



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF MAY, 2002 AT 9:30 A.M.

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

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

Item No. 438 was pulled for discussion and on a Y-5 roll call, the balance of Consent Agenda was adopted.

COMMUNICATION	Disposition:
<p>420 Request of Bill White to address Council to give a simple prayer (Communication)</p>	PLACED ON FILE
TIME CERTAINS	
<p>*421 TIME CERTAIN: 9:30 AM – Authorize acceptance of a conservation easement granted to the City by Keith and Sally Vernon (Ordinance introduced by Commissioner Hales) (Y-5)</p>	176440
<p>*422 TIME CERTAIN: 9:45 AM – Ratify a Tentative Agreement that amends the 2001-2004 Recreation Labor Agreement regarding health benefits (Ordinance introduced by Mayor Katz) (Y-5)</p>	176436
<p>*423 Ratify a Tentative Agreement that amends the 2001-2004 District Council of Trade Unions Labor Agreement regarding health benefits (Ordinance introduced by Mayor Katz) (Y-5)</p>	176437
<p>*424 Authorize the use of Health Fund Reserves for FY 2002-03 to fund the gap between healthcare plan costs in excess of the City contribution for benefit eligible employees (Ordinance introduced by Mayor Katz) (Y-5)</p>	176438
<p>*425 Authorize amendments to the City Self-Insured and Insured Plans for FY 2002-03 and FY 2003-04 for benefit eligible employees represented by the District Council of Trade Unions, AFSCME 75, Bureau of Emergency Communications, Recreation Employees and Non-represented employees (Ordinance introduced by Mayor Katz) (Y-5)</p>	176439
CONSENT AGENDA – NO DISCUSSION	

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<p>426 Accept bid of Ciba Specialty Chemicals Corp. to furnish annual requirement of polymer for the Bureau of Environmental Services for \$332,465 annually for 5 years (Purchasing Report - Bid No. 100977) (Y-5)</p>	<p align="center">ACCEPTED PREPARE CONTRACT</p>
<p align="center">Mayor Vera Katz</p>	
<p>427 Confirm appointments of Richard N. Pugh, Edward J. Washington, Barbara Warren-Sams and Michael S. Harrison to the Urban Forestry Commission (Report) (Y-5)</p>	<p align="center">CONFIRMED</p>
<p>*428 Pay claim of Elizabeth and Larry Kirk (Ordinance) (Y-5)</p>	<p align="center">176424</p>
<p>*429 Authorize bonds and lines of credit for transportation projects (Ordinance) (Y-5)</p>	<p align="center">176425</p>
<p>*430 Amend Deferred Compensation Plan and Salary Deductions Code provisions to reflect administrative fees, providers and authority of City Treasurer (Ordinance; amend Code Sections 5.08.140 and 5.09.030) (Y-5)</p>	<p align="center">176426</p>
<p align="center">Commissioner Jim Francesconi</p>	
<p>*431 Authorize an Intergovernmental Agreement for Community Emergency Response Team training with Clackamas County (Ordinance) (Y-5)</p>	<p align="center">176427</p>
<p>*432 Accept a grant from Oregon State Parks in the amount of \$25,000 for development of the 40 Mile Loop Trail at Kelley Point Park (Ordinance) (Y-5)</p>	<p align="center">176428</p>
<p>*433 Contract with FamilyWorks, a program of Lutheran Community Services Northwest, for the Phase I Development of Prescott Park in NE Portland (Ordinance) (Y-5)</p>	<p align="center">176429</p>
<p align="center">Commissioner Charlie Hales</p>	
<p>*434 Authorize execution and acceptance of Deeds of Right-of-Way required for the Lower Albina Overcrossing Project (Ordinance) (Y-5)</p>	<p align="center">176430</p>
<p>*435 Amend agreement with State of Oregon Department of Transportation to allow the transfer of Federal-Aid Surface Transportation Program funds to the Burnside NE 12th to NW 23rd project (Ordinance; amend Contract No. 51505) (Y-5)</p>	<p align="center">176431</p>

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<p>*436 Authorize execution and acceptance of a deed for the purchase of land for the SE Foster Road at SE 162nd Avenue Project (Ordinance) (Y-5)</p>	<p align="center">176432</p>	
<p>*437 Authorize an Intergovernmental Agreement with Multnomah County to provide up to \$75,000 in services and funding toward preliminary engineering of a shared-use path on the Morrison Bridge and perform work on the project (Ordinance) (Y-5)</p>	<p align="center">176433</p>	
<p align="center">Commissioner Dan Saltzman</p> <p>438 Consent to the transfer of Irvington Sanitary Collectors, Inc. residential solid waste and recycling collection franchise to Alberta Sanitary Service, Inc. (Ordinance)</p>		<p align="center">REFERRED TO COMMISSIONER OF PUBLIC AFFAIRS</p>
<p align="center">Commissioner Erik Sten</p> <p>439 Authorize an agreement with Hennebery Eddy Architects, Inc. and provide payment for services for Interstate Facilities Master Plan Project (Second Reading Agenda 413) (Y-5)</p>		<p align="center">176434</p>
<p>440 Authorize agreements with ACE Consultants, Inc., Murray, Smith & Associates, Inc., and Tetra Tech/KCM, Inc., for an amount not to exceed \$25,000 per firm to provide engineering services for miscellaneous professional services in the area of design engineering and provide for payment (Second Reading Agenda 414) (Y-5)</p>	<p align="center">176435</p>	
<p align="center">REGULAR AGENDA</p> <p>441 Accept the bid of Tri State Construction Inc. for street and storm sewer improvements at SE Foster and 162nd Ave. for \$1,988,817 (Purchasing Report - Bid No. 101391) (Y-5)</p>		<p align="center">ACCEPTED PREPARE CONTRACT</p>
<p align="center">Mayor Vera Katz</p>		
<p>*442 Waive administrative appeal process for street improvements at SE Foster and 162nd Ave., Bid No. 101391 (Ordinance) (Y-5)</p>	<p align="center">176441</p>	
<p>*443 Allow the towing and impoundment of vehicles used in the commission of prostitution or drug related crimes and declare a nuisance (Ordinance; amend Code Section 16.30.220) (Y-5)</p>	<p align="center">176442</p>	

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<p>444 Amend the Zoning Code, Title 33, to comply with the water quality requirements of the Urban Growth Management Functional Plan Title 3 along the Willamette River (Second Reading Agenda 393; amend Title 33) (Y-5)</p>	<p>176443 AS AMENDED</p>
<p>Commissioner Charlie Hales</p>	
<p>445 Consider vacating a portion of SE Rex Drive west of SE 52nd Avenue, at the request of Randall and Melanie Henderson (Hearing Report; VAC-10001) Motion to adopt the Report and prepare an Ordinance: Moved by Commissioner Hales and seconded by Commissioner Sten. (Y-5)</p>	<p>APPROVED CITY ENGINEER PREPARE ORDINANCE</p>
<p>446 Assess benefited property for the costs to construct ornamental lighting in the SW Capitol Highway Lighting Local Improvement District (Hearing; Ordinance; C9973)</p>	<p>PASSED TO SECOND READING MAY 8, 2002</p>
<p>Commissioner Dan Saltzman</p>	
<p>*447 Authorize the purchase of one property from the Patricia L. Gardner Family Trust and the Wagner Revocable Family Trust to the Bureau of Environmental Services, subject to certain conditions (Ordinance) (Y-5)</p>	<p>176444</p>

At 11:07 a.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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WEDNESDAY, 2:00 PM, MAY 1, 2002

**DUE TO LACK OF AN AGENDA
THERE WAS NO MEETING**

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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.

