



CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **15th 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 Michael Frome, Sergeant at Arms.

Kathryn Beaumont, Senior Deputy City Attorney replaced Harry Auerbach at 10:22 a.m.

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

COMMUNICATIONS	Disposition:
473 Request of Peter Alexander to address Council regarding municipal power for the City (Communication)	PLACED ON FILE
474 Request of Dan Meek to address Council regarding the threat to Portlanders posed by Enron's possession of PGE (Communication)	PLACED ON FILE
475 Request of Lloyd Marbet to address Council regarding the ongoing Enron/PGE tragedy (Communication)	PLACED ON FILE
476 Request of Bill White to address Council to give a simple prayer and ask for continued blessings of the Council (Communication)	PLACED ON FILE
477 Request of Evan Miller to address Council regarding findings of his research study and fundraising efforts related to skateboarding (Communications)	PLACED ON FILE
TIME CERTAINS	
478 TIME CERTAIN: 9:30 AM – 2002 Climate Protection Award presentation to the City (Presentation introduced by Commissioner Sten)	PLACED ON FILE
479 TIME CERTAIN: 9:45 AM – Grant residential solid waste, recycling and yard debris collection franchises in the City (Ordinance introduced by Commissioner Saltzman)	PASSED TO SECOND READING JULY 3, 2002 AT 9:30 AM
480 TIME CERTAIN: 10:00 AM – Mayor’s Proposed Budget to the Council and citizens of Portland (Presentation introduced by Mayor Katz)	PLACED ON FILE

<p>481 TIME CERTAIN: 10:15 AM – Appeal of Pleasant Valley Neighborhood Association against Hearings Officer’s decision to approve the application of Grant Massier, applicant, and David and Delisa Hull, Property owner, for an environmental violation review at 13937 SE Eastridge Street (Hearing; Previous Agenda 472; LUR 01-00408 EV)</p> <p>Motion to uphold the Hearings Officer's decision and add additional conditions that appear in the box on page 4 of the memorandum: Moved by Commissioner Hales and seconded by Commissioner Saltzman. (Y-5)</p> <p>Motion that Council direct the OPDR Director to return to the Council to suspend enforcement of this type of minor environmental zone case until such time as she returns to the Council with recommendations for streamlined administrative process for dealing with this type of case, and that she review pending cases for how to deal with the situation and the costs involved and to include some performance guarantee for the plantings: Moved by Commissioner Hales and seconded by Commissioner Saltzman and gaveled down by Mayor Katz after no objections.</p>	<p>TENTATIVELY DENY APPEAL AND UPHOLD HEARINGS OFFICER’S DECISION AS MODIFIED. PREPARE FINDINGS FOR MAY 29, 2002 AT 9:30 AM</p>
<p>CONSENT AGENDA – NO DISCUSSION</p>	
<p>482 Vacate a certain portion of SE Rex Drive west of SE 52nd Avenue, under certain conditions (Ordinance by Order of Council; VAC-10001)</p>	<p>PASSED TO SECOND READING MAY 22, 2002 AT 9:30 AM</p>
<p>483 Vacate a portion of SE 98th Avenue north of SE Bush Street, under certain conditions (Second Reading Agenda 451; Ordinance by Order of Council; VAC-10000) (Y-5)</p>	<p>176460</p>
<p>Commissioner Charlie Hales</p>	
<p>*484 Amend contract with Douglas L. Capps Consulting for completion of the Northwest On-Street Parking Plan Project (Ordinance; amend Contract No. 32021) (Y-5)</p>	<p>176461</p>
<p>485 Authorize Intergovernmental Agreement with the Oregon Department of Transportation to provide funding for engineering and construction of transportation improvements on N. Greeley Avenue between Madrona Park and N. Interstate Avenue (Ordinance)</p>	<p>PASSED TO SECOND READING MAY 22, 2002 AT 9:30 AM</p>

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<p>*486 Amend assessment of benefited property owners in Portland Streetcar Phase 1 Project Local Improvement District to reassign certain assessments in the Hoyt Street Yards with no change to the total authorized assessment amount (Ordinance; amend Ordinance No. 176406) (Y-5)</p>	<p align="center">176462</p>
<p align="center">Commissioner Dan Saltzman</p>	
<p>*487 Amend Intergovernmental Agreement with U.S. Army Corps of Engineers for Johnson Creek Flood Mitigation Modeling (Ordinance; amend Contract No. 32709) (Y-5)</p>	<p align="center">176463</p>
<p>488 Authorize a contract with Thomas G. Edel, consulting engineer, for engineering services to conduct Electric Power System Data Entry and Fault Current Analysis at wastewater and pump station facilities (Ordinance)</p>	<p align="center">PASSED TO SECOND READING MAY 22, 2002 AT 9:30 AM</p>
<p>489 Consent to the transfer of Irvington Sanitary Collectors, Inc. residential solid waste and recycling collection franchise to Alberta Sanitary Service, Inc. (Second Reading Agenda 465) (Y-5)</p>	<p align="center">176464</p>
<p>490 Consent to the transfer of Hohnstein Garbage & Recycling, Inc. residential solid waste and recycling collection franchise to Portland Disposal and Recycling Service, Inc. (Second Reading Agenda 466) (Y-5)</p>	<p align="center">176465</p>
<p align="center">Commissioner Erik Sten</p>	
<p>*491 Authorize application to the U.S. Department of Housing and Urban Development for a grant of up to \$650,000 for Portland YouthBuilders (Ordinance) (Y-5)</p>	<p align="center">176466</p>
<p>*492 Authorize an agreement with Golder Associates, Inc. for an amount not to exceed \$336,000 to provide engineering and hydrogeological services for the Bull Run Groundwater pilot Well Study (Ordinance) (Y-5)</p>	<p align="center">176467</p>
<p align="center">City Auditor Gary Blackmer</p>	
<p>*493 Amend contract with InSight Knowledge Management Systems, LLC to provide additional equipment and services to complete installation of Electronic Records Management System (Ordinance; amend Contract No. 33577) (Y-5)</p>	<p align="center">176468</p>

REGULAR AGENDA	
Commissioner Charlie Hales	
494 Amend Title 33, Planning and Zoning, and Title 32, Signs and Related Regulations, to clarify and improve readability without changing policy or intent of the original regulations (Second Reading Agenda 448; amend Title 33 and 32) (Y-5)	176469
Commissioner Dan Saltzman	
*495 Amend contract with Parsons Brinckerhoff Quade & Douglas for professional design services and payment for the West Side Combined Sewer Overflow Tunnel, Project No. 6680 (Ordinance; amend Contract No. 32981) (Y-5)	176470

At 10:48 a.m., Council adjourned.

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WEDNESDAY, 6:00 PM, MAY 15, 2002

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

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.

