach to interested parties. The landmarks commission feels that rejecting the proposed amendment because the demolition review language is not corrected, throws the, the baby out with the bath water. I was trying to figure, you know, a different -- [ laughter ] A different metaphor, and the best I could come up with was, was throw out the center of the sandwich with the crust. [ laughter ] I am sure maybe someone else has a, has a -- throughout what the?

\*\*\*\*\*: Stay with the baby.

\*\*\*\*\*: Stay with the baby, okay. [ laughter ]

**Czarnecki:** While interested, while interested parties discussed the proposed resolution, the positive aspects of the code amendment will not be affected. Neither will the new language. Commending staff and all involved in their hard work, we therefore strongly support the adoption of these, of the historic resource code amendments include the addenda, with the understanding that the demolition review issue will be resolved and addressed in the near future.

**Katz:** What happens to go first?

\*\*\*\*\*: I will.

**Katz:** Okay.

**Stephen Leflar:** I am steven, at 3404 southwest 1st. And I am here to present the position of the ctlh board. That's the corbett terwilliger neighborhood association, which is the, the birth place of historic Portland and of course, the Portland national historic district. Last night at our scheduled monthly meeting our board met and discussed the proposed amendments as they pertain to historic resources. By unanimous vote, there were ten members present. Of our neighborhood association board, we, we requested the city council remand the proposed code amendments on historic resources to the bureau of planning and to bring them into compliance with Oregon state law, 660.023.0220. We appreciate your time and hope that you vote no on the proposed historic resource code amendments. Thanks.

**Katz:** Okay.

**Jackie Peterson:** I guess this will work. I am jacqueline peterson at 2644 northeast 32nd place and I am here representing the old town history project. A community-based nonprofit organization in old town, chinatown, of which I am the president of the board. Both our advisory committee and the board of directors have submitted letters to you all, which I think you have, and so rather than read from that letter, I think I simply would like to, sort of think aloud for a few minutes. I came at this process somewhat late and I may be somewhat naive, but it does it seems to me that rather simply what I have seen here in observing this process and having attended every one of the planning commission hearings and testified at the last two, and study this had code very intensively, that in 1996, that this city council passed a set of ordinances designed to comply with goal five, and oar-660, created to implement goal 5, and that at some between 1966 and the present it was discovered that there was a typographical error in the demolition review section, and at that point in time, suddenly, I don't even know if there were demolition reviews before. I know that there were no denials or permits denied. I understand that and we lost a couple dozen properties in the interim. So, now we have a good situation, where I just discovered this week that the \$50,000 was invested by the shippo's office to help the planning bureau somehow get back to normal to figure out how to get back into compliance and here we still are, two years later after a nine-month process and we haven't resolved the central issue? That seems like maybe it is difficult, and I understand we need to figure out ways to enhance incentives, as well as find a way to stiffen protection. Both of them are essential here. But what I question, is why now? Why are we pushing a set of amendments that do not resolve this issue? If they had left the sections dealing with demolition review alone, if they hadn't been changed or altered, it would be, I think I would be perfectly willing to say, yeah, I think there is some really great things here that have been added in terms of design review, but you have

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to ask, who is going to benefit? From the absolute absence now of all language that was previously in the code relating to state mandated protection for properties on the national historic register? There was or is in the current code a process for demolition review that includes denial. It's already on the books. You have never used it but it's there. That has completely been eliminated so, it's not true that this amendment, the code amendments are, in fact, status quo. They have actually reversed the policy and asking you to approve a reversal of policy and go back to the public and say, now what do you think. It seems to me that our board feels very strongly and our board includes a cross-section of representatives from the ethnic and economic constituents of the neighborhood, including bruce wong, jenny nelson, richard harris, and others, that we really, really believe that it would be inappropriate for the council to act as a court of law. That I think it is time to ask the planning bureau to change the "and" to a "or" and open this up to a broader public discussion. I think we all agree that we need to find a way to make Portland a model for preserving its historic resources for future generations, thank you.