MAY 1, 2002 9:30 AM

[Roll call]

Katz: As you can see, the chamber is filled with guests, guests from Portland and guests from our sister city guadalajara. And it is cinco de mayo, and we are honored from the visitors who come here every year to celebrate with us, the largest cinco de mayo celebration in the country. So I want to welcome them. And let me just introduce some very special people, then i'll ask frank garcia, the president of the sister city association, to introduce everybody else. The mariachi band first. [applause] thank you so much for coming back year after year and giving us a sample of your wonderful talents. Council martha ortiz derosa, our mexican consulate. [applause] guadalajara city commissioner, carlos larra. [applause] [applause] how many have you -- of you have been to guadalajara? Three. Our three commissioners have been in your wonderful city. So we have to send commissioner Sten. He's ready. And city commissioner laura -- larra, please give my regards to the mayor of the city. I understand the mayor's wife will be here on friday, and we'll have an opportunity to say hello to her then. Now let me introduce frank garcia, jr. [applause] he's the president of the Portland Guadajalajara sister city association, and will give -- we'll give you the microphone and make some introductions if that's what you choose to do.

Frank Garcia, President, Portland Guadajalajara Sister City Association: Thank you so much. Thank you this morning, thank you so much mayor, and all council members. It's a pleasure to be here this morning to kick off cinco de mayo. We hope we bring some festivity to our grand city, and hope we can engage you all in some participating in this wonderful celebration. I am the president of Portland guadalajara sister city association. Bits a 15-member board and about a 30 steering committee members that have been working very diligently since january 1 to make this happen. So I think what we're seeing now is the fruition of that work. I thank you for your time. Accompanying carlos larra, who is the advisor to the mayor, is also the director of public relations. [applause] we also have accompanying us the director of international relations. [applause] we also have with us the director of cultural arts. [applause] also is president of guadalajara Portland sister city. Plus applause. [applause] plus again the mariachi, which you've already heard. And paco padilla, I just wanted to take two minutes to allow carlos to send a message on behalf of the mayor.

Katz: Absolutely. And then let's do another song.

*******:** You bet: We can do that: That would be great: [laughter] carlos?

Katz: This is not his first visit here. He's been here before. Welcome back.

Carlos Lotta, Advisor to Mayor of Guadajalajara: First of all, I want to thank, because of the reception, since we arrived here we have received a good attention. Thanks for it. It's a difficult task, it's persons like frank, persons like you, people who love their country, their culture, persons like all the great team you have. Portland is for guadalajara one of the best sister cities because of the -- its efficiency. Although our mayor is not here at the moment, he's very thirsty to support that kind of thing, especially with the Portland sister city. Thank you again for your reception.

Katz: Thank you. [applause]

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Garcia: I'd also like to say none of this could be possible without the support of our council. They've been very supportive in partnering and helping us make this happen. And the wonderful staff you have, wonderful team. Thank you so much. I really appreciate that.

Katz: Thank you, frank.

*******:** Mariachi, por favor:

Katz: Are they going to do guadalajara for us? \m\m \m\m \m\m \m\m \m\m \m\m \m\m \m\m [pplause]

Garcia: Mayor Katz, thank you so much for your warm welcome. We appreciate it. We're going to have our parade tomorrow at 11:30. Come down to the events for the four days. It's going to be wonderful.

Katz: Why don't you -- the four days are --

Garcia: May 2nd through may 5th.

Katz: And the --

Garcia: Thursday through sunday.

Katz: It's a wonderful celebration of our partnership and our realization how important our cultural ties to mexico are, and certainly cultural ties to our sister city. So thank you. We'll be in.

Garcia: Gracias. [applause]

Katz: Okay. Item -- we have communication. Item 420.

Item 420.

Bill White: Good morning. It's a pleasure to see everyone once again. I know that since may is going on, there's a lot of activities going on in may, and I really enjoyed the band. That was really good. One thing I want to pray for is just your blessings and praying for peace. I know they have a may day whatever they call it downtown, where they want to cause chaos in the city, and --

Katz: It's we will march without a parade, parade.

White: That whole chaos thing. We're going to pray that -- that nothing traumatic happens, and just a real peaceful celebration, as well as cinco de mayo celebration. So father, we thank you once again. We have another opportunity to pray for the city council and the mayor, continue to bless him with peace, surround him with goodly council and continue to bless them and lead them and guide the decisions they're about to make. We thank you for your prayer. In your son's name we pray. Amen.

Katz: Thank you. We have another introduction I want to turn to commissioner Francesconi.

Francesconi: Let's try this for a transition. A group of us italians decided to select an honorary god father for our hopefully soon-to-be italian sister city. He happens to be here, and he is my father. So i'd like to introduce leo Francesconi, and the main reason i'm doing this is because I want to also introduce my new step mother, who is also 100% italian, vilma Francesconi.

Katz: Nice to have you here. Congratulations on your marriage. [applause] okay. It's time for a little business. Consent agenda. Any items to be removed from the consent agenda? I don't have any. Oh, yes, I do. 438. Commissioner Saltzman, that's yours. We'll come back to you in a minute. Anybody else want to remove a consent agenda item? Hearing none, let's vote on the consent agenda.

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

Katz: Mayor votes aye. [gavel pounded] 438.

Item 438.

Moore: Consent to the transfer of irvington sanitary collectors.

Saltzman: I would ask that this be returned to my office for further work.

Katz: Any objection? Hearing none, so ordered. Time certain. 421.

Item 421.

Katz: Commissioner Hales did you want to say anything?

Hales: You're doing 441?

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Katz: 421.

Hales: Are they here? I don't think so.

Katz: Do you want to hold --

Hales: Let's hold off.

Katz: Remind me to come back to it. Is everybody here for the 9:45? I don't want to start early if you're still waiting for this -- these are all the tentative labor agreements. Is everybody here? All right. Why don't we read 422, 423, 424, 425 together.

Items 422, 423, 424, 425.

Katz: All right. When you speak to each one of them, identify the specific elements of each one of those items.

Yvonne Deckard, Director Bureau of Human Resources: Okay. Good morning, mayor and commissioners. For the record, my name is yvonne deckert, the bureau of human resources director. Today i'm presenting four adoptions, for companions. Number 422 is an ordinance regarding health care -- health benefits -- wait. 422 ordinance regarding health benefits ratifies the tentative agreement amending article 16 of the new labor agreement for the period of july 1st, 2001, through june 30th of 2004. Item number 23 is an ordinance regarding health benefits, ratifies a tentative agreement amending article 15 of the new recreation employee labor agreement for the period of july 1st, 2001, through june 30th, 2004. Item number 2 -- 424 is an ordinance that authorizes the use of health fund reserves for fiscal year 2002-2003 to fund any gap between the health care costs in excess of the city's contribution. Items 425 is an ordinance authorizing amendments to the city's self-insured and insured plans for fiscal year 2002-2003 and fiscal year 2003-2004 for benefit eligible dctu, recreation, boec, nonrep employees. In response to rising health care costs, the city's self-insured and insured plans the city sought a three-pronged solution. The first prong increases the city's contribution to the cost of health care to more accurately reflect the number to accurately reflect the rate at which the health care cost is increasing in the marketplace. The second achieves the cost saving through plan redesign, and the third prong was to begin employee premium share. Without plan redesign, an increase in the city's cap contribution, and employee premium share, the city's health fund reserve for which claims coarse for the self-insured medical plan are paid is projected to run out in fiscal year 2003-2004. Once the health fund reserves are exhausted, labor agreements calls for the difference between the health care premiums and the city's cap contribution to be paid by employees through a monthly payroll deduction. The dctu labor agreement ratified by council on november 21st, 2001, established a joint collective bargaining process to achieve projected savings as much as 25% on the self-insured plan, and 9.1% in the insured plan to be implemented july 1st of 2002. The dctu recreation employees and boec bargaining units participated in the joint bargaining process. On january 29th, 2002, the dctu recreation employees and boec bargaining units reached a tentative agreement to achieve 25% savings on the self-insured plan and a 9.1% savings in the insured plan. The plan redesign meets council's objective, which offers choice to employees and increases provision for preventive health care while achieving reductions in health care plan costs. The recommended changes are key -- are key in containing costs while continuing to provide a comprehensive health care benefits for the -- for city employees. The dctu and recreation tentative agreements require council's ratification. Boec labor agreement is in process and will be followed with council for ratification at the earliest possible date. The absence of any changes in pffa -- ppa, ppcoa is due to collective bargaining, which is currently in process. Ppcoa current labor agreement is in effect until june 30th of 2003, at which time negotiations will begin for that group. The 25% self-insured plan redesign and the 9.1% insured plan redesign will be implemented for dctu, boec, recreation, and nonreps, represented employees. There were two motions to use the reserves that did not pass the lmhc. The first motion was to retain the city's select ppo plan for all employees for fiscal year '02-03. That's no change from our current 83 -- year. The second motion was to use the reserves to pay \$150 employee

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deductible for those employees electing the new city core plan. By vote of 12-2, the labor management benefit committee, the lmbc, passed a third motion to forward a recommendation to the city council to use the health fund reserves to fund any gap between health care plan costs and the city's contribution for fiscal year '02-03. The dctu and the employee representatives passed the dissenting votes. As the directive -- I concur with the majority vote for -- from the lmbc and I ask council to move to adopt these four companion ordinances.

