



CITY OF  
**PORTLAND, OREGON**

OFFICIAL  
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 31ST DAY OF JULY, 2002 AT 9:30 A.M.

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

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

Item No. 927 was pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted

		<b>Disposition:</b>
<b>COMMUNICATIONS</b>		
<b>906</b>	Request of Eric Dover to address Council regarding the cost to taxpayers of dignitaries who come to Portland to campaign for themselves and others (Previous Agenda 886)	<b>PLACED ON FILE</b>
<b>907</b>	Request of Jada Mae Langloss to address Council regarding appointment of civilians as peace officers (Communication)	<b>PLACED ON FILE</b>
<b>908</b>	Request of Richard Koenig to address Council regarding public right to use City streets versus license to drive (Communication)	<b>PLACED ON FILE</b>
<b>909</b>	Request of Sam Oakland to address Council with an update on the plan to evict the Pioneer Post Office (Communication)	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>		
<b>910</b>	<b>TIME CERTAIN: 9:30 AM</b> – Confirm appointment of Paul Schlesinger to the Portland Planning Commission (Report introduced by Mayor Katz) (Y-4)	<b>CONFIRMED</b>
<b>911</b>	<b>TIME CERTAIN: 9:35 AM</b> – Amend the Portland Zoning Code, Title 33, to comply with the water quality requirements of the Urban Growth Management Functional Plan Title 3 along the Willamette River (Ordinance introduced by Mayor Katz; amend Title 33)	<b>PASSED TO SECOND READING AUGUST 7, 2002 AT 9:30 A.M.</b>

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<p><b>912</b>    <b>TIME CERTAIN: 10:05 AM</b> – Authorize a contract with Impregilo/Healy Joint Venture Co. for construction services related to the West Side Willamette River Combined Sewer Overflow Program and reduce the performance and payment bond requirements (Purchasing Report introduced by Mayor Katz and Commissioner Saltzman)</p> <p>(Y-4)</p>	<p align="center"><b>ACCEPTED PREPARE CONTRACT</b></p>	
<p><b>*913</b>    <b>TIME CERTAIN: 10:25 AM</b> – Amend requirements regarding district property management license (Ordinance introduced by Mayor Katz; amend Code Chapter 6.06)</p> <p>(Y-4)</p>	<p align="center"><b>176776</b></p>	
<p><b>*914</b>    <b>TIME CERTAIN: 10:35 AM</b> - Accept a five-year agreement with The Climate Trust for \$943,045 to reduce emissions of carbon dioxide (Ordinance introduced by Commissioner Saltzman)</p> <p>(Y-4)</p>	<p align="center"><b>176777</b></p>	
<p align="center"><b>CONSENT AGENDA – NO DISCUSSION</b></p> <p><b>915</b>    Accept bid of Slayden Construction, Inc., for groundwater treatment improvements for \$4,257,000 (Purchasing Report - Bid No. 101598)</p> <p>(Y-4)</p>		<p align="center"><b>ACCEPTED PREPARE CONTRACT</b></p>
<p align="center"><b>Mayor Vera Katz</b></p>		
<p><b>916</b>    Reappoint Joseph Gehlen, Jerry Estoup, Dirk Looijenga and Grant Davis, and appoint Dave Bugni and Chris Thompson to the Structural Engineering Advisory Committee for terms to expire August 31, 2005 (Report)</p> <p>(Y-4)</p>	<p align="center"><b>CONFIRMED</b></p>	
<p><b>917</b>    Reappoint Richard Pugh to the Urban Forestry Commission for a term to expire June 30, 2006 (Report)</p> <p>(Y-4)</p>	<p align="center"><b>CONFIRMED</b></p>	
<p><b>918</b>    Reappoint Gary Maffei and Randy Miller to the Regional Arts and Culture Council Board of Directors for terms to expire June 30, 2004 (Report)</p> <p>(Y-4)</p>	<p align="center"><b>CONFIRMED</b></p>	
<p><b>919</b>    Accept the Tax Abated Single Family New Construction, Rental Rehabilitation, and Owner-Occupied Rehabilitation Properties from 1991-2001 (Resolution)</p> <p>(Y-4)</p>	<p align="center"><b>36090</b></p>	
<p><b>920</b>    Approve the application of Innovative Housing, Inc. for ten-year property tax exemption for a Transit Oriented Development project (Resolution)</p> <p>(Y-4)</p>	<p align="center"><b>36091</b></p>	
<p><b>*921</b>    Authorize an Intergovernmental Agreement with Portland Community College for training and educational services (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>176746</b></p>	
<p><b>*922</b>    Authorize a contract and provide for payment for Business Assessment Services of the parking garage system (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>176747</b></p>	

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<p><b>*923</b> Create a new represented classification of Operating Engineer III and establish a compensation rate for this class, and change the pay level for the Operating Engineer II classification (Ordinance)  (Y-4)</p>	<p align="center"><b>176748</b></p>
<p><b>*924</b> Lease space at N. Morris near N. Kerby for the Bureau of Maintenance (Ordinance)  (Y-4)</p>	<p align="center"><b>176749</b></p>
<p><b>*925</b> Authorize revenue bonds to finance various projects (Ordinance)  (Y-4)</p>	<p align="center"><b>176750</b></p>
<p><b>*926</b> Authorize agreement with Floyd Light Apartments, LLC for Floyd Light Housing Project (Ordinance)  (Y-4)</p>	<p align="center"><b>176751</b></p>
<p><b>*927</b> Pay claim of Ric Fizer (Ordinance)  (Y-4)</p>	<p align="center"><b>176775</b></p>
<p><b>*928</b> Pay claim of Marrakesh Moroccan Restaurant (Ordinance)  (Y-4)</p>	<p align="center"><b>176752</b></p>
<p><b>929</b> Grant a ten-year property tax exemption to Hoyt Street Properties, LLC for new multiple-unit housing on the block bounded by NW 9th, 10th, Northrup, and Marshall Streets (Ordinance)</p>	<p align="center"><b>PASSED TO SECOND READING AUGUST 7, 2002 AT 9:30 A.M.</b></p>
<p><b>930</b> Amend Property Tax Exemption for Residential Rehabilitation and New Construction of Single-Unit Housing in Distressed Areas, to carry out the recommendations of the Housing and Community Development Commission (Ordinance; Repeal Ordinance No. 176378 and amend Code Chapter 3.102)</p>	<p align="center"><b>PASSED TO SECOND READING AUGUST 7, 2002 AT 9:30 A.M.</b></p>
<p><b>*931</b> Authorize the Portland Police Bureau to enter into an Intergovernmental Agreement with the Oregon Military Department to provide construction service necessary to prepare police training props (Ordinance)  (Y-4)</p>	<p align="center"><b>176753</b></p>
<p><b>*932</b> Authorize an Intergovernmental Agreement between the City of Hillsboro and the Police Bureau to provide the Hillsboro Police with access to the Portland Police Data System (Ordinance)  (Y-4)</p>	<p align="center"><b>176754</b></p>
<p><b>*933</b> Authorize an Intergovernmental Agreement between the Multnomah County Medical Examiner and the Police Bureau to provide access to the Portland Police Data System (Ordinance)  (Y-4)</p>	<p align="center"><b>176755</b></p>
<p align="center"><b>Commissioner Jim Francesconi</b></p>	

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<p><b>934</b> Accept contract with Copenhagen Utilities and Construction, Inc. for the improvement of SW Capitol Highway Street, Storm, and Water System Improvement, Multnomah and Vermont Sections, as complete, release retainage and make final payment (Report; Contract No 32381) (Y-4)</p>	<p><b>ACCEPTED</b></p>
<p><b>*935</b> Contract with Youth Employment Institute for operation of City graffiti abatement program to operate from July 1, 2002 through June 30, 2004 for an amount not to exceed \$256,468 in FY 2003 (Ordinance) (Y-4)</p>	<p><b>176756</b></p>
<p><b>*936</b> Contract with Multnomah County to provide two full-time Alternative Community Service work crews for a maximum of \$136,906 (Ordinance) (Y-4)</p>	<p><b>176757</b></p>
<p><b>*937</b> Authorize purchase of property in the Powellhurst-Gilbert Neighborhood area from James E. Stout for use as a Neighborhood Park (Ordinance) (Y-4)</p>	<p><b>176758</b></p>
<p><b>*938</b> Authorize an Interagency Agreement for Portland Parks and Recreation with the Portland Development Commission for professional and technical services for park improvements for FY 2002-2003 (Ordinance) (Y-4)</p>	<p><b>176759</b></p>
<p><b>*939</b> Contract with Lloyd District Transportation Management Association for \$75,000 to provide transportation-related services (Ordinance) (Y-4)</p>	<p><b>176760</b></p>
<p><b>*940</b> Amend agreement with Oregon Department of Transportation for multi-use path improvements connecting SW Custer Street to SW Fourth Avenue (Ordinance; amend Contract No. 51451) (Y-4)</p>	<p><b>176761</b></p>
<p><b>*941</b> Designate and assign City-owned land development control strips as public street areas (Ordinance) (Y-4)</p>	<p><b>176762</b></p>
<p><b>Commissioner Dan Saltzman</b></p>	
<p><b>*942</b> Amend contract with Thomas/Wright, Inc. to extend the term of the agreement to December 31, 2002 for services to the Fanno Basin Pump Station, Project No. 5761 (Ordinance; amend Contract No. 30824) (Y-4)</p>	<p><b>176763</b></p>
<p><b>*943</b> Authorize the Bureau of Environmental Services to enter into an agreement with HSM Idaho, Inc. to separate private stormwater from wastewater flow as part of the California Basin Combined Sewer Separation Project, Project No. 7150 (Ordinance) (Y-4)</p>	<p><b>176764</b></p>
<p><b>*944</b> Amend contract with Counterpoint Consulting to \$79,000 for permit requirements and stormwater management (Ordinance; amend Contract No. 33226) (Y-4)</p>	<p><b>176765</b></p>
<p><b>*945</b> Accept sewer easements and access control agreements for the Southwest Parallel Interceptor Project, granted by Saunders/Trueblood authorize total payment of \$73,751, Project 5502 (Ordinance) (Y-4)</p>	<p><b>176766</b></p>

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<p><b>*946</b> Accept a grant from the Oregon Watershed Enhancement Board in the amount of \$655,000 to restore the Johnson Creek/Kelley Creek Confluence (Ordinance) (Y-4)</p>	<p align="center"><b>176767</b></p>
<p><b>*947</b> Accept an Environmental Protection Agency grant of \$115,000 for conducting a Vulnerability Assessment of the water system (Ordinance) (Y-4)</p>	<p align="center"><b>176768</b></p>
<p><b>*948</b> Authorize a contract and provide payment for seismic strengthening and maintenance of Larson's Bridge (Ordinance) (Y-4)</p>	<p align="center"><b>176769</b></p>
<p><b>*949</b> Authorize an Intergovernmental Agreement with Portland State University to conduct a weight study of residential disposal and recycling services in the amount of \$91,768 (Ordinance) (Y-4)</p>	<p align="center"><b>176770</b></p>
<p align="center"><b>Commissioner Erik Sten</b></p>	
<p><b>*950</b> Eliminate the revolving loan fund in the amount of \$150,000 for art organizations administered by the Regional Arts and Culture Council, and direct the funds be released to be expended (Ordinance) (Y-4)</p>	<p align="center"><b>176771</b></p>
<p><b>*951</b> Donate a 1976 Seagraves Model PB-2406 Diesel Fire Engine to Oregon Fire Service Museum, Memorial &amp; Learning Center in Salem, Oregon (Ordinance) (Y-4)</p>	<p align="center"><b>176772</b></p>
<p><b>*952</b> Authorize Intergovernmental Agreement with Metropolitan Service District for maintenance of a computerized mapping system for Portland Fire and Rescue emergency response vehicles not to exceed \$25,000 (Ordinance) (Y-4)</p>	<p align="center"><b>176773</b></p>
<p><b>*953</b> Authorize an Intergovernmental Agreement for mutual aid assistance between the Fire Protection Agencies in the Lower Columbia and Willamette Rivers (Ordinance) (Y-4)</p>	<p align="center"><b>176774</b></p>
<p align="center"><b>REGULAR AGENDA</b></p>	
<p><b>954</b> Assess benefited property for the costs of constructing water main improvements in the SW Arboretum Circle Water Main Local Improvement District (Hearing; Ordinance introduced by Commissioners Francesconi and Saltzman; C-9979)</p>	<p align="center"><b>PASSED TO SECOND READING AUGUST 7, 2002 AT 9:30 A.M.</b></p>

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<b>Mayor Vera Katz</b>	
<b>*955</b> Accept a \$250,000 grant from the U.S. Department of Justice, Office of Community Oriented Policing Services 2002 Technology Initiative (Ordinance) (Y-4)	<b>176778</b>
<b>*956</b> Accept a \$65,528 grant from the Housing Authority of Portland for Safety Action Team services at the Columbia Villa/Tamarack (Ordinance) (Y-4)	<b>176779</b>
<b>*957</b> Contract with Booth Research Group, Inc. to provide four police promotional assessment centers for the Police Bureau not to exceed \$66,000 (Ordinance) (Y-4)	<b>176780</b>
<b>*958</b> Amend the date of the Designation of Prostitution-Free Zones (Ordinance; amend Code Section 14B.30.020) (Y-4)	<b>176781</b>
<b>Commissioner Jim Francesconi</b>	
<b>S - 959</b> Amend Title 17 Definitions, Transit Oriented Development System Development Charge (Second Reading Agenda 903; amend Code Section 17.15.020) (Y-4)	<b>SUBSTITUTE 176782 AS AMENDED</b>
<b>Commissioner Dan Saltzman</b>	
<b>960</b> Amend Chapter 17.38 and Chapter 24.10 to revise stormwater management requirements for consistency with the City Stormwater Management Manual (Second Reading Agenda 904; amend Chapter 17.38 and Chapter 24.10) (Y-4)	<b>176783</b>

At 11:53, Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 31ST DAY OF JULY, 2002 AT 2:00 P.M.