May 15, 2002 9:30 AM

Item 473.

Peter Alexander, 1209 SW 6th Avenue, #901, 97204: Good morning. My name is peter alexander. Mrs. Mayor, commissioners, citizens of Portland, I appreciate your giving me time to speak today about one of the most critical issues yet greatest opportunities facing our community. As you know, I am a candidate for city council and for the past two months, my volunteers and I have been out in the community talking to thousands of people in their homes and businesses, asking about the things that are most important to them. I am here today to report to you that as a result of citizen concerns, my number 1 campaign theme is to get enron out of our community. Let's put this in perspective. Would we want enron running our water bureau? Obviously not. Why would we want a criminal corporation in charge of our water? A company that thrives on deception, a company that cheats its customers, a company that cheats its employees, a company that cheats taxpayers by extracting hundreds of millions of dollars in income taxes from Oregonians, and instead of sending the money to the u.s. Treasury, sends it to the cayman islands. We would never dream of turning our water bureau over to enron, so I ask you why do we continue to entrust our electric utility to them? Mrs. Mayor, commissioners, you have the power to fix this problem. By your action you can prevent about \$200 million per year in fraudulently inflated energy bills, executive bonuses and corporate profits from leaving the city of Portland. By your action you can rescue our business community from the rates pge is charging as a result of enron's manipulation of the energy market. Our business community is suffering. For many of the people I have spoken with, the 53% hike in electric rates for businesses could mean the collapse of their enterprise. Can Portland afford more business closures? Are we going to allow ourselves to be victimized and bankrupted by this unethical, greedy, and uncaring corporation? I beg you to do what is best for our community. Utilize your power of eminent domain, give our electric utility to the citizens of Portland, get enron out of our community, and save our city. Thank you. [applause] [gavel pounded]

Katz: Those of you never having been here before, this is not a place for demonstration. So please hold your applause. Next item, 474.

Item 474.

Dan Meek, 10949 SW 4th Avenue, 97219: Good morning, commissioners. On may 3rd, enron announced its plan to keep pge, which reemphasizes the need to -- Oregon has the unique role of being the corporate home of enron. Enron dissolved itself as a delaware corporation in 1997 and reincorporated in Oregon. It felt that Oregon was so compliant with its wishes. In 1997, we opposed enron's entry into Oregon, testifying to the Oregon puc, that the purchase would harm ratepayers and that protecting Oregon ratepayers from enron's complicated shell games would be a new and more difficult task for the puc. But of course the puc approved it anyway. We then fought it for three years in court, but in the men time, the shell games began and proceeded with these results. Result 1 -- the largest electric rate increase in Oregon history. Last october the puc allowed enron, pge to raise rates by 41%, 53% for businesses. This is a \$400 million annual rate increase, the largest in Oregon history. The reason was the high-priced power contracts pge signed during

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the may 2000-2001 period while enron was manipulating the market to inflate power. Basically they fill the first page and business section of today's paper with "the Oregonian" confirming with traders at enron adding to Portland's ignominy in this, the trading floor which come accomplished this is located in downtown Portland. California is filing complaints against enron and pge by the way, is in the sights of the california attorney general itself, and others to cancel a high-priced contracts it signed during that period. Even pacific power & light is doing the same thing. Pge can't do it because it would amount to filing a complaint against itself. The federal government has banned enron and pge from new can't which is going to be a problem, considering the fact this year alone we ratepayers get \$53 million of residential exchange credit benefits from bonneville. That contract expires in four years. Result number 2 -- the biggest drain of retirement plan dollars in Oregon history. Pers lost over \$80 million. Pge employees lost \$200 million in their 401(k) plans. In the pge annual report to the sec that was filed in april, it noted enron might merge its underfunded corporate pension plan with pge's overfunded plan, removing additional untold dollars from Oregon. Result 3 -- the largest unpaid federal tax bill in Oregon history. Pge ratepayers paid \$357 million for federal income taxes. Pge sent the money to enron but enron never paid it to irs. Pge itself might be liable for tax liens imposed upon enron for these years. Result 4 -- the largest per capital sum of money due to the cashing out of enron stock.

Katz: Thank you.

*****: That was three minutes?

Katz: Yes. There's a little timer. Mine isn't working.

*****: The countdown clock.

Katz: Time to go. Thank you. We got the message. [laughter] we've heard it before. 475.

Item 475.

Lloyd Marbet, 19142 SE Bakers Ferry Rd., Boring OR 97009: If you've heard it before, I wonder if I should even bother to testify.

Katz: That's an interesting attitude. Why don't you attitude your -- identified yourself.

Marbet: My name is lloyd marbet. I find it terribly frustrating, and it's been a long time before i've been to the city council, to find time lines on the public's right to testify before you. I will do my best to rush through my testimony so you can hear it again. Mayor Katz, city council members, citizens of Portland, my name is lloyd marbet, and I am here today representing myself and don't waste Oregon. As you may know, I have spent years involved in energy facility licensing proceedings in the pacific northwest, raising concerns over the failure of nuclear power and the growing problem of global warming. Portland general electric and I have a special relationship that goes back over time. But i'm not here to discuss the past. I am here to discuss the future and I believe the future of Portland and of Oregon will be greatly benefited by the city of Portland taking over Portland general electric and freeing its employees and ratepayers from the clutches of enron and its creditors. With the power of eminent domain, you can reclaim the hydroelectric facilities owned by enron which under its existing licenses rightfully belong to the people of Oregon. You can directly involve yourself in building the conservation and renewable energy resources that the city of Portland and Oregon so desperately need for our future. You can bring green industry to Portland by establishing public ownership over Portland general electric. What a better way to directly involve the people of this city in planning its future than by establishing democratic control over utility that for years has been a pawn in the hands of greed. The same greed that brought Portland's economy to its knees with the highest energy rates in the pacific northwest, with the highest unemployment rate in Oregon, and with Oregon having the highest unemployment rate in the nation. Let me share with you a list of what public power will do for Portland. It won't cheat ratepayers; illegally driving up wholesale rates to gouge ratepayers. It won't cheat employees; \$200 million out of retirement plans. It won't cheat taxpayers; no federal income taxes will be paid to

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enron, which will then end up in the cayman islands. It won't have to pay shareholder profits. It won't have to pay multimillion dollar bonuses to executives rewarding them for failure. It will have improved access to bonnevillle. It will be shut out it will not be shut out of the california energy markets which is the likely fate of enron and Portland general electric. It can meet our future energy needs by developing conservation and renewable energy resources, helping to address the problems of global warming. It will be out from underneath trojan's liability. Its cost of service will be cheaper. There will be no junk bonds to pay off, no wall street brokers to pay off, and no 800 million dollar premium paid over book value for the utility. It will not seek to sell itself out from underneath state regulation through federal bankruptcy process. When you consider these benefits, it is clear that just advertise is long overdue for the people of Portland. Thus I appear before you asking that you take the lead in bringing public power to Portland. But if you're not willing to do so, then we will begin the initiative campaign to form a public utility district and give the people of Portland the opportunity to take pge over for themselves.