Katz: Okay. David, do you want to add anything? Betty? No. All right. Council, do you have any questions? All right. Thank you. Let's have public testimony.

*****: Good morning.

Katz: Good morning.

*****: It's been a while since i've been here.

Katz: It's been a long while.

*****: Well, I have --

Katz: Identify yourself for the record.

Grant Zadow, President of District Council of Trade Unions: I'm grant zado, president of the dctu and a business rep for the international brotherhood of electrical workers, and also a member of the lmbc for the dctu. What we've come before the council this morning is to talk about 224, I have got the number right?

Katz: It's all right.

Zadow: The piece where we had the vote and mr. McEchron and I were the dissenting votes. They've taken the recommendations of the council, the lmbc group, for a very long time. I don't know very often that you've ever done anything different, so i'll acknowledge that right up front. What I think is different about this this time was that because of the bargaining process that went on, and the differences in the bargaining agreements that go through, the dctu and the nonrepresented people in the city of Portland are the first to see a reduction in their benefits in a very long time. Other than some minor changes that we've made on the lmbc. We had, as you heard, of course tried for the whole pie, i'll acknowledge that too, and said we'd like to be held the same as all the rest of the bargaining units that are not going to be changed. Realistically we didn't expect that we would get that, but because of our good faith effort through the dctu process that we agreed to in bargaining, we came up with a 25% reduction in our health benefit package. And therefore, went forward. What we're looking for I guess is a certain amount of party, because we felt that it is not reflective when it -- through the process that when we were brought up the second proposal, if you will, that we be held harmless from the \$150 deductible for our group, that the cost by at least the labor side, I only want to speak for the labor side, we had support of labor, but because of how we're constructed, we were not able to pass it because labor only has half the vote, and it takes I believe it's 10 --

*****: 12.

*****: 11-3?

*****: 12.

Zadow: It takes 12 votes, i'm sorry. I'm a little nervous here. But it was split right between labor and management, and so then the third vote was proposed only because those who are in the bargaining process needed to protect their benefits, and says it will pick up over and above. Jim and I were the only assenting votes. What we're asking the council is that we would like to have the council reconsider the \$150 for both the nonreps and the dctu for one year to come out of the reserves. Our estimate, and there are probably people in the room who can better estimate than we were, but if everyone was to use it, it would be no more than \$300,000, and I don't think everybody even goes through their total deductible every year. At least it doesn't in other health plans that i'm privy to.

Katz: Your time is up.

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*****: That's our request.

Katz: Thank you. Questions? All right. Who wants to testify next? Identify yourself.

Tom Chamberlain, President, Portland Firefighters: Tom chamberlain, president of the Portland firefighters. The goal of the city is to have everyone on the same health plan. Obviously we're not going to do this this year, and depending how bargaining goes, it may not ever be accomplished. I believe what the laborers have come forward with and dctu has come forward with is an attempt to get equity during this plan year when you're paying \$200 for a family, the difference between what the city pays for a benefit and the true cost of the benefit, some equity there by putting the \$150 deductible the city would kick in. That would come out of the reserve funds, that's the employee's money, that's how we feel about it. We think it's a very reasonable request.

Katz: Thank you. Jim?

Jim McEchron, District Council of Trade Unions: Just on the one piece of it. Jim mcekrin, district counsel laborers here in Oregon. I was characterizing our coming before you today as advocating for a minority report. But the reality is that the proposal that we had that failed on a 7-7 vote in terms of the numbers of people that those seven votes on the labor side represent, that was almost the entire work force, the entire 4100 people who are in the -- under the health plan of the city of Portland. So it was the ppcoa voted to accept the idea that we would cover the gap between whatever health plan the employee is on, and kick in this small amount of the \$150 deductible for the people who have gone through the door first, moving to this new health plan. Saving everybody a lot of money. So the ppcoa voted on that, kopea rep voted on that, I voted on that, tom voted on that, the robert king for the police supported it as well. If you add up the numbers of people there, that's almost the entire city work force that's under the health plan. So it's not really a minority. It is the majority. It's only the minority because of the way that we have to -- we vote things out of the lmbc. That's a discussion for another day, but I just wanted to make it plain that the people who put the money into the plan have said that it was appropriate this first year, in this first year only, to provide some subsidy for that deductible. We're taking big changes in our health plan. There's a lot of problems out there in the work force, people feeling that some people are being treated better than others. This would go a long ways to dealing with that issue. Thank you.

Katz: Let me ask a question. How come this never came up when we spent all these months in the entire day and night in bargaining?

Zadow: I don't want to speak -- i'm goings to have to speak for the chief spokesperson for our side, but it was revealed to me after the bargaining was over that she was under the impression that the lmbc had said that they were not going to go forward with the plan as it was, that the whole plan was going to be repealed, and apparently she got that confused between when we were saying we were going to take away the -- help me, tom -- the opt-out piece.

Katz: Okay. We'll get some response. Thank you, gentlemen.

Francesconi: Wait. I guess that raises three questions. You can only address two of them. Was this addressed in bargaining or not? Was it agreed to or not? And then the second is, would the reserves be used to benefit other employees down the road? It's my understanding that the reserve fund would be used to cushion the blow for other workers. So I guess those are my two questions.

Katz: That's probably not questions to these gentlemen.

McEchron: We've got an answer for it, though, jim. The reserve fund we're talking about came about because -- that's money that's come out of the employees' pockets. And we traditionally, we've used it for years to -- the last three years, to subsidize the cost of the health plan for the benefit of the whole group. The problem now is we're subsidizing part of the group at a higher rate than another part of the group. So as the seven representatives of the people who put the money in the plan into the reserves, we came forward with a compromise that would get us some equity between the different groups, between police and fire and the dctu.

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Katz: Okay. Thanks. Let's bring up -- I think everybody understands the issue. Let's clarify the issue. Yvonne, you were with me and others, Betty, so let's talk about what happened and then the whole issue of whose money it is and the equity issue. And what may have been promised.

Deckard: Well, during the bargaining process, the -- part of the problem is we were in negotiations with the dcu and with recreation, and benefits was -- was an issue we negotiated. And we negotiated to completion. The reason that you have what grant calls -- couches as the discrepancy is because you've been in bargaining, you've bargained with this unit, we wanted to start containing costs, we wanted to start dealing with the health fund reserve issue, and we know we have to do that during the bargaining process. So as we bargain with each unit, then we address that issue. So it's never going to be a situation where you're getting agreement all at once. That's one of the reasons we agreed to the joint bargaining process, but all of the units did not agree to come to the table during that process. So it allowed us to complete the bargaining process with the dcu and with recreation, and what they agreed on in bargaining is the core plan, is that 25% savings reduced -- redesigned plan which also carries with that \$150 deductible. The issue here really is now that you've bargained to completion and we've ratified the deal, whether or not what you're really being asked to do is negate what happened in the bargaining process, and to now do -- cut a different deal during -- through the lmhc. And I think that was a problem.