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

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Sten, 3.

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

<p><b>961 TIME CERTAIN: 2:00 PM</b> – Appeal of Susan Price against Hearings Officer’s decision to approve the application of Rowen Rystadt, applicant, and Terry Carney, property owner, for a zoning map amendment in compliance with the Comprehensive Plan from R5 Single-Dwelling Residential to RH High-Density Residential at 8816 N Edison Street (Hearing; LUR 02-00027 ZC)</p> <p><b>Motion to uphold the Hearing Officer and overturn the appeal, require design review and language to be developed, findings that emphasize preference for access on Edison Street based upon traffic and safety concerns, but not a requirement:</b> Moved by Commissioner Saltzman and seconded by Commissioner Sten.</p> <p>(Y-3)</p>	<p><b>Disposition:</b></p> <p><b>TENTATIVELY DENY APPEAL WITH CONDITIONS: PREPARE FINDINGS FOR AUGUST 14, 2002 2:00 P.M.</b></p>
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At 4:35 p.m., Council recessed.

**AUGUST 1, 2002**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF AUGUST, 2002 AT 2:00 P.M.

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

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

<p><b>962 TIME CERTAIN: 2:00 PM</b> – Appeal of CRIIMI MAE Services Limited Partnership/Ramada Inn against Hearings Officer’s decision to approve the application of Oregon Halfway House for a conditional use for a detention facility at 6005 NE 82<sup>nd</sup> Avenue (Hearing; LUR 02-110304 CU)</p> <p><b>Motion to overturn the appeal, approve the Hearings Officer decision, and change definition of sworn officer, the language “or” filled out as reflected in the Oregon revived statutes:</b> Moved by Commissioner Saltzman and seconded by Commissioner Sten.</p> <p>(Y-3)</p>	<p><b>Disposition:</b></p> <p><b>TENTATIVELY DENY APPEAL WITH CONDITIONS: PREPARE FINDINGS FOR AUGUST 15, 2002 2:00 P.M.</b></p>
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At 4:12 p.m., Council adjourned.

GARY BLACKMER  
Auditor of the City of Portland

By Karla Moore-Love  
Clerk of the Council

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



**JULY 31, 2002**

**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.

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**9:30 AM**

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

**Katz:** Present. All right, let's take communications 906.

**Item 906.**

**Katz:** Okay. Mr. Dover, you have three minutes.

**\*\*\*\*\*:** Want my name and address?

**Katz:** No, it's not necessary. We know you.

**Eric Dover:** This summer, the city has seen a slough of budget cuts, such as the closure of rest rooms and parks. I took my little boy, he's a 3-year-old to grant park the other day, and as any 3-year-old when they have to go to the restroom, is up to chance, and the little guy has to go out into the edge of the park to urinate. In contrast, we seem to have hundreds of thousands of dollars, and I think that it's approaching maybe a half million dollars at this time, if not beyond that in regards to the cost of protecting and I will use the loosely, dignitaries that come to this town to stump for candidates and political parties and from what i've been told, from staff for the city is that there's no way that we can circumvent that. Frankly, I find that hard to believe, and I find that hard to tolerate when this city, literally, as far as i'm concerned, is near bankruptcy, as is the state. What I would like to see, I would like to see the council address that issue. I think that there is an upcoming event with, quote "president," unquote, bush coming to this town and you will have an opportunity to spend more money or less, it's up to you. I think it's up to the political party and/or candidates to foot the bill. We have got gordon smith who seems to be bringing in the dignitaries on a regular basis and he has \$5 million in his war chest for his campaign yet we have to go without rest rooms in this city at our parks. We have got bill bradbury who has a million dollars or more at this point in time. And as far as i'm concerned, this is unconstitutional, that we are subsidizing political parties and political candidates because that's basically what it boils down to. And at this point, if the city doesn't address this, then I think that there's going to be an, a necessity for other parties to address the constitutionality of this issue, and also, whether or not there should be further, there's going to be subsidization, and whether she that should be extended to other parties. I would address the comments to my concerns but I think that it's a sad day when we have police working overtime for politicians and we don't have a rest room for a kid.

**Katz:** Thank you.

**\*\*\*\*\*:** Is there anyone who can address my issue --

**Katz:** This is just, just communications. When you sit down, I will say something. When you sit back, I will say something. I just want to let the council know that I had mentioned this item, and we are looking into it with the, the u.s. conference of mayors, as well as the federal elections commission. We have not heard back yet from them. We may have to ask a formal opinion. So, I will keep you informed as to where that's going and what the results of it are.

**Francesconi:** And we are going to reopen the rest rooms as soon as the parks levy passes, too.

**Katz:** All right, 907. -- 908.

**Item 907.**

**Katz:** Do you need help to push the chair away?

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**Jada Mae Langloss:** No, I have got to help myself.

**Langloss:** Did you notice that I wore my costume in honor of mayor Katz?

**Katz:** You did, and your hat is beautiful and you look wonderful. It's nice to see you.

**Langloss:** I would trade this hat to you for the one I gave you years ago because there's no replacements. I can't find any, no matter how far I go. Anyway, today I wanted to suggest that in case you need to appoint another chief of police or peace officer, that you would, you would, you would think about a civilian, not one that was trained at monmouth or one of the police schools where they are taught that citizens are the enemy. And the same way with fort bening, georgia. They also are taught citizens are the enemy. I think that, that is a very bad thing for those schools to do, and they should be changed. These schools should be investigating what they are teaching their officers and soldiers. As just a humanitarian thing for the new millennium. And one of the things about the parks, it's not, I would like to see the citizens around the parks get together and keep the rest rooms, rest rooms and the parks open, as, as a service to the city. If the city is broke. And then another suggestion would be, some people do not understand money. I don't understand money very well because all I know is that if I had some, I probably would get even, so I am very glad that I don't have very much money because there is a war on the poor and I have experience it had for 33 years. Also, I will tell you, I am qualified to be a peace chiefice, but after my, my problems with the hospitals, the legacy at providence hospitals, I have one son that wants to help me and he wants to bring me to hawaii. Because he wants to tell me what to do, boss me around and make sure that everything that goes into my mouth passes his inspection. He does a lot of research when it comes to dietary things. So, just in case you suggest -- you think about, about a civilian, catch me in hawaii, if you can find me.

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

**Langloss:** We need an archology started in Portland for all these people that come out of jail and the loony bins, they need something good to work on and they can do the college and have a place to live without paying \$500 for a postage stamp --

**Katz:** Thank you. 908.

### **Item 908.**

**Richard Koenig:** Good morning, Portlanders, and good morning commissioner of chief of police and city council. Continuing, original jurisdiction over the highways, was established in the federal government when the former colonies freed themselves from king george and united to, among other things, regulate, well, it was established that, interstate commerce and post roads would be part of the duties of the federal government to bring the states together. These duties were described in the constitution. The federal constitution also described as opposed to established the rights recognized as fundamental unalienable and preexisting vested in the people by their creator. The original bill of rights contained 10 articles. The first of which included the right of the people to peaceably assemble to petition for address of grievance. This right very particularly recognizes the issue that i've been highlighting for the commissioner of police. Not only is redress of grievance being sought here, regarding the use of the streets of Portland by this, this public member by right, but the word "assemble," is a verb, and it has the meaning of traveling from wherever the people may be to the point where, where assembly and petition for redress is being sought. As I traveled the streets of Portland to arrive here today to seek redress, the threat of armed force hung over my head as I engaged in what the Oregon revised statutes refer to as the general public's use of the highway for vehicles and vehicular traffic as a matter of right. That's at ors 801.305. Portland's police bureau members have stated their policy to cite anyone who does not exercise what the ors refers to as optional titling of vehicles under 803.035. Thereby, submitting their vehicles and themselves to the jurisdiction of the vehicle code. Fortunately, I ran the gauntlet successfully again this morning and arrived here to the protection of my elected officials who have each sworn to

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support the constitutions. This petition I bring to their attention is regarding a right that is so basic that without it, several others would not even be mentioned. Such as the right to bear arms, which, of course, means that the people get to carry them wherever they go from one place to another, as long as they carry them openly. And reinforcing this underlying right to freedom is article 9, which goes something like this -- just because we, the framers, have not specifically mentioned some of the rights held by the people does not mean that we think less of them. The courts have long held that it is the right of the people to travel in and through the various states, and in all the cases I have examined to date, the mode has not been at issue. But, the commerce always has been regulated and motor vehicles is the term the legislature has always used to describe the subject class. See you next week.

**Katz:** Thank you. 909. Post office post offices post office.

**Item 909.**

**Katz:** You look very regal. [ speaking in another language ]

**Sam Oakland:** It's nice to be back in Portland, Oregon, again. But, it's not nice to have the same old problems.

**Katz:** Do you want to identify yourself for the record, and you have three minutes, sam.

**Oakland:** I would like to, to ask for an additional minute and a half.

**Katz:** That's up to the council.

**Oakland:** Okay. My name is sam --

**Katz:** Let me just ask the council members. Go ahead.

**Sam Oakland:** My name is sam oakland, I am a professor of law, and director emeritus of the siberian law institute in siberia. I am also an advocate for the city, and an advocate for things that are right. Halloween will mark a time this year when the pioneer post office will no longer be in existence. It will be evicted if city council does not act in concert with representative earl blumenauer who now tells me that he knows that the money allocated was allocated not for the eviction of the pioneer post office and not for a cutting a hole in the side of the building to build a parking lot. So, now, what I need you to do is work very hard with mr. Blumenauer. Work very hard to influence mr. Smith, and work very hard to wake up mr. Wyden, who is sitting on his hands in Washington. I also would like you to call mr. Wu and ask mr. Wu to carefully look at what is going to happen. In july '49 harry truman signed the law by the 81st congress that allowed the gsa to be created, to better serve the public. Halloween this year will be a trick on us because the public will not be better served. And the issue is simple. The general service administration is dead wrong in evicting the post office. And you know it and I know it and we must make the federal government realize that, as well. This is our building. This is the building of the city of Portland, the people of Oregon, and the people of america. The gsa is merely a manager. The court rents space. The post office rents space. They are on an equal basis, so it's time for us to force the gsa to live up to its mission. What I would like you to do is work hard to save the post office for us. As you know, 400,000 Oregonians buy stamp there is every year. 2 million buy stamps every five years. Then there are the millions who use it, who just walk in because it's a beautiful building and it's one of our few landmarks in Portland. It will lose its landmark status when a hole is cut in the side of the building. It will lose its public use when three judges and two secretaries have a five-car parking lot underneath and the public is evicted from the pioneer post office. So, I would ask you, please, the gsa has no substantial reasons, the safety issue is gone, the space issue is gone, we are now left with a very, very small issue, and they say that we have to help the larger tenant. We do not have to help the larger tenant. The larger tenant is the people, and we must push to keep the people there. In closing, let me say that gsa says that there is fire when there is no fire. The gsa says that there is a wolf when there is no wolf. And finally, the gsa says, chicken little, the sky is falling, we have to give the building to three judges who have to build a parking lot. Thank you.

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**Katz:** Thank you. All right. Consent agenda. There was a request from, from Frank Lindsey. Is he here? There was a request to pull item 927, which is the pay claim of Ric Fizer. We checked the code and the code is silent on whether you need to be here to make that request or whether you can do that by phone. And I am going to honor this request but I want the council to think about how you want to handle this issue in the future, whether we want somebody actually here or just pull it, and without any discussion. So think about that. We are going to pull it. Any other items to be pulled off? This was a, a press request, I just need to add. That's it? Anybody on the council want to pull an item off the consent agenda for discussion? Anybody in the audience want to pull a consent agenda up for discussion? If not, roll call on consent agenda.