Katz: Thank you.

*****: I thank you for the opportunity to testify. [applause] [gavel pounded]

Katz: Let me remind the audience this is not a school board meeting, where people demonstrate. If you want to support the speaker, show it by raising your hand. That would help. This is -- thank you. All right. 476.

Item 476.

Bill White, PO Box 3442, Portland OR 97208: Good morning, I didn't come to protest, I came to bless. I know that your job is already tough enough, so i'm going to get straight to the point and just ask for the blessing of the god to be over the city council and the mayor. As you said in your work you said if we ask anything in accordance to your name, we could do it for us. I ask that you fill the chamber with your glory and power, bless the mayor, and continue to bless her with good health, give her wisdom, knowledge and understanding and bless her entire staff. I also ask you bless the city commissioners, bless them with good health, give them wisdom, knowledge, and understanding. Surround them with goodly council and bless their staff. I ask that you continue to bless the city and release your power into the city of Portland. In your son's name, I pray. Amen. Thank you.

Katz: 477.

Item 477.

Francesconi: Can ryan come up with him? Ryan won't speak. Ryan helped raise the money.

Katz: You have three minutes.

*****: First of all, I would like to thank you --

Katz: Identify yourself. Both of you identify yourself so your parents know where you are today. [laughter]

Evan Miller, 2005 NE 56th, 97214: My name is evan miller.

Ryan Anderson: I'm ryan anderson.

Miller: First of all, i'd like to thank you on behalf of the environmental middle school for letting me and ryan present you with this large sum of cash to support the development of new skate parks. Allow me to introduce my friend and I and tell you how we got here today. My name is evan miller. My friend ryan anderson and I are completing a school project. We're eighth graders at the environmental middle school. All eighth graders attending this program are assign add year-long community service project. We have to select a project that would benefit the community in some way. Projects dealt with both global and local concerns. We chose to work on something we could relate to personally and see the effects of immediately. Our original hypothesis was by increasing the number of and access to local skate parks, the damage to public and private property caused by skaters would be reduced. We did research to find out how we could reach our hypothesis. There

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wasn't much in terms of library resource that's would help us solve this problem. So it was time to get creative. We decided to call the city council and talk to commissioner Hales, but we were transferred to josh albert, assistant to commissioner Hales. We later interviewed him on how we could help work on any preexisting skateboard projects and find out what we could do to achieve our own project goals. I remember seeing a survey at the interview with josh so we made up our own to find out how skateboarders would respond to the new of new parks. Would they use them rather than continue skating on public property? Yes found 80% of them would use the new parks over public and private property. We decided to follow through with our project by raising cash to donate to fund the parks initiative. Thus creating more skate parks and overall lowering the amount of destruction by skateboarders. On april 20th, the city of Portland celebrated earth day at our school. We used this opportunity to promote the parks levy by setting up a booth where we informed the public about the importance of Portland's parks. We sold smoothies for \$2 apiece to raise money for new skate parks. We wound up making over \$425 in that -- in net profit. We're proud to be able to give the money to Portland's parks and recreation today. Thank you.

Katz: Thank you. Thank you very much. Yes, absolutely. Did you want to add anything?

Miller: We'd like to give you the money now, if that's okay.

Katz: In a brown paper bag? [laughter]

Miller: Actually, it's a ziploc bag. Is that okay?

Saltzman: That's a good photo.

Katz: How much did you raise?

Hales: Good job.

Miller: \$426.

Katz: Oh, bless your heart:

Francesconi: We appreciate it.

Saltzman: That's a lot of money to raise. That's a lot of smoothies. Good job.

Francesconi: What we're going to do is use this instead of -- we're going to use this to do improvements on the skate parks. You're going to take this down to the treasurer. This will really help us have skateboard parks here so people don't have to go to newberg. All we need is people to vote.

Katz: Thank you.

Hales: Good work.

Katz: All right. Time certain. I'm sorry, consent agenda. Any items to be removed off the consent agenda? Council members, any items to be removed? Members of the public? Roll call on consent agenda.

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

Katz: Mayor votes aye. [gavel pounded] time certain. 478.

Item 478.

Sten: Dan is here from epa. Why don't you come on up. This is good news. Dan's here, the city of Portland is receiving one of this year's climate change awards from the environmental protection agency, and i'm quite proud of this as I think the council should be, and wanted to take a couple minutes. We're the first city to receive this award. It's been given to about a dozen businesses and prominent scientists from around the country, and we're the first government to receive this. I think it's very significant. Portland has been working on the issue of global warming and greenhouse gas emissions for just about a decade now. In 1993 we were the first city in the country to have our own local emission reduction plan, and today the good news is it's been very successful. We've not yet reached the trends we're going to need to change this problem worldwide, but per capita missions per person in Portland are down about 7% since 1990, and last year for the first time we've seen the overall emissions drop in the course of a year. And so through both good times and bad

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times we've seen a steady decline ever since the first part of the '90s in emissions, and what's so important about this is that Portland is showing that you actually can make a difference on greenhouse gas emissions, and sometimes you can get in danger of thinking too big, but in this case I think this is one of the classic situations of you have to act locally to change the world. If you look at the position that the united states government has taken, it's too difficult to take these issues on, and I think Portland refutes that and in -- unless the u.s. Makes progress on greenhouse gas emissions, you can't solve the problem, because we're such a big chunk of emissions. So things like land use planning, recycling, renewable resources, even tree planting have gone a long way toward making this progress more sophisticated things, we've been using biogas fuel cells, we've reduced the methane that comes out of the landfills, and of course we've had a long, long strategy of trying to work with business and homes to increase energy efficiency, alternative transportation and other strategies. The bottom line I think is that this is environmentally significant, but perhaps more importantly, if you dig into the details of this, we've actually been able to make the economy work better by taking these choices. And I think the fundamental myth that's out there about global warming is it cannot be addressed without great economic harm. I think our experience in Portland tao to date shows that's the opposite. We do need to do some things to jump to the next level and certainly the future of utilities and lots of issues that are out there are going to have an impact, but the first ten years of work here shows that if you run a quality city, if you focus on doing things in the right way, you can make a significant impact on greenhouse gas emissions. So it's really a pleasure to accept this award and i'd like dan from the epa to say a few words.