Katz: Go ahead.

Sten: My question on that, though, is, I was left with the impression -- I think there's truth to that, but I was also left with the impression that we didn't completely get out of bargaining with a firm decision on where the cuts were going to be to people, and that the goal was trying to figure out how to make it work. So I don't think it's unreasonable to say around the edges we need to -- I don't take it as a sort of bad faith with the bargaining process to once we get into the details to come back and say, in the matter of a couple hundred thousand dollars we're trying to figure out how to phase this in, especially when different employers are going to get hit different times based on contracts. I didn't -- when I signed off on it I believed I was signing off on a target, but not a strategy.

Deckard: Remember during the bargaining process, what we agreed on was a solid 19% savings. If we could achieve a 25% savings, that was desirable, and what we gave up for that was all of the language issues and the -- and some of the positions that the city needed, and so -- and also we agreed that we would do the indexing in order to balance it out in a lower premium. In order to get that, which actually would exacerbate -- further exacerbate our ability to contain cost and shrink the gap of reserves running out. So we went to the table in the joint bargaining after we signed the deal, we actually -- the dcu and recreation and the people -- and the boec had an opportunity to talk about what should premium shares be, what should deductibles be, we actually made adjustments to those things, so the deal that you have here in your first two ordinances ratifying and adding that new language to their contract, that's two of the ordinances you're voting on, but as it relates to the reserves, you also went through a phased-in process because remember, last year we voted to use the reserves to then stop the beneflex program, and this would be a phased-in process. And until we started reaching deals in collecting -- collective bargaining.

Saltzman: When you say "we," do you mean lmhc?

Deckard: I mean we, the city.

Sten: What percentage are we hitting with this?

*****: Percentage --

Sten: Reductions.

*****: We're projecting --

Katz: Identify yourself.

Betty Soljaga, Benefits Manager: Betty, benefit manager. We're projecting we'll get approximately 25% savings off the plan design, and 9.8% off of the insured plan. I might make one other comment that when we started the process of bargaining, we had recommended a \$200

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deductible for the core plan, and through bargaining by the city compromising and moving off of a couple of other positions, got down to the \$150.

Ruth Roth, Office of Management and Finance: I just want to add these -- ruth roth, office of management and finance. When we started the process, it was our hope of course to bring everybody along at the same time. That was the ideal of the joint bargaining process. So the 25% savings that we were projecting and in which you council had at your disposal in terms of the financial analysis, assumed everybody would start the plan on July 1st. We now know that is not the case, that about half of the population will be on that new plan. So the 25% savings is in fact going to be cut in half because it's only going to be on a smaller base. The remaining numbers of people are going to be on the current plan, which is -- as we all know is a rich and costly plan. So the savings are not going to be as great as we had originally anticipated, because not all people are moving to the new plan.

Deckard: I think the other thing we want to remember here is that the Imbc process, which is part of each bargaining unit, is a process that's worked. And generally when we're passing a vote it takes a vote of 12-2 in order to pass anything, or 12 or greater. So oftentimes anything less than that, you know, grant and jim's right, there is someone in the room saying we like to see something different. The bottom line is that the Imbc did have a 12-2 vote on a third motion that they did rat identify and decide to -- and asked us to bring to council, and we've done that. I think what we're looking at doing at this point if we move to a different issue, if we make a change here, is that we're also I think compromising the Imbc process.

Saltzman: Is there precedent for the council changing a decision of Imbc?

Deckard: It's never happened. It's never happened up -- so far.

Sten: If we did do something, what percentage of savings would we be at?

Roth: I estimate that if the deductible -- if the reserves were used to pay the deductible for those people moving to the new plan, it would be about \$330,000 additional that would need to come from reserves. It's a very small piece of the overall savings. I didn't calculate it as a percentage.

Sten: Give me a ballpark.

Roth: Commissioner, I really wouldn't feel comfortable doing it. I don't do numbers in my head.

Sten: I do. What's 25% savings --

Roth: Okay. Hold on.

Sten: What's the overall plan cost?

Roth: The overall plan costs we are anticipating next year are going to be about \$28 million. That means if half the people on the new plan, half the people on the old plan.

Sten: So -- okay. 10% is 2.8 million -- .

Roth: I think the context you need to look at it in, we're expecting to use \$5 million of reserves next year to cover the difference between the cap the city is paying and the costs, and if you add to that 300,000, you are increasing it by a more significant percentage than it is of the overall 28 million costs.

Deckard: That's also the increased cap that you agreed to --

Katz: If the council wants to change a collective bargaining agreement on this issue, then I would recommend that we go back into work session and get all the details. Because we sent a -- spent a lot of time on this, and if the council feels it's worth a change, fine, we'll bring it back and have a change. But we -- to try to begin changing bargaining agreements this way is just not doable.

Sten: I'm not necessarily voting on it, i'm trying to understand, there's an argument in front of us, my understanding of the bargaining agreement was that labor management group was going to search for 25%. If they were unable to get it, we were going to implement another plan. That's what the contract says. Right? There was a plan that was going to be implemented by the council if we didn't reach it.

Deckard: Right. It was going to be a 19% plan, and we had to reach it by the 1st of february.

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Sten: I don't think we're discussing this as outside -- the contract I voted for said work to get to 25. If you don't get there, i'm going to impose 19 in a way that you may not like. And we're talking about one -- 1%, and some change. This is well within the realms of what was bargained.

Deckard: Right. The contract -- the original contract that you ratified called for a 19% unless we reached the 25%. Then we -- and we actually have reached the 25%.

Katz: Okay. Anybody else testifying?

Moore: That was all who signed up.

Katz: Any further questions? Roll call. On 422 and 423, 424, 425.

Moore: 422.

Francesconi: This is actually an extremely close call. I actually think that the terms that the dcu are requesting are reasonable, and it would have -- and I think it is a fair request on their part, and actually it should have been included. But my concern is, I also believe it's an issue that should have been raised through the bargaining process. And I believe that now it's being raised after the fact. And so my grave, grave concern is, you know, doing it after the fact at a time that we have very sensitive negotiations going on, just opens up a whole can of worms. So when we're doing it for the first time in the city's history that can be recalled, either by labor or by management, I just don't think I can go there, despite the reasonableness of the request. No. I mean aye. Sorry.

Hales: I agree with those comments. It's just unfortunate that it came to this pass. I think we have to say no to what does sound like a reasonable request, and I guess i'd like better understanding after the fact of what didn't work in the bargaining process that we could have come to this juncture. But the old phrase about pandora's can of worms comes to mind, and I think we don't want to open it. Aye.

Saltzman: I agree. I think it's a reasonable request. However, I do recall that the bargaining agreement we reached still doesn't solve our problem for covering health care costs for our employees in the long run. And so we still have a big hole down the road that has to be built that we have no -- filled, and we have no idea how to fill it. Despite the reasonableness of the request, i'm also uncomfortable. We want to reopen it and visit it in bargaining, i'm willing to do that. We still have time before july fishes. Otherwise, I want to uphold the integrity of the bargaining process and i'm not comfortable establishing a new precedent where the council would override the decision of the labor management benefits council. Aye.

Sten: I think it's well within the realm of what the contract called for, but we did call for an agreement. You can tell from my questions i'm not convinced this is the greatest strategy. I'm not going to split the council at this point. It an emergency ordinance. I also think on labor's side, could you have blocked this from going through if people had really united behind it. I'm uncomfortable trying to restate it at the last minute. I think we should think if -- what i'm concerned about primarily is as we get to very heart wrenching cuts that I think are really -- i'm not happy in the least. This is probably my least favorite thing i've ever done, is be involved -- in a joint negotiation because we have to cut benefits, the public sector is one of the areas that keeps benefits where they should be. So I don't like this vote at all, but I can't see making the switch on the fly right here, although I think it's reasonable. I'm very worried about trying to stage different employees to different level of benefits. I think minor concessions to try and make a very abrupt and ugly change equal the people across the board is worth doing, and that's why i'm very sympathetic to this. But i'll vote aye because I don't want to split the volt on this.