**Francesconi:** On the whole consent agenda or this particular item?

**Katz:** We vote on the consent agenda first.

**Item Consent Agenda.**

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

**Katz:** Mayor votes aye. Item 927.

**Item 927.**

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

**Francesconi:** This is an appropriate settlement. I guess the fire bureau is a terrific organization because after every incident, it evaluates it and it learns how to improve and how to not repeat mistakes. Here, a mistake happened, and we need to learn from it, and we need to, to learn from it not only the fire bureau but the city, and do better by all of our employees because we all want the same things, and that is productive employees in safe, friendly work environments. One of the nice things about this settlement indicating that some healing can happen and that we can learn from it is that one of the provisions in this -- first, Mr. Fizer is back to work being a productive and good fryer as he was before this episode but in this -- and being a good firefighter, as he was before this episode, but also, he's being assigned to a management committee to make this a better place to work, so the fact that he's back to work, and his labor is unborn, and I want to thank the union for their support as we work to make sure this never happens again. Management is onboard. And we are going to learn from this, and we are going to do better so that this never happens again. Not only in the fire bureau but in the city. Now, we have a long way to go in terms of diversifying our workforce and that's part of the strategy that has been adopted by the fire bureau and they are working on to improve so, now let's pay for our mistakes and move forward. Aye.

**Saltzman:** Aye.

**Sten:** I would say briefly that commissioner Francesconi was in charge of the fire bureau and as, and worked out the response to this very unfortunate incident, and I think that he did a terrific job and want to acknowledge that publicly, and we are taking very specific steps and as now the fire commissioner had the settlement in front of me, I believe that it's the right, right move for the city. I believe that we made clear mistakes and would in, all likelihood, both should and would end up with some judgment and particularly given the approach that Mr. Fizer has taken in trying to get back to work and focus, it makes a lot of sense to reach an amicable settlement rather than to try this case. And I think that this is the kind of series of events that shouldn't happen and you never want to happen. If it does happen, the best thing you can do is try and make it right, which I think the settlement does, and then fix the things that went wrong, and that's, that's a slow process, and a learning process, but I believe that we are on track in large part thanks to the management, the union and commissioner Francesconi's efforts. Aye.

**Katz:** Thank you. Because this was a legal claim, I am precluded at the time of the decision and the discussion to say anything but now that we are actually settling the legal claim, as mayor of the city, I want to apologize to Mr. Fizer for the treatment that he received by his colleagues, so this claim is very appropriate. Aye. All right. Let's get onto the consent agenda. 910.

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**Item 910.**

**Katz:** Is paul here? Oh, he's here. As he comes up, let me just say something as he comes up. We have two vacancies to the planning commission. And this is a vacancy for a developer's slot. We have some slots on the commission and this one is for a developer. And I am very pleased that paul has agreed to take on this task. I understand that long before he even requested for consideration. He has been attending the planning commission meetings and anybody who attendance the planning commission meetings during the discussion, whether it's mark and bill, north macadam or any other item deserves kudos. I know paul. He is thoughtful, very concerned about the city. His family has a great love for the city, and has done much for the city, especially, in the downtown. So, paul, welcome and would you like to add something? Usually, we ask the members, future members of the commission why did you want this position and how do you see you helping us get through some of these major issues that are before us.

**Saltzman:** And then we ask the same question six months later. [ laughter ]

**Saltzman:** A benchmark.

**Paul Schlesinger, Portland Planning Commission:** It's been more than six months, but do you need my address?

**Katz:** No.

**Schlesinger:** Mayor Katz, I think you have pretty much said it quite eloquently, I am a third generation Oregonian. We have the fourth generation schlesingers working in development, and it's something that, that is part of our family of giving back to the community in various ways. One of the ways since we are developers and do gain from the city, that it is appropriate that i, my family, our company, do give back to the city and a key place for that is a place on the planning commission where I do hope my expertise in that area can not only give back to the downtown portion of our city but the whole city and its citizens. I thank you for appointing me and do plan on enjoying working on the commission dealing with the likes of west end, north macadam, the tram, marquam hill, the downtown, and the environs of this city.

thank you. Anybody else want to testify? Roll call.

**Francesconi:** You listed the big issues that we need your help on, and there's others, as well. It's been the public private partnership, the planning commission is a terrific opportunity but it's a lot of work, and we appreciate your willingness to serve. Aye.

**Saltzman:** Well, welcome aboard. We do appreciate the tremendous effort that both your family has made for this community but also in giving back to the community by serving on the planning commission, as commissioner Francesconi said, it makes our job look easy because of the reading requirements, alone, associated with the planning commission, and you have got your work cut out for us and the issues aren't getting any easier, so congratulations and welcome. Aye.

**Sten:** Well, mayor, a great choice, and I am glad you will do it. Aye.

**Katz:** I am pleased, too, that he accepted. I have another appointment, and because of all the work that we are doing with regard to the environment and to the river, I am looking at, at somebody in landscape design and landscape architecture, so I am publicly announcing, if anybody is interested in that broad field, that can help the commission specifically in some of those areas, please let me know. Thank you, paul. Aye. Okay. Item 911.

**Item 911.**

**Katz:** Don't worry, we are not going through title 33 again, but if you recall, there was discussion on the council with regard to ross island, and because of some legal issues, we have made a decision and you will hear from our attorney, city attorney, as well as from staff, that what we are bringing back to you is the entire title 33, with minor change, and the only testimony that we are going to take is on that minor change because the rest of title 33 has already passed. So, who wants to start as to -- okay. Go ahead.

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**Chris Scarzello, Bureau of Planning:** Chris, bureau of planning. This is a hearing to reconsider the city council's decision to adopt amendments to the zoning code that would modify greenway regulations. On July 31st of this year, the city council held a hearing to consider zoning code amendments that would bring the city into compliance with the water quality element of title 3 of metro's urban growth management functional plan for portions of the willamette river. The amendments added a fifth overlay, the "q" overlay, that would regulate new nonriver dependent uses or development proposed to locate close to the top of the river bank. At the July 31st hearing, a representative for Ross Island sand and gravel testified that application of the "q" overlay zone is in conflict with the willamette greenway plan. The greenway plan specifically exempts the interior of Ross and the islands from the greenway regulations until the city approved management plan for those areas expires. There was a brief discussion about exempting Ross Island sand and gravel from greenway review, versus exemption from greenway regulations. Exemption from greenway review with still subject development proposals to, to the greenway development standards. The Ross Island representative requested exemption from greenway regulations. But council chose greenway review as the only item from which Ross Island sand and gravel would be exempt. The issues raised in the discussion included future ownership of the islands, and the ongoing work to revise the management plan for reclamation of the excavated portions of the islands. On May 21, Ross Island sand and gravel appealed the city council's decision to the Oregon land use board of appeals and after some discussion with the bureau of planning staff and representatives from Ross Island sand and gravel on June 11th, the city attorney filed a notice of withdrawal of that decision. The language that the bureau of planning staff and the city donor have reviewed and recommend to you be added to the ordinance and the zoning code, which is chapter 33440, will exempt the interior portions of Ross and Hard Tech Island from greenway regulations until their management plan expires. Or is rewritten. When chapter 33, 440 and the greenway plan are modified as part of the river plan process, which is about three to four years from now, the bureau of planning will propose to remove the exemption from Ross Island sand and gravel. The reason for that removal is it gives them the time they need now to get the reclamation plan through the process and gives them the surity that there is no regulations that will come down on them in that process.

**Linly Reese, Deputy City Attorney:** I know you can't comment on the Luba appeal but you can comment on the reason you chose this approach. And for the record, Linly Reese from the city attorney's office. This is an approach that comes up rarely at council. A withdrawal for reconsideration and we do that when after looking at the notice of intent to appeal before briefing, we believe that there are good reasons for bringing it back to council or to whatever review body before going through the briefing process. In this case, we discussed with the planning bureau some of the subsequent activities and felt that dealing with this issue was most appropriate as part of the river plan as a part of this was chosen, intended to be a way to comply with title 3, because Ross Island has its management plan in effect, we were not concerned that we would be out of compliance with title 3, with this proposed amendment. Just a couple of notes on process because we don't do this all that often. As the mayor noted, we do need to take testimony on this. We have sent notice out to all the folks who got noticed for the original hearing, and per the notice, the testimony will be limited to this particular amendment. In terms of the record on withdrawal for reconsideration, the record consists of the record for the original proceeding which we have brought with us and it's in the corner, if anybody would like to look at it. And it will also consist of anything that's brought to light in this hearing. So --

**Katz:** I may want to turn or commissioner Sten may want to add since he is on one of the co-chairs on the Ross Island plan, what you think about this and whether the plan and the activity of the plan are more stringent, so do you want to --

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**Sten:** Well, yeah. I think that I am comfortable with this. It's kind of a funny issue because I think that the plan will eventually take effect and it will be mandated by the state through, through a voluntary agreement with Ross Island in all likelihood is and it is going to require millions of dollars of revegetation, which is something the Greenway plan can never do, which is require people to actually invest money. We can require people to do setbacks and other things, so I think that ultimately we will have a good result for the island. I actually was in support of not giving them any, any exemption just because I thought it was a better principle. I think this will have the same result and I am actually, at time, gotten confused where we are legally on this but I think that we are fine.

**Katz:** Thank you. All right. Further questions? All right. We will open it up to public testimony. Just on that one issue.

**Katz:** You have got to come on up so the public can hear you.

**Jada Mae Langloss:** I don't drive as well as I used to.

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

**Langloss:** Back in the old days there was a minor up in Canada who destroyed everything with his mines but he had a wife that was very, very ecological mind and had she said you are not going to leave this mess, and that's what happened when the most beautiful gardens in North America became a reality, they are called the Bucharth gardens, so take a look at those on your second honeymoon, maybe you, Mr. Sten, and see what can be done --

**Katz:** How about us? How about the rest of us?

**Langloss:** Well, he just got married, you know. Hopefully he's still on his honeymoon and that would be a really good place to go to see what you can do with a horrible mining situation that was turned into the most beautiful gardens in North America. It will give somebody inspiration.

**Katz:** Thank you. Anybody else?

**Sten:** Good advice.

**Katz:** Good advice. Roll call. One second. One second. One second.

**Moore:** This goes to second reading.

**Katz:** Nonemergency goes to second. 912.

**Item 912.**

**Saltzman:** Thank you, Madam Mayor. Today before us is the authorization for the Bureau of Environmental Services and myself to certainly sign the largest contract I have ever signed in my life, probably ever will. To construct the West Side Combined Sewage Overflow Project. The contract is with Impregilo/Healey for \$293 million. It will build a four-mile long, 14-foot diameter tunnel, approximately 100 feet beneath Southwest Naito Parkway in Northwest Front Avenue. It will cross underneath the bed of the Willamette River, and we will build a pump station on Swan Island that will basically be as deep as the Portland Building is tall and the same size. So, needless to say as you can tell it's a massive project. It's a challenging construction project. From a safety point of view, and I just want to say a bit about how we got here. We and you authorized us to do this last year, to employ an alternative -- we sign this had and you authorized us to do this last year, to select a contractor before you today in Impregilo/Healey. The alternative contracting process allowed us to look at other criteria, then the price of the project in selecting a contractor. Somebody gave us broader flexibility to look at -- it gave us broader flexibility, as far as do they demonstrate a track record and using minority women in small business, and subcontractors on other jobs, what is the contractor's record on cost containment, on other projects of this magnitude. And other criteria that we looked at, as well. We also had a process whereby the three finalists of contractors met with the minority subcontracting community in Portland in February, made each one of the finalist teams made a presentation. To that audience and our evaluation panel was also in that audience, as well. So, we use this alternative contracting process not only to give us broader criteria to look at selecting the

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best contractor to do the job, but also it brought this whole process brought the contractor onboard early before we actually finished the design. We brought them on about the 90% point, and having a, a contractor who has a lot of experience in doing tunneling work, helped us to complete the design and do constructability reviews, really help us produce a superior design that we are going forward with. They produced some good ideas that we have incorporated into the design we are going to construct, so that's how we are here today, and this, as I said, this contract is to actually do the construction work. I am pleased to say that we have worked with impregilo/healey to identify and right-size as many subcontracting opportunities as possible, of this \$293 million contract, we estimate 95 to 100 million will be subcontracted. We have worked closely with members of, of the Portland community, impregilo/healey and the bes staff to really come up with what we think is a good aspirational goal. We think about 13 to \$15 million of the \$95 million could be subcontracted to minority women in small businesses and that's simply the aspirational goal. We hope to do that. With that, I will turn it over to purchasing first and then dean marriott and paul, have a brief power-point presentation.

**Jeff Baer, Bureau of Purchasing:** Good morning, mayor Katz, city commissioners, I am jeff with the bureau of purchases. I am filling in for sue, who is out of town this week. And just to kind of echo along commissioner Saltzman's same comments is that the report to council that you have before you is to recommend that the bureau of environmental services be authorized to execute this agreement with impregilo/healey and it gives some background information. The reason we don't an ordinance before you this morning is that there was one originally approved back in january of this same year that authorized that, and originally contemplated that same agreement so, this is just the follow-up and recommendation to have and approve that and with that I am going to turn this over to dean marriott.