Dan Opalski, Director EPA, Oregon Operations: Thank you very much. Mayor Katz and commissioners, I really am happy to be here today. It's my distinct pleasure to be able to come and spend a few minutes with you today talking about your climate protection actions and the leadership that the city really has stepped up and played a real positive role and I think nationally. That's what we're here to recognize today. I appreciate commissioner Sten's comments in the sense that I remember from some of my science classes back in school a teacher in a biology class talking about climate change, and issues of global warming. And basically putting in the context of, we're in the midst of an experiment that we've created, but we really can't afford to wait what the results are. By the time we know what all the results might be, it could be too late and the impacts on us globally and locally could be too significant for us to have a real impact on. So it is important for us to look at what can be done on a local level, and I also do appreciate the comment that it is a problem with so many complexities to it, if you go and listen in at the international level, this is the issue that people are talking about. It's amazing in a sense to know -- to the person I think in the international community, just how much more this is on the minds of the common person as opposed to many degrees the people in the united states. We kind have been buffered by it, we see talk in the international press and in the national press with a lot of the debates about do we have enough of the science. And as a result, I think people have a hard time wrapping their brains around it and figuring out how they can make a difference. I think that's where efforts like the city of Portland have stepped out are so important to give people a model that they can see there are things that can be done, the costs -- the cost element is extremely important to demonstrate. It comes up in a number of areas in environmental regulation and control, it's a long time to disabuse people of the notion that doing better for the environment actually is not more expensive, and especially over the long term, it's actually cheaper, because the cost of not doing well, not managing our resources well, not taking care of our people are all things that come back with costs later, whether it's in terms of clean-up property protection efforts, whether it's in terms of increased costs for health care because of damage to people's health. All of these things are things I think we can look past if we're not ready to step out and take the leadership position. I think Portland has done an outstanding job in that manner. That's what we're trying to recognize. I do want to cast another picture on this, and

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I think commissioner Sten has touched upon this as well, an award comes with another burden, which is, as I heard in another context yesterday, it's a keep on trucking award. Or maybe it should be the keep on not trucking, if this is about -- at least truck in a sustainable way. This shines more attention on the city of Portland. It recognizes you for being a leader. And for getting out in front of an issue when other people are saying, I need more information before I can decide if i'm going to engage. But I think that means people are going to be saying, okay, what have you done for us lately? What's the next step you've taken? How have you raised the bar once again and shown that you're willing to do the next element of thinking and planning and moving on. And getting those trends moving to where you want them to be. And in doing so, how have you shown other folks, communicated members down at the citizen level, that there are things they can do individually to act locally to make the aggregate change we need overall to be heading in the right direction.

Katz: Thank you for honoring the city with this award. This city council and the city employees have worked very hard and focused on this issue, so we really are honored by that. But I think you're right, I think our next task is to translate that to the community, and ask them to do certain things, and we need to do that over and over again. Thank you.

Sten: Thanks.

Item 479.

Katz: 479.

Saltzman: Today we're hearing an ordinance to establish a new solid waste and recycling franchise agreement with our existing residential haulers. Portland's franchise system for residential collection of solid waste and recycling began in 1992, and by all accounts has performed quite well.

We've become a national leader in recycling. Our citizens have changed our habits and thrown away less garbage and instead set out more of those yellow bins for recycling materials. Our hauler continued to make improvements in their operations and in conjunction with our program staff, have implemented changes in the collection process that have made recycling easier and overall collection more efficient. As a result, we've achieved our recycling goals and have led the nation in overall recycling rates. The franchise has been a partnership among the city, franchised haulers and interested citizens and ratepayers. This partnership has thrived because of the efforts and the goodwill of all three sets of stakeholders. Our haulers have provided good service, our city staff have provided good program direction, and oversight, and our citizens have provided critical input for improving service and operations. This franchise agreement provides a framework to further our gains in recycling and to assure Portland residents receive comprehensive range of solid waste recycling and yard debris collection services. When the council met last july, we established guiding principals for the development of this franchise agreement. Those principals were to encourage a range of company sizes, to advance the city goal of reducing waste and increasing recycling rates, to ensure safe and efficient operations, and to implement environmental best practices. I'm pleased the city's solid waste advisory committee, the review board, haulers and interested citizens took these guiding principals to heart in the many meetings have that -- that have taken place as we've developed the final agreement. I think that speaks well of the commitment of all the parties in developing a sound proposal that you have before you today. I also want to particularly highlight that this new franchise agreement also establishes some environmental management reporting standards for the franchisees for our haulers. This is a significant step forward that haulers have helped to shape. Bought to the bottom line is we will be making recycling operations more environmentally sound. I'd like to introduce bruce walker to high light the key elements of the agreement. Bruce?

Bruce Walker, Office of Sustainable Development: Thank you, commissioner. I'm bruce walker with the office of sustainable development. I'd like to go through some of the points that commissioner Saltzman just gave an overview and talk about the franchise agreement we're

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bringing forth today for residential solid waste, yard debris, and recycling services. I'll touch on the main points that we've gone through with our advisory committee, and touching also on -- involved with Portland utilities review board on the rate portions of our public involvement process. Just a quick bit of background. When we began this system in '92, it involved quite a bit of work of consolidating routes of 69 haulers. My street had four separate haulers on that, and I was by no means alone. Many streets had more haulers providing services, so consolidation of the routes and what really convinced council was a new improved recycling system that you've seen the results of over the last ten years, but with the weekly recycling and the rate incentives we've provided citizens, we've made many environmental strides with this residential solid waste and recycling franchise system. We reviewed the system, it was a ten-year franchise in '92, it had a review period at the midpoint, 1997, and we put in place a new ten-year agreement. That agreement is at its midpoint now, and we are back to you with some revisions to set forward a new ten-year proposal, and I'll talk about some of those changes in a moment. These are the guiding principals that council adopted and gave direction to us, that commissioner Saltzman just referred to. I've got some data and background information on the latter four points, but first I'd like to bring up, when we say encourage a range of company sizes, we have 36 haulers in the city of Portland. That is very different from other large cities that either have a municipal operation or contracted out to typically one or two large haulers. We have provided for a range of size companies that allows many small locally owned businesses to stay in the mix as well as we have some national publicly held companies. So with that direction, we -- direction from council, we have continued with the existing range of companies providing service, we've got one set of standards, one set of administrative rules that applies to all of them, so it's a system that I think is very unique for Portland, but it works very well to address both the local business component as well as the service needs of the customers. In terms of the other information, I'd like to show that while there may be a slight dip in the residential recycling collected last year, you'll see in a moment that there was also a decrease in the amount of garbage being generated. What we show is that, a, we're much higher than the national average, and b, with the economy flattening out, there wasn't as much generated, both on the recycling side or on the solid waste side. The good news is, and we're firming up those numbers, is that we have had an overall boost in our recycling rate on both the residential and commercial sides, so those numbers that you're seeing in terms of the amount set out by customers in their yellow bins is very high, and continues to be one of the highest in the nation. We also see that there's a boost in the yard debris being set out. A positive trend there. And a positive decrease in the amount of -- of garbage being set out by customers. Again, in our belief, there was just less product being purchased over the last year with the economy flattening out. It's an overall positive in the sense for recycling that we've got a slightly higher percentage on the residential side being recovered through our franchise system. These are the types of calls that we get into our office. The reason I'm showing this is that one of the concerns laid out by council or directives to us was make sure that exemplary customer services is part of our system. With haulers making over a million collections per month with garbage recycling yard debris, by no means do we want to suggest that there aren't mistakes made. Either hauler missing a pickup, which would be the most common complaint that we receive, or sometimes how our office might react and get a problem solved. So our goal, when a call comes in to your office, your office is -- particularly commissioner Saltzman, as he's in charge, or into our office, is to respond quickly and get the issue solved very promptly. We believe that with the system we've got, a quick response, when customers do have an issue, it gets solved right away, and when we get involved with haulers, it's typically not one of direct enforcement, but whether responsiveness let's get it solved, when we have to move into an enforcement mode, it tends to be fairly rare and last year we only issued two financial penalties. And that I think speaks well to the performance of the haulers and -- as well as the fact that the