Katz: About nine years ago we had an issue coming up in terms of, do we want as a council to have all the agreements come up at the same time, or stagger them. Not clearly understanding the issue at that time, I said -- I thought it would probably be a good idea if we had them all coming up at the same time. That creates a lot of other issues for all of us. But it would have solved this one. If I recall the discussion, it was that everybody agreed that after the bargaining agreement was

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signed, that every union would come to the table to discuss how we would formulate the health benefits.

*****: That they would be -- .

*****: They --

Katz: They would be invited to the table. The hope was they would all be invited to the table, and we would get to a uniform standard. Some of them walked away from the table, or didn't care to stay at the table, for a variety of reasons. And I think that's the reason that we have this issue before us. The council wants at a work session to talk about it, I think that would be healthy, but right now we have -- we've got an agreement before us, and we ought to rat identify this as well. Aye. [gavel pounded] 423.

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

Katz: Mayor votes aye. [gavel pounded] 424.

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

Katz: Mayor votes aye. [gavel pounded] 425.

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

Katz: Mayor votes aye. [gavel pounded]

Hales: We can go back to that item.

Katz: 421.

Item 421.

Hales: I messed up the works. I thought they were going to be here, we have a brief staff explanation.

Kimberly Parsons, Office of Planning and Development Review: Kimberly parsons, office of planning and development review staff. I don't know if we want to read the ordinance.

Hales: She did. It's just a question of why are we doing a conservation easement here. It's a fairly unusual methodology for us, just so council is going to understand.

Parsons: During the review process, opdr staff recommended an open space tract, and instead they -- the hearings officer decided to side with the applicant, who recommended that they have a conservation easement to provide protection of the environmental resources on the site.

Hales: That actually requires council approval on my open space tract. That's why we have this item here. We don't know if this is the wave of the future, but at any rate, it does require council action, whereas the other methodology doesn't.

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

Francesconi: It works to protect the environment. Aye.

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

Katz: Mayor votes aye. [gavel pounded] all right. Let's go to the regular agenda. Let's read 441 and 442 together.

Items 441 and 442.

Katz: Since this is a little unusual, i've asked our city attorney and of course pdot to make the presentation.

Jim Van Dyke, City Attorney Office: Good morning, mayor, members of the council. My name is jim van dyke, i'm from the city attorney's office and i'd first like to explain to you the two items that are before the council this morning. And then greg jones, who's sitting to my right, is going to explain a little bit about this project and the need for some quick action on that project. And then followed that, i'm substituting for the bureau of purchases today because both sue, the purchasing agent, and jeff, the procurement division manager, are out of town on city business, and so i'm going to explain what happened on this particular bid. Item number 442, which really needs to be considered before item 441, is an ordinance that would waive the administrative process of taking a bid provide test to the contract board of appeals. This is the board of appeals that the council created about a year, year and a half ago to which bid protests are taken. The ordinary process is to

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go to the contract board of appeals, then they can appeal that further to the city council. So it always ends up back before the council anyway if people want to take the proper test that far. The board of contract appeals consists of three purchasing professionals, two of which are not city employees, and they are outside volunteers who are not paid for their time. They've done a great job during the last year, but on this particular issue, they've told us that their schedules would not allow them to meet before the week of may 20th. And as mr. Jones will explain to you, if we get to the week of may 20th and have a board of contract appeals hearing and then they decide to take it further to city council, it is unlikely that this particular construction project will be able to be completed this summer, which is -- which I understand is of serious concern to the office of transportation. Provided that that ordinance passes, which is item number 442, then the council can proceed to hear item 441, which is the purchasing agent report, which recommends award of the contract to tri-state construction, and recommends rejection of the bid of thompson brothers excavation. Having gone through that procedural explanation, I would now like to turn over the session to mr. Jones, unless the council has any questions about the process.

Katz: I have one process question. At what point do we then allow 15 minutes for each side? Is it after we pass 442?

Van Dyke: I think the best order would be to pass 442, and then allow 15 minutes for each side to discuss the bidding.

Katz: That we become -- that would become the appeal board.

Van Dyke: That is correct. I think mr. Jones, though, is going to explain some practical detail about why the ordinance is necessary to speed up the process.

Katz: Commissioner Saltzman?

Saltzman: Have we done this before?

Van Dyke: We have not waived the board of contract appeals before, commissioner Saltzman, and we discussed that issue very thoroughly before we brought it to council. We particularly don't want to set any precedent in the sense that any time somebody just wants a faster process that we'll come back before the city council with this type of an ordinance, and I think I can assure you that the purchasing director was very concerned about the expedited process, but the office of transportation was convinced that this was a unique and emergency situation, and they asked me how they might speed up the process. And I suggested to them that the only way to do that was to adopt the ordinance and in this one limited circumstance, to waive that step.

Saltzman: And have both parties to this case, are they in agreement? Have they been informed about this?

Van Dyke: Thompson brothers excavating, the rejects bidder, initially told me they would accept this process, and then I received a second phone call saying they would object to the process. So i'm not exactly sure what their position is on that today.

Saltzman: What about tri-state?

Van Dyke: Tri-state does not have any objection. They agree that the contract needs to be executed and the work commenced immediately.

Katz: By their objecting to the process and not being here means that we'll be probably sued.

Van Dyke: There is always the possibility that on any purchasing decision that we'll be sued.

Katz: Is there -- there's no further appeal for them?

Van Dyke: There's no further appeal as in every other case, there is no further appeal past the city council, other than to the circuit court. I don't think they will be in much of a position, however, to complain about the waiver of the process, because that is a perfectly valid ordinance that council can decide its internal process on how to handle bid appeals. They'll still be objecting, however, on the merits if they want to take it to court.

Katz: Okay.

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Hales: I want to check in and reinforce. Neither under state law, our charter or code, do we have to have an administrative appeals process.

Van Dyke: That is completely voluntary. You are the final body no matter what the process before that is.

Katz: Okay.

Hales: So we're going to conduct an appeal hearing today.

Katz: We're going to do it here. The reason I asked is because they usually last for three hours, and I know that we are not going to be here for three hours, so we've delegated 15 minutes to each side, one side is not here, maybe their attorney is in the audience that we don't know who they are, maybe they'll come up, maybe they won't. All right. Now, let's hear the reason why we're now the board. Of appeals.

Greg Jones, Office of Transportation: Greg Jones with the office of transportation. This project was before you in March, Foster at 162nd. It's an intersection improvement that really is a life safety issue. We've had 41 serious accidents in this location in the last five years. One we've had one fatal accident. And there's been a substantial amount of growth in this area over 500 homes have been platted in the last five years, the majority of which have been built upon. The critical issue with moving forward without waiting for the May board of appeals date is that we run out of time. Our engineers have estimated that in order to start work in the in-water work window period, we have a fish sensitive creek we're working in, we would need to have a contract in place May 15th, and the contractor has a number of submittal requirements and bidding requirements that need to be completed before work can commence, and there are a number of detours, street improvements for an adjacent property, diverse -- diverse of the water that needs to be completed before July 1. Our schedule work by our engineers indicate that that cannot occur unless we start by May 15th.

Katz: Questions? All right. Let's open it up to public testimony. On both of these items. And then -- nobody's signed up to testify. All right. Then --

Moore: Tri-state is here.

Katz: Okay. Why don't I wait for the -- actually the appeals process. Let us act on 442 and then we'll open it up for you to testify. Nobody wants to testify on 442. Let's take -- 442. Let's vote on 442.

Francesconi: Because it's life threatening, I think we should do this. So we're not going to establish this as a precedent, but the life threatening nature just identifies it. Aye.