**Dear Marriott, Director, Bureau of Environmental Services:** Thank you. Good morning, mayor Katz, members of the council. I am dean marriott, environmental services director for Portland. With me today is paul gibbon, our person in charge of the west side willamette cso project. And before we get into the briefing, I want to take a moment to thank jim van dike from the city attorney's office, also our friends at purchasing who have been helpful in shepherding this process through. In the audience today, lee clingler, our chief engineer who has been instrumental in guiding this project forward, and also I would like to introduce four people from impregilo/healey, the joint venture firm that we will be talking about this morning. Jim mcdonald, jim cabbot --

**Katz:** Raise your hand.

**Marriott:** Right here in the front row. Jake taylor, yan --

**Katz:** Okay. Moving right along. [ laughter ]

**Marriott:** Just a quick, quick refresher on the, the current program, it's a multifaceted, news front of you a rather complicated map because the program in front of us for cleaning up the willamette is complex. It has many pieces and parts to it, including the southwest parallel interceptor, which is in southwest Portland running parallel to the river, and basically runs from down near the sellwood bridge north toward the marquam bridge. The cso tunnel which picks up in front of the marriott hotel, and proceeds on north to terminal 1, turns right and goes under the river as commissioner Saltzman mentioned and ends up on swan island where we will build the swan island pump station. The fourth element is a pressure line connecting the swan island pump station to our existing conveyance tunnel. Also, included in this program is, is pipeline work along tanner creek and also the bulge pipeline work. Next is just a wick refresher on the time lines. As you can see we started in 1991 with the original order we signed with the state. We finished our facilities plan in 1994, and amended that order. In the year 2000, we completed our work in controlling combined sewer overflows to the columbia slough, and the next major milestone for us is the year 2006, the end of



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the year 2006, we need to complete the work on the west side willamette, and that is the target in front of us at which this contract will address. The final hurdle is the end of year 2011, which marks the end of our 20-year control program. Next, the west side cso tunnel, which is the pipe project that you will be, becoming very familiar with over the next several years.

it's four miles long, 14 feet in diameter, and you can see the route of the, of the tunnel starting from south to north. Naito parkway, right across from the marriott hotel. There will be several access shafts along the way, at terminal 1 it will bear to the right and go under the river. Next is a cross-sectional view -- this is an illustration which shows -- gives you an idea of approximately where it will be. It will be basically under naito parkway, and be 14 feet in diameter, and the access shafts will really be the only visible way that the public will know that the work is going on that far below ground. I should mention that this work will be done below the water tables so, it will be very challenging construction work. Naito. Next, a view of the swan island pump station and the connecting pressure line that will go over to where we have an existing tunnel which leads up to the columbia boulevard treatment plant. We have purchased a portion of this site from the port of Portland and are leasing the balance for the term of the construction. Next is a plan schematic that shows the basic layout of the pump station when completed and as you can see from this, we will be paying very close attention to our interface with the river as, as the cso program is part of the city's river renaissance effort. We want to make sure that we set a good standard for others to follow. Just a quick map, an aerial photograph that shows you the route of the southwest interceptor segment 3, which is also part of this project. Most of the work south of here is already under construction, or already finished. This is the segment which will connect the 6 to 7-foot diameter pipe to the big pipe at the clay street shaft. This work will be done primarily through microtunneling and we will, as you can imagine, thread its way through the offramp areas and the supports of the marquam bridge and under the ross island bridge so this will be a complicated project for us to do. Just a refresh -- just to refresh your memory on the contract approach mentioned by commissioner Saltzman in the summer of 2001, this council approved the qualification-based selection process. In november of 2001, we selected impregilo/s.a. Healy as a joint venture. In january of 2002, the council approved the preconstruction services agreement which brought them onboard to work with our designers, and we are ready today to ask for your approval for the construction contract. I am going to ask paul gribben to walk you through some of the key elements of this agreement.

\*\*\*\*\*: Just breaking down the costs, according to each project element --

**Katz:** Paul, identify yourself for the record.

**Paul Gribbon, Bureau of Environmental Services:** I am paul gribbon with environmental services. The bulk of the money is going to the tunnel and shafts and the swan island pump situation and the bulk of that money is going to the shaft of the pump station, itself. So the bulk of the cost is well below ground. The breakdown on the contract, the prime contractor is going to be taking care of the tunneling in the shaft construction. The tunnel boring machines are both quite expensive, and that's the \$192 million for the prime contractor's work and there would be about \$100 million worth of subcontracting work. A lot of that will be specialty work. Ground improvement work and the microtunneling as dean had mentioned before. There will also be a fair amount of subcontracting on the pump station and the miscellaneous pump stations will be subcontracted out. We went through a process of trying to look at as many contracts as we could, subcontracting opportunities as we could over the last six months, and we have identified about \$13 million of identified opportunities that we can put through the minority women emerging small business market. And this is just a list of what some of them are. This is not a complete list in any aspect. But that's the process that we went through was to try to see how many, knowing that the bulk of the work was 120 feet underground. The other issue that we are wrestling with is cost

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control, and we put together very detailed estimated reimbursement cost. That was one of the contractor's items to do during this preconstruction phase. We had our own cost people that went through that estimate and basically we came up to an agreement that what we feel this job should cost. We also went through a detailed risk assessment what could go wrong and what the probability was and the costs would be if it did. And we included that into our whole approach. The -- the end of the schedule and the cost analysis is to come up with a cost-loaded schedule that will give you a cash flow curve of what should happen on this project. And that's what we will use as our baseline to measure what we are and be able to project every month on where we think this project is going to end up. Since this is a cost reimbursable for labor, equipment and materials, we want to have a regular agreement on labor daily and materials that come onto the site. The subcontracts will be competitively procured and we also want to have regular ongoing audits as we go through so the books remain open for anyone to look at. Safety is another big issue. We had Impregilo put together a site-specific safety and health plan. We both have safety managers on-site. The bureau and Impregilo/Healey. And we have come up with a safety incentive plan which will hopefully reduce our insurance cost to say make sure that we have a very safe project. We have done an extensive amount on public involvement and that's going to continue. These are just some of the things that have been done. We have a project number where people can call. We will have signs, there are many places that we can put them with the number on it. We have a website that's currently up and running now. Our intent on that is to make sure that people know what traffic impacts may be. There's a look ahead on traffic impacts, what construction, where construction will take place and so a place that people can go and get current information. Since the whole public involvement issue, public involvement information process is going to continue, we also will have an exhibit at OMSI starting on July of 2003. That was a public-private partnership. And we established a number of community benefit opportunities that we will be building along with this project. We have done extensive amount of agency coordination, both within the city and outside the city. This list, just a few of the, the agencies that we have been dealing with, both city and outside. This is our schedule, assume that go we have construction notices received in August, the first work will be the ground improvement work at bridges and also at the Nicoli shaft site and the pump station shaft site so the shafts themselves will start work in October. The tunnel boring machines are anticipated to arrive in the spring of 2003 so we will start the tunneling that summer. The Swan Island pump station shaft itself will start in October of this year. The pump station, once the shaft is complete, the pump station will start in 2004 and be done hopefully until 2006. We hope to have it operational 2006 in advance of our deadline by December 1st.

**Marriott:** Thank you. I just want to sum up that you will see us as often as you would like to see us to report to you on the progress of this important and difficult challenge that we face. We want to make this a transparent project, and that may sound funny since it will be mostly underground but we realized that the public will actually not get to see most of where their money is being spent. With that in mind, we would like to be sure that we share all the information about this project, as frequently as possible. As Paul mentioned, we will do frequent audits. Our goal will be to minimize any financial or other surprises, and we will be very up front with sharing the information about this project. As has been mentioned, we have site-specific safety and health plan for this effort. Safety is very important to us, and to the contractor and I want to assure you that we will pay very close attention to job safety. And as Commissioner Saltzman mentioned, we have been working very closely with the local community to see to it that as much of the work as possible can go to local contractors. We realize that this is a major undertaking for the city, a major investment by the people of the city of Portland, and we would like to see to it that as much as possible of the local money can go to local firms that are capable of doing the work. And with that, I would be happy to answer any questions that you may have.

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**Katz:** Can I make a request that you forward to us your safety and emergency plans?

**Marriott:** Yes.

**Katz:** I don't know if you have them right now, but I am sure that they will be developed before construction starts.

**Marriott:** Be glad to do that.

**Katz:** Okay. All right. Further questions? Thank you. Let's open it up for public testimony. Do we have anybody else? Anybody else want to testify, to sign up? All right.

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

**Katz:** Good morning.

**Jacqueline Cook:** My name is jacqueline cook. I am here representing the african-american federation of contractors of Portland. The north, northeast urban trucking consortium and the black van coalition. I've been asked to speak this morning to ask the council to delay the approval until members of our organization can meet with the appropriate people because we are not pleased with the, the diversity, mwese that has been put to us, how they plan to execute it. From our representatives, we are getting feedback of why things can't be done, instead of a how-to attitude. In order for mwesb's to get involved in these projects and help our companies grow, two things need to happen -- the owners of the project and the general contractor have to truly be dedicated to making it happen. And when suggestions come up, you want to try to, have an how-to attitude instead of, we can't do this. We have had some great success on the tri-met, interstate max with stacey and tri-met officials, really going out there and actively getting involved, and making things happen for our community. So, we are asking that you give us time to address our concerns to the appropriate people because we are not getting, and these meetings have been going on for months. And as late as last evening, I am sorry, it's not -- I am not as prepared as I should be but it's like, if we don't get to this meeting, it's going to happen and we will be fighting an up-hill battle. We are prepared to do whatever it takes to get the attention of the community, and if that includes protesting, that's what we are going to do. This -- our group has recently been formed, and we are no longer going to sit back and wait for these general contractors to be nice to us. We can do the work. We are going to get our fair share. Thank you.

**Katz:** Thank you. Let's explore that in a few seconds. Let me just make sure that there's nobody else that wants to testify. Jada?

**Jada Mae Langloss:** I admire the enormous efforts that's being taken to clean up the water after we poison it. I am looking forward to sometime in the future when the citizens of Portland and Oregon will honor the water and the wind, honor the air and the earth. That means not to poison the water in the first place so these big, big projects to clean it up will not have to happen. Those are the things that I wish for in the future. It's native american concept that we do not -- that we honor this, the spirit of the water, that we honor the spirit of the air, and we do not destroy it. We can do it some day in the future, but now I appreciate the enormous efforts to clean up the water that poison in the first place.

**Katz:** Thank you. All right, dean, come on up. You have heard -- commissioner Saltzman said that he can handle it so i'm going to turn it over but you come on up because you are responsible for this. Commissioner Saltzman?

**Saltzman:** Well, with all due respect to liz licht, I disagree with her statements that they have not been involved in the development of this contract and have not had their voice heard, so I would strongly urge the council not to delay this project because of that. Again, to go over the history here, the contractor, itself, was selected after each finalist made a presentation out of the Oregon association for minority entrepreneurs. That was part of the evaluation criteria. In february, after the contractor was onboard, we had a meeting again at the Oregon association minority entrepreneurs to identify the tentative subcontracting opportunities that we anticipated would be

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available in this project, also the contractor at that time unveiled many of the steps that the contractor will be taking to make it easier for minority women and emerging small businesses to do work, such as the contractor will help with bonding, will help purchase materials and volume, and other things, as well, technical assistance, and that's in conjunction with our own sheltered market program. We also have gone through, as I said, earlier exhaustively, we have gone through every item associated with the west side cso project and if anybody wants to see this six or seven-page spreadsheet, they are welcome to. Gone through each cost item and identified how much we expect that we can reasonably subcontract to minority women in emerging small business and that's how we have come up with an estimated target of about \$13 million out of roughly \$95 roughly subcontracted. That's an ambitious goal and we hope to exceed it. I think it does set the bar high and it's consistent with goals that tri-met has set for itself on the interstate light rail. So, I think that, you know, the proof is really in the pudding. I think that we have met, had many meetings with members of the minority community on this contract. Many, many meetings so, Miss Lick I have never seen you at these meetings. But, your constituent representatives have been at those meetings. So, I think that we are ready to go and the proof is in the pudding. We happen to have award -- we haven't awarded a single subcontract yet. We intend to someday monitor diligently as to our track record and subcontracting. This is about as much about pumping sewage as pumping dollars into the local community. So, I think that we are ready to go, and let's get going and judge us on our performance and we intend to perform well and ably.

**Katz:** What were some of the issues. Why don't you come on up and what were some of the issues -- you heard commissioner Saltzman. What were some of the issues?

**Cook:** There were two --

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

**Cook:** Jacqueline cook.

**Saltzman:** Sorry, I got your name wrong.

**Cook:** There are two issues that I know of from our meeting last night. One major one was the trucking consortium where it allows us, our group who have small capacity individually, they can, you know --.

**Katz:** This is what tri-met -- we use that on interstate max.

**Cook:** And I was specifically told by bruce watts one of the goals was you cannot do that. You will have to do it individually and that will make it really small and they can't be as effective. I am just saying specifically, because you asked. The other thing was that it was mentioned that most of the subcontracting opportunities for mwesb would be facilitated to the shelter market program, and the shelter market program has a limit of \$200,000. Where, and that's what I heard, and I don't have the specifics and the details on that. But we want -- we were hoping for much bigger chunks individually and maybe other, other specialty contractors will want to do like the consortium so those are some of the problems that were immediately addressed to me last night and there I am.