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oversight system works to get problems solved quickly. To further evidence that, the city auditor's s.e.a. Reports have shown us very high in the ratings. I'd also like to compliment fire and parks, since they're slightly above us in this rating, but we're very pleased at these consistently high marks. We strive to do better, to work to improve, but we are pleased by the high marks that we've received in this independent survey. Portland utilities review board is involved with that, of course, in a public oversight manner, and the graph here shows the comparison against inflation. The gray bars relate to the actual rates for franchises. So again, we feel that the system has been set up, has maintained a relatively effective cap on rate increases, and has worked well for -- in terms of a fair service, cost of service for those services provided by haulers. In terms of the new franchise components, i'd like to remind that this proposal sets forth a ten-year franchise, it supplants the remaining five years of the existing franchise and calls for another five-year renewal period or review period by council in 2007. We do have one -- what we spent a lot of time discussing in our advisory committee is a change in the recycling district format of how collection is -- occurs, the small haulers are in a co-op, and we've worked out through lengthy discussion was a range of hauls to maintain that over the next five years, when we would allow a little more freedom of movement of some of the smaller haulers. And finally, i'd like to talk just touch on some of the environmental management reporting. The greening of the hauling companies. Of course they're already doing a lot of the right things in terms of the recycling collection and yard debris. So the services, the main services they provide are very environmentally related. But we're looking beyond that. And when council gave us directive, we worked with haulers and we're very pleased at their active participation and involvement in this in terms of what other steps are they taking in their offices in terms of, say, office paper recycling, use of recycled paper in their copying machines, any energy and water conservation steps, audits that they've taken, and some of the larger firms that have larger offices. And importantly to look in the future for reduced emission fuels, and that portion that could come in to play for the trucks that service many of our residential streets. So we believe this is a good first step for further greening of our recycling operations that the haulers provide service on. We have gone through this in detail with our solid waste advisory committee, Portland utilities review board, and we're pleased to bring this forth for your consideration.

Katz: Thank you. Questions by the council? If not, public testimony.

Moore: We don't have any signed up.

Katz: Anybody want to testify? Come on up.

Moore: David white. Sorry.

Katz: Anybody else other than david? All right.

David White, Chair, Tri-County Council: My name is david white, my address is 17391 hundred 56th avenue in beaverton. I'm chair of the tri-county council, which is the group that represents the Portland haulers in this discussion with the city. I do have a few brief comments. First of all, we greatly appreciate the city's approach to this franchise review and renewal process. We believe the city approached this with the spirit of cooperation, open discussion and a common goal. Staff met with the tri-county council a number of times to discuss the draft agreement, and the city's recommended changes. We were given the opportunity to comment and make our own suggested changes. Some of those were accepted, some were not. We didn't feel this was so much in the spirit of a negotiation as it was a discussion aimed at a common goal. The common goal was the improvement of the existing document and making it even better for the future. We are proud of the city's solid waste recycling program. The city regulates this, but we are the companies that put the program on the streets. And the consistent high ratings from our customers regarding our program confirms the quality of the service we provide. We are committed to continuing to provide excellent service under this agreement and look forward to opportunities for further efficiencies and improvements in the future.

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Katz: Thank you. Questions? Anybody else want to testify? If not, it passes to second reading. All right. 480.

Item 480.

Francesconi: There's nothing wrong with negotiations.
(Mayor Katz convened the City Council at the Budget Committee)

Katz: I'm going to convene the council as a budget committee for the purposes of presenting the proposed budget. I will not read the entire budget message, but I do want to identify for the public, whoever is listening and watching, some of the details. Discussion and public input on the budget will not occur today, as you all remember, we will have a public hearing, there will be two, one on Monday at Rose City Church of the Nazarene at 6:00 p.m., and one on Thursday, next Thursday, the 23rd, here at 6:00 p.m. at the Council Chambers. And the Council will vote on the approved budget on Commissioner Hales's last day here, May 30th, at 2 o'clock. Before I start, I want to ask all of the analysts and Drew and Tim and Mark to come up and sit up in the front row. I want to thank you publicly for all the work that you accomplished. The city budget for next year, 2002-2003, realigned city services to match lower revenue growth. We were facing multiple challenges in the city budget. The shortfall exceeded \$25 million overall. 18.6 million in the general fund, and the remainder in other funds. In other bureaus. The reductions necessary to balance the budget for next year will result in service impacts and in the loss of approximately 100 full-time employee positions. There are several major themes. The budget keeps impacts on public safety services to a minimum. The -- it continues to cut administration, it protects emergency reserves, it moves ahead with critical environmental mandate and interbureau projects related to the improvement of the river, it improves the city's ability to retain and attract business, and continues housing and job programs in these tough economic times. In response to the citizen input and suggestions that we had in our six community budget forums, the budget protects those services that citizens were least willing to cut. And the one that we heard over and over again was the waterfront downtown development strategy, which I'll tell you later -- actually, I'll tell you next Monday what that really is, but whatever it is, we cut it. Citizens did not want us to cut public safety, homeless and low-income housing services, domestic violence programs, youth programs, and services. The budget also responds to the citizens suggesting over and over again that we cut administrative services. During the course of this fiscal year, the state of the economy forced us to cut \$7 million of general fund through budget adjustments. Just right after the last year's budget, we had to face a over \$4 million budget cut and we've had to ask all the bureaus to reduce budgets to the tune of an additional 3 million. For the next fiscal year, bureaus were directed to make an additional 7% cut and to reduce administrative services. We also asked the bureaus for options in new increases in revenues where that made sense. Over the previous two fiscal years, we made a commitment to reduce administrative and support services, and the bureau, the office of financial management reduced the bureau's budgets by \$10 million. This fiscal year they took an additional 5.2 million dollar cut. The cuts focused on training, fair contracting, building maintenance, technology upgrades, loss prevention, and vehicle replacements. Cuts in police and fire were held to under 3% rather than to take the 7% reductions that most of the bureaus took. Reductions include police support staff and desk clerks, slight reduction in advanced life support for fire trucks, and shorter public hours at precincts with some police officer positions held vacant. However, by reorganizing where officers are working right now, we probably will end up to have more officers on the street today than we had several months ago. There will be no loss of firefighters. Domestic violence positions were retained, and all fire stations and precincts will remain open. The parks budget was initially reduced by 7%, or over \$2 million. But the cuts were restored in the proposed budget on the supposition that the proposed levy would pass. If the levy fails, planned cuts include closing seven community schools, permanently with additional summer closures of the remaining six.