Hales: As the council remembers, this is a complex project, the in-water work requirements are a mandate from regulatory agencies that deal with the fish and quality of the water, and we need to follow that timetable. So I think there's a real clear point here that this is being -- this is -- this process is being expedited for reasons of compelling public need, not because we have a particularly nasty dispute or because some private party has earnestly asked for it, it's because the public safety and convenience demands we get this project done on time. Aye.

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

Katz: I reviewed this, and pushed this hard as I could to see if we could wait for the appeals board, and it was evident from all the information I received that we needed to move ahead. I do not like the change -- to change this way of dealing with our usual purchasing system. But because of the circumstances, I vote aye. [gavel pounded] [brief lapse in captions while captioner is relieved]

Van Dyke: Thank you Mayor and Council. Let me explain. As is obvious in these these situations we would always prefer to award the contract to the low bidder but we always have to look at the bidding process to make sure it's fair for all the bidders, and to decide what kind of precedent we want to set. In this particular case, the way the bid was structured bidders were asked to bid on 119 pieces of work. They bid unit prices and then there's an extension that's the total price. So if you need five manholes the bidders write in \$300 per manhole and they put a total of \$1500 there on the

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total section, and you add up the totals, and you come to your bid and that's how you compare the bids. That helps the project in case they need an additional manhole, they know what the price is going to be of that manhole and it also allows to pate contractor as work goes on. You don't run into dispute busy what payment is going to be because you've already priced these individual items of work and when the payment gets made you just see what the work was done that month. In this particular case there were two items on that list where thompson brothers did not fill in a price, either a unit price or a total price. Neither did they put down a dash or an x or any mark whatsoever in the space. They just left them blank. Now, these two items of work are relatively minor but I would point out that the other bidders bid them between \$29,000 and \$92,000. So other bidders priced this work somewhere between \$30,000 and \$90,000. Thompson brothers, however, left these blank. After the bids were open and these items were seen to be blank the city naturally inquired of thompson brothers what the problem was with its particular bid. Thompson brothers responded that they had intended to bid 0 in these amounts and their costs were included in other bid items. I did a significant amount of legal research on this to find out whether or not we could accept thompson brothers's bid in this situation. My research cased that we could not for the following reasons. Once all bids are open and exposed and thompson brothers can see, or any bidder can see what other bidders have bid, if they are allowed to supply a price after bids are open, it essentially puts them in the position of deciding after the fact, once everybody's bid is exposed, whether or not they want the contract. So if thompson brothers wants the contract, they can say they intended to bid 0. If they decide they bid too low, they could tell us they intended to bid \$50 three-point and if they were allowed to supply a later price then they wouldn't get the contract. Bidders cannot be put in charge of the bidding system. We have to look at the bid documents on their face. I might add that the bid documents in this case expressly warned bidders that if they left items blank, that their bids could be rejected. So this is consistent with the instructions that we gave all the bidders. A second problem with thompson brothers' bid is the minority women and emerging small business contacts. As you know they're required to make outreach contacts. They did make some. There were, however, five different categories of subcontracting opportunities. For example, fencing, guardrail, paving, signs, and rebar in which they were required to make 25 contacts. They made only two. Now, they ended up with a fairly good percentage. They ended up with about 14% of their work attributable to mw or esbs. Most of that was all to one contract, a woman-owned business. So their percentage ended up being pretty good but one would have to say that their percentage might have been even greater had they contacted more than two contractors out of the 25 that they were asked to contract. Either of those reasons standing alone would probably permit rejection of this particular bid in this particular case, the bidding error, the first bidding error that I described which is the blanks in the document, is completely sufficient for rejecting the bid. Therefore, it's our recommendation that the bid of thompson brothers be rejected and the second low bid of tri-state which by the way made good faith efforts in compliance with the city documents, be accepted.

Katz: Thank you. Questions?

Saltzman: I guess on the mbe, tri-state is using 1% versus 14%. Somewhat incongruous there.

Vandyke: I know.

Saltzman: A higher percentage. They made fewer contacts yet there was a higher percentage.

Vandyke: Commissioner incomplete me sympathetic with that point of view. We are legally prohibited from setting goals on projects. And if we could just look at raw numbers which everybody admits would be an easier way to do it, then certainly based on percentages alone, thompson brothers did a better job.

Saltzman: So we are looking at --

Vandyke: We look at.

Saltzman: Our rule you have to make 25 contacts.

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Vandyke: Right. The one caveat that I would put on that is that when we did our disparity study report and we researched the hiring of minority and women and emerging small businesses in Portland, we found that people contacted their friends. They contacted the contractors and the subs they always worked with and part of this process -- I don't know whether thompson brothers always works with this particular subcontractor or not who constitutes 14% of their work. The rest of their bid shows a 1% minority business utilization which isn't very good either. But we found people contacted their friends and part of the outreach effort is to give opportunities to lots of other minority, women, and emerging small businesses. That's why -- that's part of the program.

Saltzman: Okay. The other part is whether a blank constitutes a zero. I know when I fill out a lot of forms, tax forms, whatever, if I have nothing to report in that column I usually leave it blank. And I guess that question whether a zero is a price. I mean, it seems to me there's no way they could clearly come back at us through change orders and say this wasn't in the scope of work. So I guess talk a little bit more about that. Even though we put it down in the instructions. I mean it probably says the same things in the tax forms I fill out, too.

Vandyke: Let me respond to that. You weren't given an opportunity to look at the remainder of thompson brothers' bid but I have been able to do that and whenever they wanted to write down a zero and make sure that was understood -- for example, they bid 25 cents on a couple of items -- they put down a zero with a slash through it. So they put a zero slash and 25 cents. So it seems to me thompson brothers had a specific way to indicate zero when they wanted that to be clearly understood but they didn't do it on these particular two forms. That gives me some indication that those items were completely overlooked and that there's no way for me to determine after the fact whether they really intended to bid zero or not. That's the best I can say about that. I understand about the tax forms.

Saltzman: Okay.

Katz: All right. Is there -- we have tri-state who's here?

Vandyke: I'm not sure if anybody from thompson brothers.

Katz: Is anybody here from thompson brothers that once to testify? All right. Tri-state then. We're not going to give you 15 minutes.

Larry Thompson: I can probably do it in ten. My name is larry thompson. Although I work to tri-state construction, I worked for them for about 20 years. This is lorin hatfield. He's been with tri-state for almost the same length of time. We routinely do city work, although we haven't done any city projects for probably two or three years. But we've done a lot of work for the bureau of environmental services. We work for medium-sized contractor that does \$80 million worth of work a year. We primarily do our work on public bids. So we're used to the public bidding process with all agencies, corps of engineers, you people, city of seattle, state of Oregon, o-dot, a wide range of public agencies. To go into this job a little bit, it's about 162 and foster there's a dip. There's a stream that's got a lot of water coming through it in the wintertime, and this time of the year. Of course, those flows die down in august, when the weather helps that along. And it goes into a park-like setting and a pond that's on the north side of the road there. And the engineering plan is to put in a light there and straighten out the alignment and bring the elevation of the roadway up for a safety factor. I have a short-term time to plan and do this work and that we have to do shop drawings and we have to get subcontractors lined up, order materials, get things approved working with the city engineers to have a plan in place so that when the window comes to work in the stream that we're all on the same page and we jump in and do our work and we finish in terms of your permit. If we don't do that we will be penalized. So we are ready to do that work. It wasn't mentioned here earlier this morning but there was quite a number of contractors that bid this. The second bidder behind us was \$5,000 away and there were several others right behind them. We asked to look at the bid documents after the bid. We weren't shown that but since then we have reviewed the bid and looked at some of the things that mr. Van dyke spoke about here a moment