**Katz:** Okay. Thank you. Dean, do you want to respond to that with regard to the, the trucking consortium? It worked very well. It was something that bruce watts worked on with tri-met. We get reports on a regular basis from the interstate max group of four or five that meets on a regular basis. So, what's the problem with this?

**Marriott:** Well, mayor Katz, I don't really know that there is a problem. This project is not exactly the same as, as what tri-met is doing. We have talked with members of the trucking consortium to, to try to explain the way the city does contracting, which is slightly different than tri-met, but we have given them our commitment to -- we have identified trucking as one of the likely subcontracting areas of opportunity. We have explained, however, that since, in our view, we are spending the public's money, we would like to be able to have a competitive process so that people interested in trucking contracts would make that interest known and then we would be able to go

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through a selection process. I am, I am not anxious to simply announce here today that I can tell you in advance who is going to get the trucking contracts. I think that that's not fair to all of the contractors in the community. But, we will work very closely as the commissioner mentioned, we have already worked very closely with the interested subcontractors. We are working very closely with purchasing to make sure that the city's purchasing process works as effectively as possible. Our goal, as we have stated already, is to get as much of this work out to the local community as possible.

**Katz:** Let commissioner Saltzman respond.

**Saltzman:** On the second point that miss cook raised, the sheltered market program does cover projects of \$200,000 or less, but the priority afterwards, if there are no firms within the sheltered market program who seek the work or are qualified for the work, the next priority is then to go to certified, state certified minority women and emerging small business for that work and then after that, we would go to the larger contracting, or subcontracting community for those opportunities.

**Katz:** Commissioner Francesconi.

**Francesconi:** The two goals, in addition, the two important goals are the cost control side and then making sure that our local folks benefit from these jobs and resources. On the cost control side, I think that you have -- you have got some follow-up with some specifics about how you are going to monitor that. On the -- on these contracts is -- what's -- is there an ongoing dialogue with the groups is if what's the -- and what's the monitoring to see how we are doing in terms of producing jobs for our own folks?

**Marriott:** Well, commissioner Francesconi, we will require that the contractor provide for us, I think on a monthly basis but I may need to be corrected on that, a report on, on utilization of subcontracts, so exactly where the money is going, to which firms, for what work, and we will provide that information as we have said in a very transparent way to the council and to the public, so judges -- judge us on how we do. We will be judging the contractor on how well they do. They know what our goals are. They share those goals. So the reports will be very frequent and very regular. I think that the fear has always been that in too many of these jobs, people promise a good deal and then once the project gets going, as people sort of lose sight of exactly how well it's being implemented and how many of the dollars are going to local firms and minority and emerging small businesses, we will provide all of that information as this project progresses.

**Francesconi:** But is there also an ongoing, I mean, if we award the contracts today, is there away that you can continue to talk -- what's the vehicle? The continuing to talk with the groups about the trucking contracts, the size of the contracts? Is there an ongoing mechanism to have those conversations?

**Marriott:** Well, yes, commissioner Francesconi. There certainly is an ongoing dialogue that will have to take place so we are not ready today or tomorrow or even next week to begin to issue the subcontracts for trucking, so there will be many opportunities during the, the four years or so of this project, not all of the work will happen on day one. There will be phased throughout the life of the project, and we will be working very closely with the contractor in the discussions with the subcontracting community. You can count on that. And so the dialogue has not ended, obviously, the dialogue needs to continue, and I understand and hear the concerns of the community and we will address them.

**Katz:** My recommendation would be, and I don't know if you have done this or not, but we learned a lot from the interstate max program, which is also public dollars, and Bruce worked very hard to try to be very creative in the structure to be able to deliver some of the jobs to minorities in this community, so I would recommend that you seriously take a look at the structure of the, the trucking consortium and see how that fits in with the bidding process.

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**Marriott:** Mayor Katz, I not only will do that. I have done that. And that, I have spoken with fred hansen and my staff has met with tri-met staff. We are very familiar with what they have been doing, and we will, obviously, learn from their example and replicate it to the best extent that we can here in the city of Portland.

**Katz:** Okay. Thank you. All right. Roll call. Any further questions? Roll call.

**Francesconi:** Well, I am going to vote for this, and I guess this is a very complicated project, and you have assembled a very good team, and it's one that is very important to all of our citizens. I am especially concerned about the rising costs of our sewer bills so, on the cost control side, I do think that, as well as who is benefiting from the contracts, I do think that quarterly reports to the council is a good idea. And if you see -- if problems are developing and we are ofcourse, I think you need to alert us sooner than that, but I think that I am particularly pleased with the regular contract audits, as well as the competition among the subcontracts built into this, as a way of watching the costs as we proceed. I think that you have a very effective team in place to oversee it. On the issue that's been raised today, I do think that, as you -- I think regular reports -- first, getting the information out about the availability of these contracts, shooting for more than 13 million, it's good to be realistic, but 13 million seems a little light to me, but I haven't gone through the details yet of the spreadsheets so if you could do more than that, that would be good, but then measuring progress to see how we are doing is absolutely essential, as well as continuing to work on the issues that we talked about here. So, thanks for assembling the team on an extremely important project to all of our citizens, aye.

**Saltzman:** Appreciate all the work that's gotten us to this point. Appreciate the comments of both our witnesses and the council. Again, this is about cost control, this is about occupational safety. This is about pumping dollars into our community as well as pumping sewage, but let's not forget what it's really all about, and that is cleaning up the willamette river. When this project is done, we will have eliminated all the combined sewage overflow from the west side of the willamette river, anyway, and that's a substantial achievement that we -- will push us well towards eliminating combined sewage overflows all together. But, we still have to do a similar project on the east side by 2011, so we will diligently monitor all aspects of this project, safety, minority women, emerging small business involvement, and we have established a goal and we do hope to exceed that goal. But, let's get this project going. Let's judge us by our performance, and we will fine tune our performance as needed, but let's get this job underway and get this river cleaned up. Aye.

**Sten:** Well, a couple of separate issues, I think that the process that was different and to select the general contractor was the right approach, and so I think that going forward with the contract makes sense. I don't think that that changes the issue that's come up today with the testimony about how the subs go out, so I am going to support moving forward with it. I take commissioner Saltzman at his word that going to monitor this closely and think that we should have it come back to the council so that we can see where it is. Commissioner Saltzman has a good record on these issues and I know the communication will be good. The communication, which you are asking for, is great, results of better. A lot better. So, I expect to see some results on this, and I think that i'd say specific is the issue of the, of the trucking contract. I agree with the director marriott's description of the process that we have to go through, but I add as a personal signal that, you know, I think that the issue of trying to get the contracts amalgamated to the point where smaller companies could succeed has one that's been struggled with for years and years and tri-met's success on it is something that we should build on and try and make sure that that keeps going rather than sort of start over because we run out of work. At some point it won't be necessary because the companies will get to the point that that's not an issue, but we are still in the building mode. So, you know, I think that the issue of containing cost in terms of making sure that we get a fair price for the rate-payers and working with the consortium can be treated independently because I don't think that

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anybody thinks that the consortium should get a sweetheart deal but the idea of using all that hard work makes a lot of sense to me. So, hopefully that will work out. Aye.

**Katz:** I raise these issues, as well, dean. Yes, this is a project to clean up the river. It's also a job's project, and it's one of those that we rarely have an opportunity to expend quite this amount of dollars for, for employment opportunities. This is as good of a time as ever to begin planning for that, and it's important that everybody share the wealth that, of the, the results of these contracts, so you might want to talk to our 4-c group and see if you need some help, but I know, having said all of this, commissioner Sten is right. You and commissioner Saltzman have a very good track record. But a little bit of flexibility wouldn't hurt. Aye. All right. Item 913.

**Item 913.**

**Katz:** All right. Let me, let me introduce this. This is a request that is coming in from our Portland downtown services, clean and safe downtown business district that has been working on two items. One of which i've been working with them for several years, which is the lighting, and the downtown, and the other one is the, the notion of the creation of an ice ring at, at the square in our living room during the winter season. For a, a portion of the funding they have asked us, and they have asked me to introduce a resolution that would increase the cost of about 2 cents per square foot for, for revenues that would then be available to fund a portion of this program. I will let the people who are going to testify share with you all the details of the total picture and how this is going to look like and how much it's going to cost and who is going to be responsible for the payment. Okay. So, why don't you come on up.

\*\*\*\*\*: Honorable mayor, distinguished members of the commission, good morning.

**Katz:** Good morning.

**Clayton Herring, CEO, Norris Beggs and Simpson, Board Member Portland Downtown Services, Inc.:** I am clayton herring, ceo of norris begs and simpson, member of the Portland business alliance board, and the pdsi board. The resolution that is before us, as we speak, is the opportunity to further, if not fulfill a vision. A vision that started more than 3.5 years ago in a discussion with the honorable mayor and members of the executive committee of app. The discussion entered around an opportunity to add to the vitality of the downtown. To create some magic. To create an environment that if we dream and push hard enough, could further Portland's image as the most livable city in america. An environment in which children and their families from all walks of life, all races and all creeds would want to be in downtown during the holiday season. The members of the pdsi, clean and safe district, a majority of them have agreed to further assess themselves so that this dream, this vision could be fulfilled. Let me give you a little historic perspective. With the mayor's support and the seed money of a three-year commitment, app and the clean and safe district went out and raised from voluntary contributions sufficient moneys to light up a 15 which expanded to an 18 block around the core during the holiday season which kick-off with the lighting of the christmas tree that has become so popular. And continuing through the holiday season. The ordinance before you, with a modest increase across all members of the pdsi without distinguishing who benefits the most or least, knowing that everybody benefits from increased activity downtown, we have the opportunity after the leadership of people like nordstroms, pioneer square, saks fifth avenue and support from nike and meier & frank, the downtown retail council, that many of the building owners -- and money of the building owners to put in place the permanent funding to install the necessary electric -- electrical conduit to operate and to maintain a lighting environment that will kick off with the single switch with the lighting of the christmas tree, and continue through february, and with the added significantly, very exciting and signature draw, a skating rink in the center of this expanded lighting district to 45 blocks, and run it through february when january and february are two of the dark and he was least active opportunities downtown. This is a very selfishless, very exciting opportunity to fulfill the dream

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you, vera Katz, first put on the table. It brings all the goose pumps out of me when I think about seeing those families who came downtown during the three years of the pilot project and watched with excitement the kickoff and then continued to come downtown because downtown was exciting. It furthers safety and it furthers security. I urge you to pass the resolution which we, within the pdsi, have agreed to impose a modest sum upon ourselves to further the fulfillment of this vision. Thank you.

**Gregg Goodman, Portland Downtown Services, Inc. Board:** Good morning. My name is greg, I am here in my capacity as a board member of pdsi, board member of the Portland business alliance, and president of pioneer courthouse square, as well as a private property owner. Like all of you, I believe the strong downtown is, is essential to our community. We also believe that it is the business community's role to achieve a great community. With this in mind, on behalf of the pdsi board, I am pleased to help introduce to you two signature projects, the holiday lighting project and the rink at pioneer square. It is our belief that these projects will help stimulate new private investments in our city, motivate people to live, work, shop and visit downtown, and create a unique icon for Portland, which will be recognized nationally. In detail, the projects can be described as follows -- first the holiday lighting. It is our intent working with bill graham at the city of Portland that the holiday lighting program, the tree lighting will open in, with the flip of the switch as clayton said it will commence the day after thanksgiving, and end, the trees will know lit until march 31st so for a four-month period. This is very signature. It encompasses 45 blocks, roughly, 2nd street to 11th street, Washington to alder. 67 0 trees will be lit. And it will be done in a very, very beautiful way. We are using energy saving led lights that can be used year after year and used 80% less power than a typical light so we really think that it will be spectacular. The total cost for doing this is \$3.5 out of the \$4.5 million that we are here to talk to you about. Then, beginning in 2003, with the help of the development commission, it is our intent to have crossed -- crossover lights that will cross over broadway on numerous, in numerous sections over broadway so as you drive up broadway you will have lights that span over the street and those are called "crossover lights," and they are special lit archways and those will be spectacular. Again, what makes this work is the public-private partnership and we have had a meeting, actually, I think now numerous meetings with bill graham and bill is, is an essential part of making this work. I would like to compliment the city on having a good person working for him like bill. Then let me talk about the ice rink. The rink will hopefully be opening the winter after this. Thanksgiving of 2003. One thing that's important for everybody to realize two, things that are really important, number one, a question that I answer all the time with regards to it is all the bricks, 67,000 of the bricks with names on them will all be replaced. Nobody will lose a name. The other thing, while the rink will be -- it will look permanent, but temporary in nature. It will go up and be taken down with the, with -- it is our intent that it will go up and be taken down with the lighting, so it will go from thanksgiving to march 31st of every year. The rink size is the exact same as rockefeller center, 60-by-120 so we know that it works. The icon, if that isn't icon enough, the major icons that people seem to be fascinated with, even greater than the rink, is there will be six tinsel structure umbrellas up above the rink that span between 50 and 70 feet apiece. These will obviously protect people from the rain, at dan's suggestion, the water that comes and hits the umbrella's will be funneled into a water retention system, and then when we put new water on for new ice, at that time, we will use that water that's, the run-off water from the rain, so thank you, dan.