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Reduced park maintenance and clean-up, and closing buckman and metropolitan learning center pools. That's why it is terribly important that everybody goes out to vote and supports the measure. In response to the recession, several economic development programs were retained. The budget recommends over \$69 million for housing from a mix of federal funds, urban renewal funds, city general funds support. It was also recommended that we continue the 80,000 joined money to augment support for the homeless. It was a one-time appropriation last -- this year, we made it ongoing. Additionally, programs supporting job growth and economic development were preserved. And over \$1 million in general fund support will leverage close to 17 million in urban renewal funding for economic development. And yesterday we kicked off the economic development strategy for the city that you will be seeing in the coming months. Base funding for planning comes generally in one-time, funds, making projects susceptible to annual cuts. A shift to multiyear funding is necessary. And the proposed budget takes the following approach to this bureau. It funds the river renaissance and the river plan, which was previously called the greenway plan at a little over half a million dollars for four years. It also funds completion of the st. Johns lombard plan, and uses carryover funds to continue the work on north macadam, northwest transition area, central city planning efforts, and it maintains planning's involvement in the endangered species act in the Portland harbor clean-up. Part of a \$220 million ten-year effort to restore Portland's rivers and water sheds of that 10 million is proposed next year to continue interbureau projects tied to the combined sewer overflow, the Portland harbor clean-up, and response to the endangered species listing. The proposed budget also limits next year's sewer and water rate increases for single family homes to under 10%. It also proposes accepting a plan that was developed by commissioner Sten and the water bureau, to use federal funds as well as rated dollars in reprioritizing the capital improvement plan to provide \$9.2 million next year for accelerated water system security improvements. Repeated failure to increase the gas tax at the state level resulted in a \$6.3 million shortfall in transportation. In response, the proposed budget includes the office of transportation's recommended cuts. These include 19 positions, reducing street preservation, cutting traffic signal improvements and maintenance, eliminating street area landscaping, but after these budget decisions were made, we were informed by transportation, the office in salem, that there will be an additional shortfall of \$1.7 million. We will begin and continue problem-solving and hopefully have that resolved before the council votes on an adapted budget. Support for early childhood development continues for one year in the proposed budget. If the proposed levy passes in the fall, the programs will continue. If the levy fails, the current programs will be phased out. Most other bureaus and programs sustain the requested 7% cuts in line with bureau proposals you presented to the mayor's office. The budget also authorizes fee increases for service subsidized by the general fund, which benefit a narrow population. You will see ordinances that will increase false alarm fines, special event fees, nuisance abatement fees. Additionally, overdue franchise fee payments promised from qwest help keep public safety reductions at less than 3%. We will have two community meetings. The budget will be online tonight, the web page is www.ci.Portland.org.us. That is the proposed budget. This will be and this will be available on the web for greater detail and greater information. Thank you. Mark, did you want to add anything? No. Okay. Thank you very much for your patience. We'll continue working on it, trying to solve the p dot problem and we are potentially looking at another shortfall for utility franchise fees, because of a request to the puc for rate reductions. So that is going to have an impact -- is that correct? Yes. That will have an impact and we'll know a little more about it just about the time when we put the budget to bed. Thank you all. This was not an easy budget. It sounds like cuts were made, but we could live with it, I have to tell you, the public will see the impact of these reductions. There is no question about it. And your bureaus will see the impact of these reductions. And i'm sorry to say that it's necessary, but if the economy starts improving as it's

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beginning to do right now, we may be able to come back at some future time and plug some of the holes that was created by the shortfall. Okay. We're now back as council, and we'll take 481.
(Mayor Katz reconvened as City Council)

Item 481.

Hales: Margaret and her staff are here to report back on this case, but not just on this case. Because this case has raised some I think management and policy issues that we need to take a look at, and Margaret's prepared to talk about those, as well as to have -- we need to close out this particular case. But I've asked Margaret and her staff to come back not just to talk about what the options are in this instance, which are frankly not very many, but what this case means in terms of how we deal with problems like this in the field. Otherwise, I suspect the council will see a lot of these and I don't think you want to. So I wouldn't recommend that.

Francesconi: We have a special arrangement. We're sending them all to you, no matter where you are, Commissioner Hales.

Hales: Hopefully we can get this cleaned up.

Francesconi: You better read your contract with your employer.

Hales: Any messes left behind will be forwarded, okay.

Margaret Mahoney, Director, Office of Planning and Development Review: I'm Margaret, director of the office of planning and development review. Stacy did prepare a memo which we've given to the council clerk that goes back through the specifics of the case and attempting to address a number of the questions you raised at last Wednesday's hearing. But I wanted to come as Commissioner Hales said and highlight what I see as some of the overriding issues we have here. I think the biggest one is the difficulty we have in terms of the aspirations that are embedded in the title 33, and the reality of how we actually get to them. In this case, this is an environmental zone. There was a violation on lot 65. That under code requires us to cite the individual who appears to have caused that violation, and the code specifies that we process that review through a type 3 review. Type 3 review mandate a preapplication conference first, and then the full type 3 review. That is where the majority of the costs that the property owner or the builder has incurred thus far, was that's in excess of \$9,000 for that review. And that from my standpoint is a problem both for us and for individuals like this person in this case, and we have many of these situations where there are violations of the e zone, which appear to be relatively small. But the remedy is a very large one in terms of our process, process the applicant goes through, and the costs involved. We are currently working through three options that represent a tier from very small violations intentional or unintentional, but can be easily remedied up through something that ought to go through this kind of process. We're in the process of going through that with the river renaissance management team that would require amendments to title 33 to allow us to do that. But we think having lived through a number of these, that the remedy that's currently in the code and what the code dictates we do is really inappropriate in a number of cases. So I think that is the policy at least from my recommendation, would be the policy approach to change situations like the one that you've seen. In this case -- unless you give us direction to suspend how we deal with these, until we can bring this forward to you, we're kind of stuck in terms of what the code says. And I wouldn't have of course any problem with doing that. We can proceed to site violations, hold them in abeyance, review them, but not put them through a process until we have a better process for people to go through. I think in cases like this where it's a small amount of area disturbed, an administrative process where we can get the planting in quickly, rather than going through a year's worth of arguments about the process, which is in essence what happened here, is a better remedy. The other things that we face, though, beyond that are trying to keep these environmental zone requirements in place and attended to over time. This case is also representative in that the land division approval was a 98 land use review. The building is not built out, we're still -- builders are still

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building through this. We now have homeowners living in houses there. There is not a very good way, or practical way of really making it clear to everybody down the line what's sacred and what's not. When it's the back 15 feet on your lot that you're not supposed to touch, we haven't been successful at this point in getting information on deeds that says that. And that makes that clear in a way that somebody who's buying the property ten years from now will know. So there are a variety of problems we face. We're working on most of those, but our biggest policy problem at this point is that the remedy specified in the code is the type 3 process.