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ago. One thing I want to comment on he mentioned the bidders can't have control of the bidding process and that's true. These are your projects. These are your contracts. And you will set up how they'll be managed just as o-dot does with theirs. And in my mind we left our attorney home today because we didn't want to spend your time or our money but if we left an item open and didn't put anything in it, such as not -- if we put "not applicable" in or if we put zero in we risk being nonresponsive and nonresponsive could be grounds for a protest or grounds for rejection. We don't want to be in a protest situation so we would have to put something in, and we hate to put one penny in because then we could be grounds for unbalancing our bids which could be grounds again by other bid to file an injunction or go through the appeals process which means time. So we try to balance our bid and put the money in for each bid item just as the owner requested and describes in the bid documents. So we believe that the fact that nothing was filled in would be an open and shut case, legal case, that this job could not be awarded to thompson brothers. It could be rebid. It could be set up on the agenda for next year. You have your choice to do a lot of things but we do not believe it could be awarded to thompson. And the other thing is, with the minority requirements in the bid documents for all of your procurement, you have some very clear cut requirements that bidders are to do and that is in work that they would not accomplish themselves, that they would contact five people in that category, such as paving, electrical, or general contractors but we don't happen to have paving and we don't do electrical work and we don't do fencing work. So it's a bit cumbersome and we've tried to get it changed on occasion and we don't run the system. We have to go by your rules and we have to contact those people and we have to send out letters and it means writing letters and keeping a telephone log and sending all of those things in and it's rather time consuming and when we're not low bidder we think, why did we go through all of this? But it doesn't matter. It's your bidding rules and we comply with them. Thompson brothers did not. And I guess if it came to it then they would probably ask our attorney to get involved since we do know a little bit about public work and we would ask that it be awarded to us on those grounds. We did say in our bid that we would attempt to increase the percentage. You, dan, mentioned the percentage that we had. We had the percentage that we had from all the people that we contacted of quotes that we could use was a little over 1%. We are going to increase that to 5% or better by utilizing some truckers in our work and we're going to look for some other people to increase that. Quite often we use minorities whether we're required to or not. If people do a good job and they happen to be a dbe firm we're glad to have them aboard and working with us and we have several people right now on contracts where we're not required to so we are going to increase that. I don't know if your attorney here knew that or not but we did mention that to the people at the city and we wrote a letter about it saying that. So it's going to come up. It's going to be at least 5%. We'll try for more. We believe we're due the contract and had we done those things, we would just go on to the next job because those are mistakes that are unforgivable in the public bidding system.

Katz: Okay. Do you want to say anything?

*******:** I think larry said it all.

Katz: Yeah.

Francesconi: Did you better than your lawyers.

Thompson: He's the one who would be doing the work. I brought him along and he's familiar with the project.

Katz: Commissioner Francesconi is right. Next time don't bring your lawyer. You did very well.

Francesconi: You really have.

Katz: Commissioner Saltzman?

Saltzman: I appreciate your response and I intend to fully -- I intend to vote to award you this bid. I am curious what is the total percentage of subcontracting that you estimate in this \$2 million project?

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Thompson: We have -- the work that goes in the creek is pretty intricate. It involves some quite a bit of concrete work for this water to flow through the channel. And if you're talking about subcontracting --

Katz:

Saltzman: I'm saying a rough percentage? 25%?

Thompson: We're doing over half the work but that concrete work is a big portion of it and we're working with a bridge builder that we're working at sylvan right now and they'll be doing that work. We're working with your people, you have representatives on the sylvan project with o-dot. And so it will be a bridge contractor working with us.

Saltzman: And you have written us a letter saying you intend to bring your minority --

Thompson: I wrote a note to that effect and i'll confirm that to your people.

Saltzman: Great. Great work.

Katz: Okay. Anybody else want to testify? There thompson I will explain to you why we have you going through that process for minority and women-owned businesses in a minute on my explanation.

Paul Grossjean, 15714 SE Henderson Way, 97236, Pleasant Valley Neighborhood Association:

Paul grossjean with the neighborhood association. And I certainly did not expect to be back in front of you on this particular topic quite so soon. I'll be very brief. I come here to reinforce the absolute importance of completing the project this season. We all know we're not talking about a two or three-week delay. We're talking about a exposure of a one-year delay. This is as it's been said a safety issue with 17,000 vehicles transitting the intersection every day, that's 6 million exposures per year. The pleasant valley neighborhood association takes no position on the merits of one contractor or another. We only take a position on the critical safety issues and the traffic issues that you're familiar with. The project must, must take place this year. And I really appreciate all of the support the city council has given us so far and hopefully we'll get it done this year.

Katz: Thank you.

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

Linda Bauer: Linda bauer, pleasant valley neighborhood association. I concur. I really thank all of you for all of your efforts to get this done. And what greg doesn't know is in the accident that the person died there was also a child who was paralyzed for life. So it really is very important that this get taken care of. Thank you.

Katz: Thank you, linda. Okay. Anybody else? Roll call.

Francesconi: Aye.

Hales: I want to thank our staff in all of the bureaus involved here in this late stage in this process for keeping this project moving. I think that testimony from the neighborhood makes that clear why we need to keep this moving. Rules are rules. And they need to be followed. We need to write good rules and then be consistent in applying them and this is a classic instance of that principle so let's get these people to work. Aye.

Saltzman: Well, in general, you know, i'm reluctant to waive an appeals process and I did have some serious questions about a firm that has a higher minority-women participation. However, as usual, our attorney provides good, sound responses to my questions. And it's nice to actually talk to people who are actually out there doing the work of the city. And I said sense the sincerity of your commitment to increase that 1% to the 5% and to follow your rules. Having done that myself I know it is onerous to call 25 people and keep logs and all that but it's an important goal and a goal very important to us to keep pushing on and we can tell that you're hearing that and doing it. So thank you. Aye.

Sten: I agree. Aye.

Katz: In early -- somebody's going to have to help me -- 1994, '95, in that regional disparity study, we decided with partners in the county and other jurisdiction to do a disparity study to prove

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whether we, in fact, discriminate the against small business, emerges businesses, minority businesses, women-owned businesses. And lo and behold all the anecdotal stories we heard in our neighborhoods were true. The data was just shocking to everybody here on the council as well as to the jurisdictions that participated. We were basically excluding people from opportunity -- economic opportunities that we the city provide through many of our contracts. And so this council adopted the disparity study and following adapted a fair contracting strategy and that's how all of this started, to make sure that we shared these economic opportunities with the rest of our community. That's our charge. That's what a democracy is all about, and we've asked all of our bidders to do that. It is a little cumbersome. But you know, that's okay. If we can share that wealth, and it's going to make this city a far better city than it may have been if we didn't do it. So thank you for making that effort. And we appreciate -- we appreciate your efforts to increase the numbers. Aye.

Moore: 443.

Item 443.

Katz: Okay. Come on up. We're bringing you this as a result of the in the change in the forfeiture law. And the sergeant will explain all of that to you.

Katz: Sergeant, why don't you identify yourself and go ahead.