**Tom McKenna, Old Town History Project Board:** Mark, commissioner, I am tom mckenna, excuse me, I am a member, also, to the old town project history board, and also, I will make a couple of comments as a teacher and in the Portland public school system, which I have been for 27 years. First I might read a letter from our advisory board. We are writing as members of the advisory board for the old town history project and also as individuals who have many years of experience in working to reinforce Portland's sense of community through the preservation of its built environment and the cultural history that is intertwined with those historic resources. We applaud the intention of the Portland planning bureau to update and clarify the city's historic resources code and appreciate the hard work that staff has put into this effort. However, we believe that the code amendments recently passed 4-3 by the planning commission contains serious technical and policy flaws. We therefore urge you, urge you vote to return the amendments to the planning bureau to further work, and the current amendments are as follows -- the improperly confused designated historic resources and those designated on the national register of historic places. If adopted they would make Portland out of compliance with state law. Second, we fear that Portland's proactive commitment to the conservation of its built environment is eroded by these amendments. Historic preservation has been an invaluable tool for conserving Portland's older neighborhoods and protecting the diversity of its cultural heritage for more than a quarter century. Proactive protection of historic resources of statewide significance is also required by our 660-023-0800. While systemic planning for protecting historic and cultural resource is required by goal 5, of the Oregon planning system. Unfortunately, the proposed amendments undermine historic districting as a planning tool. For these reasons, we urge that the amendments not be approved at this time. We have attached an analysis that documents our concerns and recommendations to council, signed by carl abbott, school of urban studies and --

**Katz:** You don't need to do that.

**McKenna:** Thanks, also, too, as a teacher, for years I have taught Portland history and Portland government to my students. First at grant, then at franklin high schools and I pointed out to them the proud legacy of preservation and openness of public participation in our city. Both of those legacies are at stake here. Thanks.

**Katz:** Thank you.

**Saltzman:** I just had a question for you. You said that we already have the capability in our code to deny demolition?

**Peterson:** It's part of the review process. I haven't --

**Katz:** When you respond, identify yourself for the record.

**Peterson:** Jackie peterson. I don't have a copy of the code with me, but it is in the second section, and there is -- what's interesting is that the purpose, which has been eliminated, there's an and-or

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problem in the front end of the code. The back end of the code is very clear, and it's my job to read between the lines, because I have to deal with people who are doing the writing, and in the back it tells you what it really meant, because it says to protect the properties on the national historic register. It says there are three remedies. First is denial. Second is approval with conditions that include a lengthier delay, and that's the thing we all want, of course. That's the problem with delay. There's no public process. There's no appeal. There's no review. And you can't extend it. And the third would be, of course, approval without condition. And that's stricken, and that's no longer in the code, that's why we are concerned about it. You have to change the policy here.

**Katz:** When we get staff up here. Could you identify the actual code number? All right. Thanks. Karla?

**Katz:** Okay. Go ahead, sir.

**Robert Dortignacq, Portland Historic Landmarks Commission:** Good afternoon Mayor and council. Rob, 1915, northwest 26th. I am vice chair of the Portland historic landmarks commission, and a number of other preservation-related organizations. You have heard a lot about some of the details of this, and I, and I think what I want to do in our, from our capacity in the landmarks is to really inform council where, where we are in terms of the big picture. The majority of the citizens support preservation, and the majority of, I believe, building owners. The reality is, in Portland, and in Oregon, that we make their life difficult, in a number of ways, and it's not just this code amendment, but our policy, and it's, it's planning policy, it's building code policy, there's just a number of issues. There is a real lack of incentives, meaningful incentives, and there's a real lack of accommodations, which don't cost tax dollars. A lot of times as Portlanders, we have a smugness about where we are, relative to the rest of the country. As I have toured around the country and looked at various cities, we are really lagging behind. There's many other states that have meaningful incentives. Their historic districts are, are, becoming stronger. Their individual resources are intact. We simply aren't keeping up with it. What we see as the future, what I see as the future, as the landmarks commissioner, reporting to council, is that we are going to end up with an assorted, an assortment of historic icons around town. Real special, you know buildings to us. The simon benson house, city hall, they will be scattered about but have no sense of continuity. No context with other buildings, and other properties. Like you would in many other cities, like in many east coast cities, new york, where the buildings are adjacent to older districts. Our historic districts will become skeletons. They are already become that go way with new infill that doesn't relate to them, that, that is piecemeal, eating away at the district. A year ago, I spoke with a class, elementary school class studying frank lloyd wright, we were in the midst of the gordon house problem. And the kids asked why does this have to happen? Why is this building being demolished? Why does it have to move? And I honestly could not give them a very good answer. I think we need to come together, at a policy level, at a leadership level in the community, and at the state and support our preservation that the system would like. Thank you.