**Saltzman:** Somebody listens to me. [ laughter ]

**Goodman:** The rinks -- the umbrellas will also open and close, so they are very, very signature and there is people from literally around the country working on hair design right now. With regards to the location, we think that it's the perfect location to have it there at the square. Our saying is all ice is frozen water, it's a function of where you put it and you look in that situation, the rink will take



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up less than 25% of the square and total space. You can look up at the sky. You can look at the american bank building, jackson tower building and the numerous buildings, the pioneer courthouse, and all of those will be lit, and it will really be spectacular. With regards to how many people is this going to draw, the development commission conducted a study, 80,500 skaters per year during the four-month period of time. 429,000 additional visits to downtown because of it. So, I can't really work the economic numbers. Anybody can speculate, but 429,000 times whatever number you want to put on it is a very, very signature number. Plus, we hope it will be, again, like the tree lighting, or the tree lights, it will be a catalyst for, for public and private investment downtown. A bit of a side note, there will be a special emphasis on children, a couple of our sponsorship opportunities are working with, one is free skate for all children under 10 years old. Another is to have a different public school come down after school every day for free skate, so those are two of the sponsorship programs. We are working with the parks bureau to set up a couple of community meetings. We did that with property owners, had a public meeting, which went very well. The -- the cost, as it relates to the rink, is out of the bid is \$1 million. The total rink cost with some brick work that needs to be done is \$12 million, which includes a 2.5 million. The only way the \$1 million gets spent is if we raise the, the other 11 million in the -- and the project goes forward. If not it gets returned to the payers. The success of our fund -- it will not be a situation where one dime of the million dollars gets spent unless we have raised the other moneys, so I think that that's really important. Clayton explained a bit of the outreach that we have had for, for the pdsi did, and let me go into a little bit more detail. First of all, at the pdsi board meeting there was unanimous support from every, every pdsi board member attending. A letter went out to every property owner. There were, to the best of my knowledge, there were three or four naysayers and probably some of them might be here to testify. We had a public meeting, again, where we invited all the property owners. Let me tell you some of the, obviously, you don't have an opportunity to go around and talk to every single property owner and that's why you send out the notice and hold the public meeting but I am going to run down a few of the property owners that are endorsing this project. The Oregonian, standard insurance with both buildings, unico, which is the u.s. Bank tower, both tom moyer buildings, pac west center, morgan park properties, nordstroms, meier & franks and pioneer place. Ods tower, bank of america financial center, both hilton hotel, all four louie dreyfus buildings, the weston hotel, marriott city center, wells fargo tower the grieves and world trade center. And I think what's really, really important about the list that I just gave you is the majority of those property owners aren't in the 45-block district. They are outside of that district, but they realize a strong retail core, a strong downtown, benefit as lot more than the 45 blocks. So, again, i'd be happy to answer any questions and like clayton I would urge to you support the resolution.

**Katz:** Before we get to the legal issue, let me -- I neglected to add that when this proposal came up, I did mention that our budgets are put to bed. They are done. And we didn't have any additional costs. Remember, we are charged as well, especially for the garages, and so included in this ordinance is that at least for the first year, we are, as a city, exempt. Although I need to remind the city council that we can exempt ourselves at any time if there is a fiscal emergency and we do reduce our payment based on that, that's part of the contract with the nonprofit corporation. So, at least for this year, we will be exempt. We are in a fiscal emergency, and if we continue to be, that will be a council decision for the following years. Our portion is relatively small, but it is, it is substantial when we don't have resources. Yes.

**Chris Thomas, Attorney, Portland Downtown Services, Inc.:** Thank you, madam mayor. Members of the council, I am chris thomas. I am the attorney for Portland downtown services inc. My job here today is pretty technical. Just so explain specifically what you have in front of you. The program that you have just heard described would be carried out through Portland downtown

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services, inc., as a function of the downtown district that presently is in place. What you have in front of is you is an ordinance then which adjusts the formula for the license fee for that district effectively to set an additional payment for the first year that will then carry on their, thereafter and according to the formula at .1 cents per square foot of business property only. We have a different formula for a residential property. They are not affected by the ordinance, so that's important for you to know. The ordinance, in addition, dead indicates the additional funds that would be raised under the adjustment to the lighting and rink program you have just heard about. And it makes some technical adjustments in the provisions that authorize Portland downtown services, inc., to pledge the revenues it receives from the city under the contract under which it provides the district services so that it can borrow money to fund the capital part of the lighting program and fund the million dollars contribution to the skating rink. Then in addition, there will be a portion of the revenues will not be pledged. They will be used for the operating part of the lighting program. So, simply put, that's what the ordinance does. The reason we are here this specific day is because we need to get the ordinance passed so that we can send out the notices as we send out every year in the beginning of august to the license fee payers, and we can send it out with the right amount since we are proposing to make an adjustment here. So, I think that that describes what you have in front of you, and if you have any question, I or I am sure the others will be happy to answer them.

**Katz:** Okay. Let's open it up to questions. This is for the council, jada. Nobody has questions. Let's open it up to public testimony. Thank you.

**Katz:** Who wants to start?

**Allyson Reed, General Manager, Pioneer Place:** My name is allyson reed, I am the general manager for pioneer place. And I am here today to express our support for the passing and acceptance of this ordinance. We have been supporters of the holiday lighting program for the last three years, and believe that this program really is at a critical point at which it's appropriate for it to be supported and expanded significantly by tripling its presence, and this is an opportunity for downtown to really create a signature statement beyond the holiday season but extending through the winter season overall. And our experience has been that when downtown continues it's vitality and strength, that it benefits all lines of business regardless of what those are. And if you remember, it enhances and creates value which shows up intangible and intangible ways and continue to say make downtown a competitive and healthy destination.

**Molly Spencer, Mercantile and Downtown Retail Council:** I am molly spencer, representing mercantile and I am also representing the downtown retail council. I will be the co-chair for that group next year, and I am also a member of the newly formed business alliance. Mercantile is a women's fashion store and we are located between southwest park and southwest 8th and between southwest yamhill and morrison. Representing an independent downtown retailer and a small business, I am able to say with absolute certainty that when downtown can be marketed as a vibrant and exciting place to visit, it has a very positive impact on businesses, such as ours. The downtown lighting program would create energy. It would create foot traffic and it would create positive activity and we really need that. Cost basis-wise, I just got the figures this morning. It is very equitable for a business, such as ours, and basically, we are getting a big bang for our buck. In addition, I think that this is a really positive way to market downtown as a safer place to shop and to eat and to recreate, particularly during the early evening hours and during the winter months when it gets dark so early. This is really, really important to our customers, to feel safe downtown. Lastly, I think that we have a beautiful downtown, and the lighting program will only enhance it. And I think that make it more desirable than our suburban competition, to come to a place to shop and spend leisure time, thank you.

**Michael Powell, President, Powell's Books and Board Member, Community Safe and Business Alliance:** I am michael powell, president of powell's books and board member of the community

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safe and business alliance. You are hearing from three retailers about why this is so important to us. Probably not well-known is that after new year's and into spring break is the slowest retail time business can experience. And so having something which is an attracter and which highlights downtown and is a magnet for people to come is very important. And even those businesses, such as my own, which are primarily not located near either of the lighting or the ice rink, I am sure will feel the benefit, and will indirectly feel the benefit by the strength of other retailers in downtown, so I am here to urge your support. This, once again, is one of those remarkable things that I think about Portland, where businesses will sit down and voluntarily tax themselves in order to create a vibrant and exciting downtown and I urge your support, to support their efforts.

**Katz:** Thank you. Karla.

**Katz:** Grab a mike. Please.

**Dan Lenzen, Co-Chair, Downtown Retail Council:** I am dan, one of the upcoming co-chairs of the downtown retail council with molly spencer. She's the boss. I am also a property owner and business owner in the downtown area and surrounding areas. I bring to you an anecdotal experience from the, from a retailer in downtown when the pilot project was implemented. The customers' perception at that time was that it brought a level of excitement to downtown. I feel the expanded area will encompass an area large enough to make a signature impact. I also feel as a retailer, customers coming into downtown will get a perception of excitement, liveliness and public safety, one of the issues that we face in downtown, is our perception of public safety. Where these lights would be, I feel the public would feel more comfortable and likely more likely to, to return and spend money in downtown which would help us in an economically difficult time. Thank you.

**Katz:** Thank you. It's good to hear from the retail council this is important. Because it's been a little bit frustrating for some of us to get the entire retail community excited about the lighting project, so I am glad that you feel so strongly about it and I welcome molly as a core chair and you will be hearing from me on this issue. -- as a co-chair, and you will be hearing from me on this issue.

**Trand Ivigaldsen, Standard Insurance Company and Treasurer, Portland Downtown Services, Inc.:** I am the assistant vice president for real estate for standard insurance company. And I am also a treasurer of the pdsi board. Beyond the standard insurance center, the standard plaza, we have a signature facility in the public service building, and we also own additional properties downtown in the core, including the new third avenue marketplace, farmer's market on 3rd avenue. Also, I think the second largest employer, they are in, the city of Portland, about 2000 employees. At least in downtown. We feel that both the holiday lighting program and the ice rink are signature enhancements to the downtown core and that they will help continue making the core vibrant into the future. And me, and we certainly support the ordinance on a personal note, despite having both my rows of teeth intact, I am an old hockey player so I think that this is a fabulous project. So, with that said, I urge your support for this project. Thank you.

**Francesconi:** You play hockey on that ice rink and we are going to kick you out of there.

\*\*\*\*\*: That's what I figured, but. [ laughter ]

**Katz:** Thank you.

**Judy A. VanAlstyne:** Judy, I am a property manager for a corporation. I have approximately \$700 -- 800,000 square feet of real estate that we manage in the downtown -- 700,000 square feet in the real estate that we manage in the downtown area. I manage 160 retail and office tenants. From our corporation standpoint, I would say that we do whole-heartedly support the lighting program. Speaking of someone who has been involved with retail, I think the lighting is very important to the vibrancy of the city and the safety of a city. I guess what I am questioning, because it does come into my bottom line as a property manager, is the discussion of the ice rink. And I think of, of

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Portland with 40-degree weather and rain, and wonder how many people will be out on the ice rink. I think of the easy commute to lloyd center on a max train, which now is no charge. And I think of, of the increasing vandalism downtown and so I guess that I am questioning some discussion on should we not have extended the lighting program to, perhaps, october and november and perhaps, had other discussion on the skating rink. So, those are my questions. Again, as someone who spearheaded the old town property flower basket program I believe in the vibrancy and beauty of downtown but I would like to, perhaps, see the lighting extended and perhaps, further discussion on the skating rink.

**Fred Sawyer, Hilton Portland:** Mayor Katz and members of the commission, good morning, I am fred sawyer, hotel manager for the hilton Portland and new executive tower. In the aftermath of september 11 and with the struggling economy these are not easy times for downtown hotels. Especially one that has opened 327 rooms in the last month. So, maintaining profitability is a concern. However it, may surprise you that we support this initiative and the increase in the downtown property management license fee to support it. We believe that the benefits outweigh the cost, especially in the long-term. As you may imagine, it is fairly difficult to attract tourists and conventions to our fair city in the, the december to april period. In this visionary project, we think it will indeed enhance our ability to sell downtown as, as a destination to people who will bring dollars to our downtown economy. In addition, we believe local Portlanders will also be influenced to come downtown and to remain downtown for longer. So, this initiative to us makes business sense. Beyond that, as a member of the community, it does, indeed, enhance the stature of Portland and our sense of pride in the city of roses. Thank you.

**Katz:** Thank you. Anybody else who didn't sign up that wants to testify? Jada, now it's your time.

**Langloss:** This wheelchair needs a remodeling. I have used it everywhere.

**Katz:** I am sorry, we will get to you, jim.

**Langloss:** But I want to tell you, this sounded like a really fun, fun, fun project, but don't forget the slaying for aged and disability who can't use two feet to scatter around, you know. I will be very happy to, to encourage the, the drunks and rowdies who try to skate out there and wreck everybody's life with my long encouragement stick and loud words. I volunteer to do that.

**Katz:** I will hold you to it. Thank you.

**Jim Atwood:** Good morning, mayor, councilmen, I am jim atwood, my address is 33 southwest 3rd, Portland, 97204. I own a number of properties in the downtown area inside the taxing district but coincidentally outside the 45-block area where the lighting is going to occur and the rink is to be built, and I am in favor of the lighting and I think that everybody would, should be, and I am in favor of the skating rink. I do object to taxing it over the several hundred blocks in downtown that make up the pdsi taxing district. I think that essentially, it's the, the property owners and the properties in the 45 blocks immediately around the skating rink that will benefit the most. I think that they are good projects and I would contribute on a voluntary basis to the construction of the skating rink. I think that the lighting is, is most directly benefiting the property owners who have frontage on the lighting district, and so I would suggest that the best way to finance this, these projects would be through a, an lid or local improvement district among those 45 blocks that are going to directly benefit. You know, for example, the, the classic chinese garden, I think that that benefits all of downtown Portland, but it's a long ways away from meier & frank and nordstroms, and the louie dreyfus property and to tax those property owners to pay for the classic garden, simply, is inappropriate and now we are asking the chinese garden and chinatown and the up around union station to pay for improvements of lighting up in the core area around pioneer square. I think that, while it may be a modest amount, I think that it's inappropriate to tax everybody several hundred blocks for improvements that are going to occur, essentially, in these 45 blocks right in the

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center of the district. So, for that reason, I do object to the change in the taxing structure. Thank you very much.