Kenneth Pachico, Police Sgt. Drugs and Vice Division: Okay. My name is kenneth pacheko. I'm a police sergeant for the city of Portland, drugs and vice division. We're here today to ask the city council to pass an on the other hand that would allow the towing in the commission of prostitution or drug-related crimes and declaring them a nuisance. It would declare the offenses as nuisances which would be prostitution, promoting prostitution, compelling prostitution, and in the drug-related crimes, it would be possession of a controlled substance, distribution of a controlled substance, manufacture of a controlled substance, delivery of a controlled substance, distribution of controlled substances to a minor, and manufacture and delivery of controlled substance within 1,000 feet of a school. The vehicles would be released to persons entitled to lawful possession of the vehicle upon proof that they had valid driving privileges, proof of insurance and after they paid for towing, storage and administrative fee. Previously, I believe in 1999 the city council passed the ordinance declaring prostitution a nuisance. That ordinance was tied to forfeiture. As everyone know ballot measure 3 had a big impact on forfeiture. The purpose of this ordinance would be to allow us to tow and impound the vehicles and assess an administrative fee. In some of the cases, prostitution and drug-related crimes and offenses are subject to forfeiture. Unfortunately, in some cases where a person borrows a vehicle, they decide that they're going to pick up a prostitute in a vehicle that has hardly any equity in it or a vehicle that has no value to it. Basically they will only have to pay for towing and storing. There is no forfeiture because basically, unless there's like \$4,000 equity in a motor vehicle, basically the city would probably get about \$200 back after we paid all the forfeiture percentages out. So basically what this would do is this would be a financial impact on the johns because primarily, in the prostitution aspect this would be addressing the johns who tried to pick up the prostitutes. I don't know how detail the you want me to get into. I know 1999 it was declared a nuisance. Nothing has changed since 1999 that would make prostitution any less than a nuisance. It detracts from the neighborhood. It affects neighborhood livability. It's a safety hazard. Citizens, females, whether they be adult, juveniles are harassed on street corners, at bus shelters. The johns driving the neighborhood, they disrupt traffic. There's also a safety issue. They throw their used condoms, the syringes, their alcoholic containers over city streets, driveways, parking lots, you name it. Most of the prostitution activity is done in the vehicle. It's usually done on a city street in a parking lot. Businesses shouldn't have to have their parking lots used as their offices by the prostitutes. Basically primarily, it doesn't change anything. We still have state law. We still can arrest the people for prostitution. We still can try for forfeiture. This is just an additional tool on those cases where vehicles and their owners kind of escape the forfeiture aspect.

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It basically, basically puts a penalty and allows us to get our administrative costs back. There's no way the city's going to get their all their money back but this gives us an attempts to recoup some of our administrative costs.

Katz: Questions. Okay.

Saltzman: I always took particular delight in the fact that both names on the title had to show up to get the vehicle out of impoundment for prostitution arrest.

Pachioco: Yes. It's going to be similar.

Saltzman: It doesn't say proof of ownership. It says driving privileges, insurance. In paragraph 8.

Pachioco: I think it says you have to have valid -- the person entitled to the possession of the vehicle, which is the registered owners.

Saltzman: And both owners have to show up?

Pachioco: Yes.

Saltzman: That's a pretty effective provision.

Hales: It doesn't say that. That is the practice?

Pachioco: That's what it was in the past and that's what it will remain.

Hales: Does it have to say that for it to be the practice? We talked about this with the street racing issue.

Katz: How did we solve that? Come on up. Come on up.

Linda Law, City Attorney's Office: Good morning. Linda with the city attorney's office. In this particular case, the police bureau can set the policy for what they would require and they can inform both individuals that are on the title, if it's a husband or wife or parent and child. So they have the right to inform everyone. And the owners still may delegate their responsibility to another individual such as an attorney or a representative. So that's something that we are unable to get around. But we have the right to notify everyone and let them know that the vehicle is in impoundment and that an offense has occurred.

Saltzman: But if they don't delegate to an attorney, both of them have to appear?

Pachioco: Yes, that's the policy.

Saltzman: Can that be waived or is that our policy?

Pachioco: That would be our policy.

Saltzman: We won't waive it if somebody gives us some great excuse?

Pachioco: Unless it's an attorney of that person we won't waive it.

Hales: And that's true in all cases? Street racing, prostitution?

Pachioco: It's going to be the same.

Hales: So it's the same practice in all those impoundment?

Saltzman: Great.

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

Francesconi: This is a terrific vehicle and the mayor and the police are to be commended. Sometimes infraction the drill code works, but in a circumstance with drug-related offense and prostitution the practical effect of losing a car can work even more effectively so when you notice these maps there's particular maps that are especially impacted so we need devices to protect those neighborhoods and those victims. Aye.

Hales: A good policy. Aye.

Saltzman: It's a good policy and I think it's an effective one. Aye.

Sten: I think it's been effective and it's appropriate. Aye.

Katz: Thank you for your work. Aye. All right. 444.

Item 444.

Moore: Amend the zoning code title 33 comply about the water quality requirements of the urban growth management functional plan title iii along the willamette river.

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Hales: Is this second reading?

Katz: Roll call.

Francesconi: I think that the staff really is to be commended for the work done on this. Really extraordinary work and work with the groups affected. I believe that the councils's decisions last week were the right decisions and we can work with this. Now, this sets the stage for more serious work as we make these things permanent. But this is a good beginning process. And I appreciate the work done by staff. Aye.

Hales: Ditto. Aye. **Saltzman:** Aye. **Sten:** Good job. Aye.

Katz: Mayor votes aye. Good work.

Item 445.

Katz: Mr. Pfifer, you stayed here for all this morning just for a second reading? I need a lawyer. All right. 445.

Katz: Okay. Anybody want to come and testify?

Mark Reid: Bad timing after your last lawyer joke. I'm a lawyer. Mark reed.

Katz: I got to tell you I did win a legal award from the legal community. However, I can still waffle because it was from a legal community that does education.

Reid: Good.

Katz: But i'll be kinder because of that. So go ahead.

Reid: Okay. For the record, mark reid on behalf of the petitioners. I had no remarks necessary. I was simply here to answer any questions. The planning commission had recommended this vacation, and the engineering report that followed that also recommends the vacation. It's a very minor parcel.

Katz: Okay. Questions? Thank you.

*****: Thanks.

Katz: Anybody else want to testify? Who do we have here that's watching us?

*****: We're students at Portland state university and it's an elementary teachers learning about the art in the city of Portland.

Katz: About art --

*****: The Portlandia piece.

Francesconi: Wise choice. Much more interesting than what you're hearing.

Katz: Nice to have you here. Thank you. Anybody else want to testify on this item? Then i'll take a motion commissioner Hales.

Hales: Move to adopt the report and request an ordinance.

Katz: Do I hear a second?

Sten: Second.

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

Katz: Mayor votes aye. 446.

Item 446.

Katz: Okay. Come on up and tell us why you need this or want this.

Matt Brown, Project Manager, Office of Transportation: Matt brown, project manager, we would like our money back. This is assessing property owner in, along capitol highway. It's part of our capitol highway project that was wrapped up about a year and a half ago. We did sidewalk cleaning improvements essentially from hillsdale on through Multnomah village. At the request of the property owner, we added a street lights, pedestrian street lights, ornamental street lights along his frontage to be paid for through a local improvement district. So we're here to close the project out and assess that. And i'm going to hand that over to andrew, our lid administrator, to talk about the specifics of the project.

Katz: Go ahead.

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Andrew Aebi, LID Administrator: Thank you, matt. Andrew aebi, lid administrator. Good morning. I just want to start off by saying that I think this is an example of an lid project that we should look to do again in the future. We were able to combine this work with another project and do it at much less expense than if we had done this as a stand alone project. As an example, one of the cost items that we have with any project is mobilization expense. So that is a fixed cost to bring the contractor out -- excuse me -- regardless of the amount of work that's done. So we were able to avoid that expense with this project because we combined it with larger construction contract. The final assessment amount is about \$4,000 below the initial estimate, about a 15% reduction. And this is the kind of project we want to have. A project that comes in below budget, even blow a budget that was low because we combined it with other work. The final assessment is an equal share methodology and we have spread this assessment between the two benefiting projects in the l.i.d.

Katz: Do we have anybody to remonstrate against this? No.

Saltzman: They're not contesting this at all?

*******:** I guess not.

Saltzman: Got --

Hales: Got 100% support thin case.

*******:** So far.

Katz: Anybody else want to testify? Then this passes to second.

Item 447.

Moore: 447.

Saltzman: Mayor? This is yet another opportunity for us under the willing seller program to acquire property in flood plain and turn it into open space. And benefit wildlife, flood storage purposes and recreational purposes. So it's another half acre coming into our ownership.

Katz: Anybody want to testify? Roll call.

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

Katz: Mayor votes aye. And we do not have an agenda for this afternoon. So we stand adjourned until next week.

At 11:07 a.m., Council adjourned.