**Katz:** Thank you. Mike, go ahead.

**Mike Dee:** Howdy. I am mike dee, located at the mashshall art gallery, 18 northwest 3rd avenue, Portland, also formerly located at 6 northwest 3rd avenue, Portland, and at the liberation collective to northwest 3rd avenue, Portland, formerly. I am a part of the disabled town committee and in old town, chinatown, neighborhood board association member. I am a at 133 northwest 6th avenue, Portland. What I wanted to do was talk to you today about saving old town and our historic resources. From what I have seen in the code, this big, thick thing that cam come out. Here is -- here is an orange-yellow one. As good idea but it needs more work. It doesn't protect things the way it needs to. You asked jackie peterson about where in the code did it say, you know, that a review process is, it is on page 6 7, and you see it's all lined out there. And they can probably point out the new suggestions. When they come up. We had a meeting in our neighborhood, and I

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personally came to each one of your office and is invited you all to come and explain this to us. I went to charlie Hales' office and invited susan kelly and joshua outbird, in case charlie couldn't make it. And I went to erik Sten's office and invited them, and jim Francesconi's office, and anyway, I have cards if everybody I went and talked to, and there's a bunch of them here. I have been to the bureau of planning, and spoke with lisa mikael there, and tried to get copies of this all so you could have it ahead of time so you didn't just get a briefing from the staff assistants that you have, so I am disappointed when you come to the hearing and say you don't have something. Because I personally tried to deliver it to you. I have spoken with people in the neighborhood, the old town history project, and heard from other people and listened to what they had to say in the neighborhood, and they are very concerned about what's going on. From the interpretations, it looked like in six months, there could be one building left. One historic building left, and that's not, not enough to me. I am sure that a couple other people might agree with me. I'm disappointed -- I do agree with the regulations -- in a -- I do agree the regulations and the incentives are in the right place. You see buildings getting run down in the neighborhood and instead of repairing them or fixing them, they just want to smash them and build a new one, an example, union gospel mission. They could have gotten a superstore grant from the Portland development commission and made it look better than it does currently but they haven't chose to do that yet. It doesn't sound like they are going to. The sign that you -- the sign that mr. Kallious was holding looks like this, and it's, it's a prediction, done over a year ago of what, what was happening, and it seems to be true at this time. I am concerned about our neighborhood. Thank you.

**Katz:** Thank you.

**Francesconi:** Sir, michael did give me your materials, and I actually do have them. I have looked at them. So, I am sorry.

**\*\*\*\*\*:** Excellent. Thank you.

**Katz:** Okay.

**Dee:** Save old town, save Portland.

**Moore-Love:** That's all who signed up.

**Katz:** Anybody else want to testify? All right. Could staff come on up for a couple of minutes, and rick? Rick, you are going to have to help me understand, why didn't you go back to the language that was at question?

**Michaelson:** I think the reason -- this project was sole to the community as a code clarification -- well, a code picks up a issue, not a change in policy or an adjustment so, the people who attended were basically dealing with the code issues and we did not get into alternatives, like doing the 180-day, 180-day delay. It was not in the agenda or a notification. We would have had to go out and really reinform people about what the project was like, was it was about and what issues were being cover sod they could come in and testify for it. The proposal in front of us justificationed the and-or. Didn't have alternatives like extended demolition delay periods or things like that so, there wasn't adequate public comment in that process to do it. We felt it was better to get this -- this code off our table because it does fix some problems. It does extend design review, and then be able to look at that issue more clearly, as a single issue.

**Katz:** And your sense that to go beyond that let's make the assumption that the council wanted to go beyond that. Which is the council's prerogative to do that. You think that that would violate any promises to the community about working through all of these issues with them? Do we have to do some additional notification?