**Ryan Hogan:** My name is ryan hogan, and I also am an owner of a mixed use commercial residential building in old town. And my neighborhood is neither clean nor safe. My tenants get harassed 24 hours a day. There is drugs for sale in the neighborhood 24 hours a day, seven days a week and I can't agree with paying for a lighting program that doesn't benefit me. My taxes are going up 500% this year because my building was just completed. I paid tens of thousands of dollars in fees and assessments and locked in city fees, and I pay clean and safe taxes. I don't get any benefit from that. I am not going to be getting any benefit from this additional assessment.

**Katz:** Could you give me the address --

**Hogan:** 33 northwest 6th, which is the corner of northwest 6th and couch. I have tenants move out. I was talking to several of them yesterday. There is women that cannot come home at night without feeling hazard. I don't want to sound like a christmas grinch but I get no benefit from this. Thank you.

**Katz:** All right. Anybody else? All right. Roll call.

**Francesconi:** Well, we are in a fight to preserve and protect this special city, and one of the best things that we can do is build upon our strengths. One of our undisputed strengths is our downtown, and that's true whether we are in the 45 blocks or whether we are in lents or st. Johns or beaverton or gresham. this is our regional downtown, and we must protect it, but improve it or we lose it. So, I think that both of these proposals help us, and they add to our business vitality, but they also just add to the excitement and they bring people downtown for economic reasons, but for other reasons. They make it fun. And we need to have some fun. And this can add to it. There are economic reasons to do this. Those 429,000 additional visits will sure make a difference for some of our small businesses that are paying a high price and are struggling to make it. And they are having a tough time, and if we want some unique businesses in our downtown, we need to have some exciting attractors, and so I think that both of these proposals will help in that regard. They will make it safer by bringing more people, and they will make it more fun. Now, we, in the public sector, need some help from the private sector to add some of that luster and excitement because we need to spend our resources on making sure that there is enough police officers and firefighters and fixing the potholes in the roads and maintaining our parks. So, we need some help from the private sector, who are willing to assess themselves to help make this happen, and so we appreciate that and we appreciate the leadership that you have shown in bringing this to us. Now, regarding the ice rink, this is not the time that we approve it. This is the time that we approve the funding mechanism, but I have to say that I am excited about the ice rink, as well. It is important that we have a commercially active and vital downtown for our businesses, but we also have to have public places, especially pioneer square, which goes at the heart of who we are as a city, and it's important that that square remain public and be for all of our citizens. So, as the parks commissioner and with the help of terrific park staff who care very much about maintaining the public quality of this city and our public spaces, we wash this had ice rink proposal very carefully, and in fact, there were two designs presented to us that we rejected because we felt that they closed the square off too much. But because of the temporary nature of this, because it's limited to four months, because of the open design, not only in terms of the square, but without walls, and because of a public purpose being recreation, which attracts families and children to the heart of our city, for all those reasons, we don't feel this crosses the line in terms of the public-private use. We feel that this compliments the square, and it's something that is very, very important to us to maintain the public nature of it. So, I guess I want to thank a couple of people here. One is the mayor for leading this fight to protect and preserve our city, as well as these particular proposals. I want to thank jim wadsworth from the bureau of licensing who worked closely with -- to help put this funding mechanism in place from

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the public side. I would like to thank clayton herring for the work he's done and his leadership and his lo of the city, which is manifested in this project. I would like to thank greg goodman to raise the private dollars without which this would not happen and I would like to thank karen whitman for helping maintain the balance. You know, we in parks ask the private sector to come up with money to maintain the square because we don't have it but at the same time, we ask you to, to follow the public trust that this belongs to all of the people. We realize that it's a balancing act, but we think that this brings some people to our city, helps our businesses, adds some excitement, and lets us have some fun. Aye.

**Saltzman:** Well, I think that this is truly a wonderful project. It will bring not only many more points of light to downtown at a time when we need it most, but I think that all of us can easily envision a, a wet november-december 40-degree day as somebody mentioned where you look out in pioneer square and all you see is this lonely tree with some cardboard boxes underneath it and nobody else is in sight. So, I look forward to the opportunity to thank the mayor for bringing a little piece of new york to Portland with an ice rink, but that's really not the point before us today, and with regards to miss vanstein's remarks, I think the market will show us if there is support for the ice rink because mr. Greg has a substantial fundraising hurdle ahead of him and if people aren't willing to support this, we will not have this rink and this million dollars will not go to that purpose, but I do believe at this point that my gut feeling tells me that it will be a resounding success. We need more activity downtown. We need more retail. We need more customers. We need more people downtown. I can think of nothing more that will do that in the winter months than these lights. Anybody that has visited a northern city, like a copenhagen or a stockholm in the winter knows that they very effectively have realized the depressing effects of dark days and gloomy days, and we have all heard of the theory about how light boxes can help fight depression, well, these little boxes all around the city of Portland, I think, are going to go a long way toward making people's attitude in winter improve. And they will spend more money when they feel better. [ laughter ]

**Saltzman:** Aye.

**Sten:** Well, commissioner Saltzman is right. Reminds me that there is one of those small scandinavian towns that sends their residence greece to sit on the island and I don't think with fundraising we can afford that. [ laughter ]

**Sten:** But there is clearly a message. Whether it's at home or in business or anything else, you have to do new things to create excitement and to keep something vital, and I think that this is exactly that. It's another new idea that will, will keep people wanting to come downtown and should be very fun. We have debated a lot of things, and some of them are difficult and some aren't about how to make sure that downtown stays a retail hub, and I think that the one thing that is completely not in dispute is that, to have successful retail you have to have people, and this will bring more people downtown, as well as I think be really fun. I was very encouraged, this is a small aside to the idea of raising money so kids can go free and all those things so that it's something that if people don't have the couple of bucks it takes, that they can still go skating and I just think that it's a remarkable piece. I think it is something that people will really love and my hats off to greg and clayton for leading this thing and let's see if we can do it. Aye.

**Katz:** A little history on this, clayton is right. He, in one of the meetings raised this issue. He knew that I was also interested in lighting the downtown. And the reason that I made the remark to the co-chair of the downtown retail council was that I was so disappointed, I think it was in 1994, that the downtown really, with the exception of some of the larger retailers and some smaller retailers, the downtown really did not show the kind of excitement that would attract people to the downtown and to the retail opportunities. And so the council approved for three years a small amount of money and clayton, bless his heart, did a lot of the work in beginning to think through

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not only the holiday lighting but also architectural lighting for some of our older buildings, lovely buildings. We have had to shut some of those lights down during the energy crisis, but that's part of the thinking about how we light up parts of the downtown. But, we couldn't continue spending our money on this. This is, this had to be a partnership with the business community and the downtown, and so this idea came up to, to the council and I am very pleased that the council is supporting it. As far as the ice rink is concerned, I probably get all the e-mails and the phone calls about downtown and the problems in the downtown area on certain days and at night and I do ride around downtown at night to take a look at the square, and commissioner Saltzman is right. It is during the winter months pretty vacant but there are exceptions, and it would be nice to open up the square to more than just a few people hanging out in the square during the winter months. So, it will bring people down. It will have, it will be more fun to be in the heart of the city, and as I keep saying over and over again, there is no finish line for a city. And there is no finish line for a downtown. There is no finish line for neighborhoods, as well. And improving our city and improving our neighborhoods, including the downtown, never stops. Thank you, everybody. Greg, thank you. I am offering my services to you to raise some of the money for the ice rink. Not too much of the services, but some of them, and I am pleased to vote aye.

**Francesconi:** Mayor, I forgot to thank bill graham, too, so he should be recognized for all his work so I wanted to thank bill.

**Katz:** All right. Let's move on. 914.

**Item 914.**

**Saltzman:** Thank you, madam mayor. It gives me pleasure today to have the council accept almost a million dollars agreement with climate trust to help reduce the emissions of carbon dioxide. Under commissioner Sten's leadership the city developed an action plan on global warm that go calls for us to, to reduce our co 2 emissions below the point of the 1990 level. This climate trust, which is a Portland-based nonprofit organization is going to help us reach that goal by providing us some ability to weather-wise multifamily residences and also make some commercial buildings more energy efficient through the green building program at the office of sustainable development, so this is, this is a great opportunity, again, for a local-based nonprofit to come forward and help the city become a better place and I will turn it over to cheryl or dave? Carbon dioxide.

**Dave Toos, Office of Sustainable Development:** I am dave with the office of sustainable development and the energy division -- in the energy division. Cheryl bunn is with me, the multiproject manager and mike burnett, the director of the climate trust, and we thank for you your time this morning. We are really happy to be here, and to be bringing this nearly a million dollars grant opportunity to council for your approval. It's another first for the city and for osd. It's a situation where an independent trust pays the city to help private sector investors to produce carbon dioxide benefits through energy efficiency. It's an outgrowth of the city's global warming action plan that was adopted a little over a year ago, and as you know, the action plan addresses energy efficiency, renewables, waste reduction, efficient transportation, forestry actions and others to reduce the environmental impacts of carbon dioxide emissions. The proposal is two-pronged. It addresses commercial buildings through the g-rated commercial building program that, that osd operates and then through the multifamily assistance program. Both programs provide free technical services and consulting to owners and property management companies. This agreement is paid for performance, it's not a grant. We need to perform and deliver actual energy savings to the energy trust, and we do that by asking the property owners that we work with and the investors to legally transfer the co-2 emission credits to the city and then from the city over to the trust. The benefits are really far reaching. On the green building program side, we plan to reach at least 40 new commercial buildings through the city's Portland lead, leadership and energy and environmental design program. We figure that that's going to be about 2.5 million square feet of

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commercial buildings, that's equal to about 30 city hall facilities to put it into perspective. We already have a good resource developed from the early days of the green building program where a number of commercial building and residential demonstration projects and case studies have been developed. That will be the platform for which we market our green building services to the private sector community and reach these 40 or more new buildings. On the multifamily program side, we are going to be reaching 12,000 residential units, not only in Portland, but in statewide. We expect that that will bring about 24 million of property improvements and tenant bill savings over the life of the measures, some measures lasting 45 years of \$50 million. All of this at no cost to the city. No impact on the city's general fund. I would like to turn the microphone over to Cheryl Bunn who would like to describe the multifamily program briefly.

**Cheryl Bunn, Office of Sustainable Development:** Thank you. Madam mayor and members of the council, as the program manager for the multifamily assistance program I would like to give you some of the nuts and bolts of the program, as well as reemphasizing some of the incredible benefits that our program will bring to the community. First of all, we are in the business of helping property owners make their properties more energy efficient. Through our extensive marketing efforts we will let customers know that there are ways to make energy efficiency affordable and uncomplicated. We currently work with property owners and managers to match their improvement goals with available financial resources and we couple that with technical and financial assistance. Our program builds on existing state and local incentive programs, including programs offered by the Oregon office of energy, such as the business energy tax program, low interest loan programs and the oil weatherization program. We also work with incentive programs of local and statewide utilities and we expect to work with the future programs of the energy trust of Oregon. By working with owners to make energy efficiency improvements easy, we do a lot. For owners, we insure their access to financial incentives and technical information that makes their projects possible. We act as a one-stop shop for a gambit of energy and resource efficient measures that our customers can take advantage of. But more importantly, we do a lot for our renters. We will lower energy bills for 12,000 Oregon renters and this will be especially beneficial for our low to moderate income households. Through weatherization, we will be able to address building issues, such as mold and mildew, we will be able to improve tenant quality of living and comfort, and finally, we will help to insure that rental housing is preserved and affordable for its occupants. We will be working in partnership with our customers to achieve common goals. Our goal to save energy and reduce carbon dioxide emission is well matched with our customer goals to reduce capital improvement costs and improve profitability and marketability of rental units. Through the climate trust contract, we will serve, as we said, more than 12,000 apartment units in Portland over the next five years, and statewide. We recognize that this is no small feat, but we are very confident based on our past history, our strong links to the multifamily industry, and our very capable multifamily team that will be able to meet our contractual obligations. Thank you.

**Katz:** Thank you.

**Mike Burnett, Executive Director, Climate Trust:** Mayor Katz and city commissioners, my name is Mike Burnett and I am the executive director of the climate trust, which is a Portland-based nonprofit. I am pleased to be here speaking in support of an innovative partnership involving two of the national and international leaders in climate policy. The city of Portland and the state of Oregon. Portland in the early 1990s became the, a founding member of the international council for local environmental initiatives, cities for climate protection campaign and produce the first climate change action plan of any, produced by any city in the United States. Leadership on this front has continued on both policy and program fronts since that time. Oregon in 1997 enacted the first legislation in the U.S. requiring reduction in greenhouse gases. This legislation requires new power plants to offset part of their carbon dioxide emissions, about 17% so a very significant chunk.