Hales: So your recommendation is for now we suspend using the type 3 review process for those violations, and hold those in abeyance until you come back to the council with a recommendation for how to process those administratively?

Mahoney: That's right. For the minors -- minor ones. We can commit to coming back -- coming back within four to six weeks for a proposal.

Katz: Let me -- legally that's not a problem?

Kathryn Beaumont, City Attorney's Office: I think the -- no. I think there is discretion, when to enforce and when and how.

Francesconi: We may have to get clear definition on what's minor.

Mahoney: That's the discussion that's going on right now among our staff in our land use review section code development, and with the river renaissance management team.

Saltzman: What do you mean when you say you're having problems getting information on to deeds?

Mahoney: Well, I was citing that as one example. This is a long-term process, and property changes hands over time. We've learned some things in our land use review about conditions that ought to be put on these, because some of them don't work. But we need -- in addition to the time that we have involvement in the project, which is in the initial land use review, the grading, through the building, we can be looking at some things, and there are problems in that process that we're looking at now. But long-term you still have property changing hands repeatedly over time, so how we actually ensure all of these things we have to do from the time there's a land use review, through sale of the property, is difficult for us. And we have lots of pieces to work on. And my reference to the deed is, after we're out of there, the conditions that are coming out of our land use code and being placed on these properties go on forever. So we need to have ways that people who are buying these houses later also know that. So it's a long-term issue, it's a process issue for us in the land use area and the public works area, and in the building permit area. We are trying to focus on those issues now, but in terms of how we handle people who either intentionally or unintentionally find themselves in a violation, our biggest problem is what the code tells us and how we process them.

Francesconi: On the penalty side, you know, where we're requiring a penalty for not doing what they're supposed to do, and -- is there a way that could attach with the person so it's an ongoing responsibility, so you can track down the developer and require a penalty if they don't do, as opposed to passing with the land, or is that just not practical?

Mahoney: Well, it's more practical to attach it to the land. Because that's there. We can find it. In a number of cases we have gone back and actually tracked down the person, if they're still here. And there's a in a minority of cases, though.

Francesconi: So we have the authority now, it's just hard to do it.

Mahoney: It's hard to find them, it's hard to get at them.

Francesconi: So in this case the developer himself is actually responsible?

Mahoney: The violation that occurred on lot 65 was the responsibility of mr. Massier. However, as I went back and listened to the tape, there were questions raised about the mitigation that was also required in the easement, and in the open space tract. That was the responsibility of the

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original development. -- developer. A permit was issued for that work. We went back out and verified yesterday the work -- it was never finalized, according to our records, so we didn't have a final sign-off, but there's evidence still there that it was planted. Now, that was four years -- three years ago, so now you've got other material that's grown up in that area. Lots of blackberry and other plants we don't want to see there, particularly. That's, again, an ongoing issue. And I do want to clarify a point from the hearing last week, we are not assessing monthly enforcement penalties on this case.

Francesconi: Here's the part I'm confused. It's only on the facts. What -- on the improve or enhance the additional area on the site as a penalty, because the original work wasn't done, how much is that? What portion of that? It seems to me the -- until we get a better system, if the developer was required to do something, the developer didn't do it, it gets passed on to the next person. Since we don't have another system, the cost of doing the original work probably does have to pass to the next person, at least for now. But then the enhanced penalty that was required of the developer, if there was one that seems a little excessive to me. Am I making any sense?

Mahoney: I understand what you're saying. Let me walk through it. There were -- the violation is the clearing on the lot itself. Which was done by Mr. Massier. That was -- that's what was subject to the review. When you go through the type 3 environmental review, the approval criteria call for additional enhancement to replace the resource that was lost. And it was Stacey's recommendation to meet that to put in an amount of planting and to basically spread it out over the area that was cleared as well as the back 15 feet of the lot.

Francesconi: So the penalty came for later, but it wasn't -- that's tied back -- so is your process you're going to look at going to look at that issue as well? Or not?

Mahoney: I don't think -- I think that was -- as I listened to the tape, I think that was a confusing point that got sort of sidetracked. The -- what was recommended in the way of planting was appropriate for the area that was cleared. The amount and our recommendation is for bare root stock, and Stacy has checked with the B.E.S. watershed staff, and they recommend bare root stock, they recommend that it not be done -- in order to get bare root stock you've got to do it in winter, so they recommend allowing for this work to be done next winter, and the cost of bare root stock is pretty low. In looking what B.E.S. staff pay for bare root stock and what it would probably be -- probably be on this site, it's \$100 or \$200. Labor we can't estimate, but the material itself is pretty low. But I think the point -- part of what I hear you saying is trying to keep these issues clear, and I think what we're trying to do with more recent land division proposals is to be much more clear about what the requirements are for the developer, what we're trying to now do with the process changes we're doing because of a new land division regulation, is institute more required inspections so we can verify that in essence they're done, and we can advise those coming later what they need. What we're looking at is a required preconstruction conference so we can verify what's on the site, and verify that it's appropriately marked so people are informed so they know that this line marked by these stakes is the end of the disturbance area, and if you go beyond that, you're into violation territory.

Francesconi: My last question, and then I'm done, since he's paid the fees already, and that's the bulk of it, there's nothing really to -- we can do about the fee side of this.

Mahoney: I would pledge to you to work with him to see if there's anything we can do. There may be other fees to face we can handle differently on the project. I don't know. But I'd rather talk to him one-on-one.

Francesconi: Thank you.

Saltzman: You just talked about increased inspections. Would that also deal with the original issue of the P.U.D. developer, not planning on the main sewer easement?

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Mahoney: It should. On our newer ones, we're going to have to go back on this one and go through and look at what was put in. And probably do something with homeowners to let them know, because as I said, there isn't a way that they get -- that it's apparent when they buy the property what they can and can't do.