**Michaelson:** Well, I think there's some things you could do without additional notification, like, and I hate to raise this, but look again at the and/or situation, and make a determination, perhaps, that the existing code as ms. Peterson says, does protect the resources. If you made that the determination, that's within your power to do, I believe, without further notification. At any rate, I

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think we need a real sitdown with people to really talk about the issues of how do we protect resources. What are the incentives and what are the, what are the regulations. You know, one of the things that occurred to me today is we don't really need a demolition review process. What we need is an alternative's review process. You have got to resource, a resource that people are proposing to change. What are the -- what are the alternatives to the change they are proposing? Would a -- you know, I have heard discussion about the shiner's hospital site where perhaps a zone change to allow a retreat center there would have been a better alternative than the one that came out. We don't have a process to put those pieces together and look at that. And to bring the incentives to go and do that. That piece of work needs to be done, no matter whether we fix the short-term demolition denial issue today or later.

**Saltzman:** And one of the alternatives would also be denial? Is that --

**Michaelson:** I think the list of alternatives are, are potentially denial, for the resources are too important and you can't tear it down. Come back in two years and try again if, you haven't found a use for it. Potentially, yeah, you can tear it down, but first, you have to offer the building for somebody else to move for 300 days, which is a reasonable period, not 60 days. Or yes, you can tear it -- or, well, look we are not going to approve the demolition now. Go back and look at what would happen to that resource and what its potential is if we change the zoning from regional to commercial and come back and prove to us that if we give you all these incentives, it still is not viable and it's the right thing to tear down. I think we need to give the benefit of the doubt to the resource before it is proved there isn't a way to save it.

**Francesconi:** We need that. We need all those options. It's actually a little frustrating to hear all these options, to know we need them but not have any of that in front of us. So, you have to get it to us quickly.

**Michaelson:** And we share that frustration. I mean, that's why we wanted to get this off our table quickly so we could get to that point.

**Katz:** So what you are saying is that some of the issues that you want to address by statute deserves public -- deserves notification or not -- or help me out here.

**Michaelson:** I think if we are developing a new program that's different from the existing program and different from the existing policies, we need public input. I think there is some legitimate question about the existing public policy and code, and if you determine that the existing public policy and code is that we now have demolition denial, and demolition review for national registered buildings, that's -- you might want to hear testimony on that particular issue before decide it go but that wouldn't have to go all the way back to the planning commission for discussion.

**Katz:** Would not?

**Michaelson:** Would not.

**Saltzman:** And we could decide that right now?

**Michaelson:** You could decide it right now or decide to have another hearing in two weeks and ask people to come in and speak to you about that.

**Katz:** And really, I appreciate it and jump in at any point. I need to know from at least the two of you how far you want to go so that we can then determine in my meetings with gill and with steve as to whether that's something that we can manage ourselves without going through a whole other public process and what we need -- would need to go through a whole public process.

**Saltzman:** Well, I guess what I would like to see is the ability to deny demolition for national historic properties, landmark. Whether that's best accomplished through what you call your next major work program, which scares me because I don't like those type of words, they sound like black holes, or whether we ask the mayor and the planning director to come back next week with amendments that accomplish that I guess I am comfortable with that approach, too.



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**Katz:** But, if you want me to -- I would be more than happy to come back, but I don't think I can do it by next week. But I would be more than happy. It's not going to --

**Saltzman:** A couple weeks curve.

**Katz:** It's not going to take six months. Okay. So, we are really talking about denial of major --

**\*\*\*\*\*:** Yes, and I think --

**Saltzman:** National.

**Katz:** National, yes.

**Michaelson:** If you go ahead and do that quickly and give the protection quickly, we still need to do, down the road, some additional work to give you the kind of program that makes that right.

**Saltzman:** You have to develop criterion and all that, but if you -- if you want the policy call, frame those discussions, that's what I would prefer the policy call --

**Katz:** Steve, why don't you identify. Identify yourself.

**Dotterrer:** Steve, bureau of planning. There's a couple of issues, one, you have heard about the request to extend the, the denial to all national registered properties. In addition to that, there's ban lot of comments about a better mix of the incentive program with regulatory approach. And the latter, that is dealing with the incentive, coming up with a new sense of incentives that work with the current tax situation will take time, but it needs to happen. I mean, I think you heard testimony that that is really critical to get us back to the situation where our historic preservation program is moving forward and is really getting lots of stuff done. You can't do it just on the regulatory side. So, we can come back very quickly with a regulatory fix that adds the individual national historic landmarks --

**Katz:** There may be other things.

**Dotterrer:** To denial, but other stuff will take longer. Very clearly.

**Katz:** Jim?

**Francesconi:** Well, you know, I am willing to go there. I guess I want to know that we can really save the buildings, so I need to know that there's going to be a work plan with the incentives so that they are not in disrepair, so, I mean, I am willing to go there, but then I need you to also tell me that this other piece is going to come so that it's really going to be effective.

**Katz:** Let me do this --

**Dotterrer:** That is our proposal at this point. And if I could add to that, the landmarks commission is already holding workshops and discussions about further incentives and ways to do the code, so at least informally, some of that work is already done.

**Katz:** I don't know what I have on my agenda for next meeting, our regular meetings, but I would like to have rick there, as well, so that we can -- I can take the issues that the commissioners raise -- I have my own, and I need to then have some good thinking about what we can do now, what we should delay and go through a more public process because I am not clear yet what that is, and then what are the options. And then bring it back, share all that far information with you, get your okay.

That's the council, see if we have satisfied where the direction you want to go and then bring it back for a vote.

**Francesconi:** I guess I would like a little more information about what other cities are doing, and I would like a little more information on the number of buildings in each category, and I would also like us to consider the, having the delay time extended, as well.

**\*\*\*\*\*:** As long as the denial is part of that.

**Katz:** Okay?

**\*\*\*\*\*:** Okay.

**Lutino:** I have some numbers, if you want to see them.

**Katz:** You have somebodies for what?

**\*\*\*\*\*:** For the question you asked.

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**Francesconi:** Later.

**\*\*\*\*\*:** Do we want to set a date for the return?

**Katz:** Wait a minute. Before you set a date, I need to know from Kathryn what we actually need to do to follow state law. Okay. And I would like that information as soon as possible so when I meet with planning, we can, we can match that with what we need to do. Now and what, what can wait.

**Saltzman:** That response to the attorney general letter we got?

**Katz:** In response to the state letters we received. All right, you want to know when?

**\*\*\*\*\*:** We are asking if we want to set a specific --

**Katz:** We could set a specific date, but people would need to check because I may not have enough information yet or the council may not be in some agreement yet so.

**Saltzman:** I think we could try to set a specific date.

**\*\*\*\*\*:** I was trying to avoid having to renotify --

**Katz:** All right, let's do three weeks. When is three weeks?

**Moore-Love:** It's march 28th, and commissioner Hales is out.

**Katz:** All right, let's do --

**Francesconi:** Spring break, isn't it? You better mark me out if you haven't yet.

**\*\*\*\*\*:** Four weeks.

**Moore-Love:** Four weeks, is april 4th, and commissioner Saltzman is out.

**Katz:** He doesn't want to be out on this one, do you?

**Saltzman:** No.

**Moore-Love:** Then, a work session on the 11th so the next thursday would be the 18th, unless you want to move it to a wednesday.

**Katz:** March 18th? Is the next available thursday.

**Katz:** April 18th, okay. Let's do it -- you look puzzled, is that okay?

**Moore-Love:** You could do it wednesday, too.

**Katz:** We could do it on a wednesday.

**Moore-Love:** You want it earlier on wednesday, then?

**Katz:** Yeah.

**Moore-Love:** There is a 6:00 p.m. On the 17th of april.

**Katz:** What is on there?

**Moore-Love:** There is nothing else on there.

**Katz:** Let's put that on the evening. So for those of you would work, you can come on the evening. All right. Okay. Everybody?

**Francesconi:** Good, mayor.

**Katz:** All right.

**Francesconi:** Good work, everybody.

**Katz:** We will be back on the 17th at 6:00. We stand adjourned.

At 3:33 p.m., Council adjourned.