Saltzman: As Margaret said, we did b.e.s. revegetation program, took a -- took a look at this issue, to see if there's a way we could help with the replanting of the disturbed area plus I guess the penalty area, and unfortunately due to timing we just disposed of all our surplus stock of revegetation materials for this season. But the recommendation I think that is maybe to delay the planting from fall to winter will allow the developer to use these bare root plants and my understanding is it is considerably less expensive to use bare root plants than to use potted plants or whatever. This will probably save money, maybe a thousand dollars or so. And they are certainly - - Mr. Massier, if they want to get in touch with our program to find out where to get those materials, we can help them on that as well.

Hales: Maybe we can do this by motion.

Katz: Linda wanted to -- let's open it up just for a few. Anybody other than Linda want to testify?

Beaumont: Mayor Katz, as you recall, this is an appeal hearing on the record. And I believe you held the hearing last week and heard the arguments from both parties. If you're going to allow Linda to present any new information or allow her to speak, you should allow --

Katz: I was intending to.

Hales: We might want to -- we've got a policy issue here, and we have a case here, and you know the difference. So you might want to make clear which one you're talking about.

Katz: Okay. Linda, I'll give you five minutes. Go ahead.

Linda Bauer, Pleasant Valley Neighborhood Association: Thank you. Linda Bauer, Pleasant Valley Neighborhood Association. I'm going to be talking about the case. I have a letter and you all have it in front of you, from a neighbor who says he saw Mr. Massier taking down the trees. He told you last week he didn't do that, and I'm concerned and I would request that you require a bond for the improvements that he needs to do. Questions?

Saltzman: On the revegetation?

Bauer: Right. And the last time we were here we talked about Joe Hughes and he took out a partial bond, which is what you required. He's going to forfeit that bond and let you do all of the work. So I don't think partial bonds are a good idea.

Katz: Thanks, Linda. All right. Come on up. Five minutes.

Grant Massier, 5525 SE Powell Blvd.: My name is Grant Massier. I did some checking on who the developer and stuff was on the project. They're still in business, I've got their phone number, which is 670-5437. And as she stated, that was never finalized out on the planting strips in the back. And on a memo I went down to city hall early this morning to the permit office and it states that on this -- once the sewer line is constructed outside the roadway, shall be regraded and replaced with native top soil also with migrant plants this. Easement shall be replanted with native vegetation and erosion control be put up as soon as possible. Which was -- the planting was where -- were never done in that easement area, and my contention is, can you be in violation of something that was never there to disturb? They disturbed it, the only thing that really grew back there, just from the trees falling and just ordinary wild grass is what's going to grow. If the developer would have planted his development in there and then we went in there and violated, that is 100% my fault. But if it was never planted, there isn't a violation, because it was never there to violate. And then on her comment on cutting trees back in that area, we never cut no trees down in that no disturbance area, as Ms. Winger testified last week that no trees in that area were disturbed. That's all.

Katz: Thank you. I'll take a motion.

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Hales: I want to make a motion on the case, and then I walk to -- want to talk about the policy issue. And margaret's going to need to do further work with you on the -- both, on the case itself. But first we have to deal with the land use case itself. I'm going to recommend that we uphold the hearings officer's decision and that we add the new conditions that have been provided in the may 15th memo to council or to commissioner -- dealing with giving the option the ability to use bare root stock for the replanting and other specific -- specifications for the replanting. So I would make a motion that we uphold the hearings officer's decision and add those additional recommended conditions that appear in the box on page 4 of the memorandum.

Katz: Okay.

Saltzman: Second.

Katz: Discussion? Roll call.

Francesconi: We're going to learn some lessons from this, and for others, and so that's good. And number 2, I think you need to sit down with margaret mahoney, who can work through the issues on this case. For both of those reasons I vote aye.

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

Katz: Mayor votes aye. [gavel pounded] motion passes. Is this a tentative one?

Beaumont: It should be a tentative decision.

Katz: You've got amendments. Okay. So come back when? Give me a date. 29th?

Moore: In two weeks, or one week.

Katz: Two weeks.

Moore: The 29th.

Hales: I want to make a second motion that deals with the policy issue and a little further work on this case, and that is I want to move that council direct margaret as the opdr director to return to the council first to suspend enforcement of this particular type of environmental zone case until such time as she returns to the council, it's understanding that's going to be in maybe four to eight weeks, with recommendations for streamlined administrative process for dealing with this type of case, and that further she use her authority to both review pending cases, this one in particular, for how to deal with the situation and the costs involved in this particular case, and to, if that's -- that negotiation is successful, to include some performance guarantee for the planting that's were specified in the council's earlier action.

Saltzman: Second.

Francesconi: Before we do that, can we add the minor -- I don't think you used the word "minor violations."

Hales: Good point. This is not some sweeping termination of e zone enforcement, but in this particular type of minor situation, and that's what she's going to return with. Good point. Thank you.

Katz: I hear a second?

Saltzman: Second.

Katz: Any objections to the motion? Motion's adopted by unanimous vote. [gavel pounded]

Hales: Thank you very much, margaret.

Katz: 494.

Item 494.

Katz: This is second reading, roll call.

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

Katz: Mayor votes aye. [gavel pounded] 495.

Item 495.

Saltzman: Madam mayor, members of the council, this is a contract amendment of \$7 million and it relates to the west side project, so I thought it was important to bring it before the council just to

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explain that. B.e.s. Currently that's a contract with parsons brinckerhoff for the design of the west side cso project. As you know, the design is almost complete and we're moving into the construction phase of the project. When we first contracted with this company, we included language in the agreement that indicated we would come back to city council with this amendment that allows us to keep the design firm on board during the actual construction phase. So that's part of the contract. That's about \$5.4 million of the contract that. Will provide for technical expertise during the construction of the tunnel and shafts, review how the construction is impacting the ground above the tunneling and adjust the design as needed. Review of recommendations from the construction contractor as they're submitted, and preimpose construction surveys of building streets and other infrastructure. The remaining \$1.6 million of this amendment is for engineering design services for the swan island pump station. As you may know, may recall, we originally had a plan for the station to be at one location, we've recently been able to execute a deal with freightliner and the port to move that location closer to the willamette river, and that has to be redesigned, but moving that closer to the river saved us bidding an additional \$ -- 4,000 feet of pipe, saving us almost \$10,000. But that change needs to be done, so that's what the other part of this amendment is.

Katz: Good. Public testimony? Roll call.

Francesconi: I think the notes say 12 million that it saves. This is good. Aye.

Hales: 12 million here, 12 million there, eventually you've got real money. Aye.

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

Katz: Mayor votes aye. [gavel pounded] thank you. And we don't have an agenda for this evening, so we stand adjourned until next week. [gavel pounded]

At 10:48 a.m., Council adjourned.