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And the new power plant owners provide funding to the climate trust, independent nonprofit and the trust buys what are called carbon dioxide emissions, or offsets, carbon dioxide emissions reductions from, from other organizations. And as you may recall in the year of, of 2000 in, completing in 2001, one of our initial five projects involve the, the city project from the transportation bureau, a ride share project, carpool match, northwest.org, which is launched here earlier this year, and last year, 2001, we announced the availability of \$6 million of offset funding from a couple of large and small power plants here in the state of Oregon. We received over 80 proposals from all around the country and all around the world and we selected seven projects, so, you know, you competed, you know, against a pack of very high quality projects in order to receive this, this, this selection of your project. This project is a product of a year and a half of hard work by commissioner Saltzman's staff and the office of sustainable development, as well as my staff with the climate trust and in my board, also, of the climate trust. Why did we choose this project? First, it involves energy efficiency, my board believes that energy efficiency, renewable energy and co-generation, and kind of the three most preferred technologies or approaches for, for trying to solve this problem. Second of all, it, it focuses on reaching a hard-to-reach market sector for energy efficiency, you know. It's kind of, it has tended historically to be neglected not so much here in Portland but, but the, the multifamily sector has always been kind of the, an underfunded sector, I guess I would say, historically it involves lower income residents, typically. In addition, it involves advancing new technology through green buildings. Finally, we like the proven track record both in energy efficiency and climate of the city of Portland. You have a great climate pedigree and we are pleased to be doing business with you. The trust is a major buyer of offsets on the world market and this partnership involving both us as a leader, you all as a municipal leader will draw much international attention, and this project, specifically, demonstrates thousand deliver the benefits of greenhouse gas mitigation funding to local residents and also to empower local property owners to help solve this global problem. There are direct benefits to the citizens of Portland as david pointed out, lower bills, \$50 million, greater comfort, healthier and more valuable buildings, and in addition, this project will help promote sustainable businesses, add 20 jobs and I believe, the sustainable business sector is kind of a growing part of the, of the Portland economy, and I think that many consider this as an important engine of future growth. So, I appreciate your support for this innovative partnership that brings signature benefits to the citizens of, of Portland, as well as a global environment.

**Katz:** Thank you very much. Questions by council. All right. Public testimony? Come on up.

**Katz:** Gentlemen, why don't you go ahead and testify first.

**Rob Crash, Housing Development Center:** Good morning. My name is rob, and I am from the housing development center here in Portland. Hdc is a nonprofit development consulting working with area nonprofit community development corporations to develop affordable housing. And when cheryl asked me to appear here today, I was more than happy to do so because osd has been a great development partner for us over the last couple years and as all of you know quite well it's very difficult to develop affordable housing and we have to couple together many funding sources to do every project. And osd has been our link to a number of energy related and sustainable building practice resources. They have provided technical assistance with weatherization programs and helped us with business energy tax credit applications. They have arranged for energy audits for our projects and have completed rebate applications for us. Osd has provided project specifications and contractor referrals and we have also participated in osd's g-rated program, which has allowed us to incorporate sustainable building practices into affordable new homes being sold to first-time home buyers. And one of the greatest things about all this is the fact that osd services come to us without any cost. And it's a very valuable service. I just recently completed a project outside Portland where we applied to the state for business energy tax credits and had to spend 2000

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to hire an engineer to do the calculations for the application. And ultimately, we ended up with \$9,000 in credits but we had to spend \$2000 of those just to prepare the application. So, and I understand that, that one of the reasons that osd is able to provide these services is because of this agreement and this contract with the climate trust, so also, the, the credits have no real marketable value to our clients, so, so we are able to turn them over to the city that can use them with the agreement with the trust and so we are, we are pleased to offer our support for the program.

**Katz:** Thank you.

**Kevin Cavanaugh:** Hello. My name is Kevin Cavanaugh, and I am an architect downtown and I am also a small-time real estate developer. I am obviously in support of the climate trust grant, and hoping that it passes. I will be taking advantage of it. The office of sustainable development and the green building division gave me some grant money last year to take up, up a lead project through certification. It's now lead silver. There are two small infill developments that I did, they are going to be completed now and they have lead criteria. One is on southeast 28th and Ankeny, and the other is on 45th and northeast Fremont, and that's --

**Katz:** Which is the one on Ankeny.

**Cavanaugh:** The box in one loft. It has a big sculpture on the corner of it. Both projects are qualified for lead certification. The green buildings vision gave me the money to take one of them, the one on Fremont through, take it to the lead silver rating. I could never have done it. They are very small projects, I couldn't have afforded to do it myself. The lead project on Fremont that we will be using, hopefully the climate trust grant for, there's a 3% budget for art. Shared parking. 100% of the jobsite waste was recycled. Most of it curbside. All of the stormwater, the topic on hand about half an hour ago, all the stormwater is dealt with on-site. And more importantly, and what, what, what works towards a climate trust grant is that it's, it's 40% more efficient than code, which on average saves \$800 a month in utilities over the life of the building. So, being able to monitor that has a huge value to it, to me and also to, to the fellows, to the folk in the office of sustainable development -- to the folk in the office of sustainable development.

oh, one last comment, and the product didn't cost any more to go green, kind of debunking the myth to go green you have to spend a lot more, and at FAA, we currently have six lead projects on the board. One of them at Heron Lakes has to be is, mandated to be lead. The other five are voluntarily going lead in large part because of my direct experience that it's not more expensive to, to do so.

**Katz:** Let me ask you a question now that at least temporarily I have got OPRD. Did you have difficulty with the code? Did you run into problems as you were going green?

**Cavanaugh:** That's a good question. Actually, no. The two buildings were innately lead, and they were actually on the board, kind of before a lot of the initiatives were happening last year. A lot of infill development in Portland, Oregon, already gets you halfway there, and a lot of the, a lot of OPRD's planning code and what Portland is trying to do with regards to infill development get you there shared parking, developing and maximizing the site density, stormwater, planters, things like that.

**Katz:** Good, glad. Thank you. Jada.

**Langloss:** I am so glad I stuck it out and didn't go back to rest because I really am proud and honored to meet you --

\*\*\*\*\*: Thanks, you, too.

**Langloss:** I have been talking of archology for 25 years, it's over and over again and they don't get it. And anyway, I really would like to see our prisons and our so-called loony bins, we use all of that energy to start building our colleges so that they can live in the place that they worked on in the first place. Our colleges do not have to use fossil fuels. And it's my idea, well, this is kind of the, a controversial thing. I don't think that an energy man that controls all the oil in the world should be qualified to be our president because there are alternative forms than depleting the earth of all its

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lubricating oil that -- of all its lubricating oil that keeps the plates from cracking all up. Sometimes I think we, I think we take all the oil out for energy and burn it in the air that, that our planet is going to end up like the asteroid belt between mars and jupiter because there's nothing to hold it together. We took it all out. But then that's getting into science fiction. Which I like that, too. And I am really proud that I had the courage and the energy to stick it out this long in order to meet these guys.

\*\*\*\*\*: Thanks.

**Katz:** All right. Anybody else? If not, this goes on -- no. Roll call.

**Francesconi:** To be honest, I don't know exactly how you are doing this because I don't understand the financing well enough, but I have to tell you, I know what you are doing, and that is you are lower energy costs and helping to promote the kind of businesses we want and you are attacking the, probably the most serious problem in the whole world. And so I guess that I want to thank you and starting with commissioner Saltzman, this is actually terrific, and unless we figure out the economics and get the private sector involved with mechanisms like this, we are not going to solve -- with the mechanisms like this, we are not going to solve the energy problems involved. So I think in all the all the things that I have seen in terms of an approach to work, this is it. So commissioner Saltzman and susan and your staff, this is terrific. Aye.

**Saltzman:** Well, it's a lot like stock options, but it's much more tangible, that's how it works, and it also benefits our environment. I want to thank climate trust for choosing us out of a very competitive field and thank the office of sustainable development for putting together a competitive proposal that will not only reduce operating costs for commercial buildings and make them better on our environment but as cheryl said this will also reduce people's utility bills, and benefit their bottomline pocketbook and that's a very important goal of sustainable development, as much as everything else that we do in the name of sustainable development. So, this is great work. One thing that I just wanted to raise today is we heard a presentation about adding many, many streetlights in the wintertime. I know that we, earlier worked with, maybe it was climate trust to, to, to convert our stoplights, our traffic signals to led lights, the downtown people would very much like to consider led lights so if there is a possibility that we can get a carbon dioxide offset limit to help them purchase those lights, we would be very much interested in working with you. Aye.

**Sten:** Well, this is very exciting. I want to thank the green building team and commissioner Saltzman for, for getting to us this level of sophistication, and also let me just take a second to recognize the climate trust who, I think, is making a pretty bold and unusual investment here in Portland, and probably not enough has been said about how signature the climate trust is in terms of trying to take what I think is, is thankfully, finally a political concensus everywhere except the federal government of the united states that it is a problem and come up with solutions that we can use to take it on. I will resist the temptation to talk for too long today but I would just like to put this in context a little bit. I think you can't -- you really can't solve the global warming problem without movement in the u.s. And I was joking but I also very serious that our federal government is not addressing this issue in any way, and so if this problem is going to be addressed and I am one of the people that believes that it's not, we have some very dire consequences, and particularly for our kids and grandchildren, cities are going to have to show that it can be done in a way that eventually moves the federal government and Portland actually in the last two years has seen an overall decrease in emissions, which is remarkable and shows that something can happen here, which follows a decade of per capita decreases and that also all extremely signature. To get to the next level and to start to get near a path that could potentially show us a solution, we have to get more sophisticated and I think that this is, this is one of the key next steps to show that we can actually begin to find cost effective investments to systematically build this kind of thinking into the way we run the city and I think that that's what the climate trust is recognized, is that thanks to

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susan and all the team we actually have, have the sophistication in the city to try and build a systemic approach to something that I think that we have been taking on very effectively, but kind of instinctively and in a less direct fashion, all the things that we have done to reduce our emissions to date are because of other great things that we are doing, like transportation and recycling and other things, which it turns out are good for global warming, so I think that this is a very signature step forward in trying to get where we need to get. And as you can imagine, I am delighted to vote aye. Thank you.

**Katz:** Well, congratulations to everybody, and commissioner Saltzman, commissioner Sten, thank you for educating me so now we at least have, at least, and I hope the whole council, but at least three of us, and I am sure four today, that feel very strongly about it.

**Francesconi:** What was that all about?

**Katz:** No, for today, that I feel very strong, strongly about it, and susan, you deserve a lot of credit. So, I want to thank you and climate trust, thank you for having faith in us. Aye. All right. 954.

**Item 954.**

**Andrew Aebi, Local Improvement District Administrator:** Good morning, mayor, commissioners, Andrew aebi local improvement administrator. The total amount of the assessment for the arboretum circle led is about 20% below the original estimate, and I am pleased to announce that we did not receive any written remonstrances for the lid's final assessment.

**Katz:** Anybody want to testify? This goes on to second. All right. 955.

**Item 955.**

**Katz:** This is very exciting. It will allow our officers -- this is very exciting. It will allow our officers to capture fingerprints without having to go down to the jail or to any other place for identification. They will be able to do it right through, right in the patrol cars. I've been waiting for this kind of technology to be available, and this will make it happen. No matches required. Anybody want to testify? Roll call.

**Francesconi:** You do a terrific job, mayor, of getting federal grants. Aye. [ laughter ]

**Saltzman:** Great work, aye.

**Sten:** Aye.

**Katz:** Mayor votes aye. 956.

**Item 956.**

**Katz:** You know that we have had three officers at the columbia villa to respond to issues at the villa, dedicated to the villa, paid by the federal government. We now only have one and a captain brent smith will be the project manager and the officer will probably be coming from north precinct. Anybody want to testify? I am sorry, commander smith. Roll call.

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

**Katz:** Mayor votes aye. 957.

**Item 957.**

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

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

**Katz:** Mayor votes Aye.

**Item 958.**

**Katz:** All right, this is -- this is just amending a date for renewal and reconsideration. What this will do will bring the drug and prostitution free zones on the calendar at the same time on some, on september 26 at 2:00. Anybody want to testify? Roll call.

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

**Katz:** Mayor votes aye. Now S-959.

**Item 959.**

**Katz:** Roll call.

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**Francesconi:** This is just part of the council effort to lower the cost for small business. Don, thanks for your work on this. Aye.

**Saltzman:** Good work, commissioner Francesconi, and don. Aye.

**Sten:** Aye.

**Katz:** Aye. Thank you. 960.

**Item 960.**

**Katz:** Roll call.

**Francesconi:** Aye.

**Saltzman:** This makes the stormwater code easier to implement and I want to thank both the staff of bes and our stormwater advisory committee for all their hard work in getting that. Aye.

**Sten:** Aye.

**Katz:** Mayor votes aye. Thank you, everybody. And we stand adjourned until 2:00 this afternoon.

At 11:53, Council recessed.

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**Katz:** Karla, please call the roll.

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

**Katz:** Present. Commissioner Francesconi is on vacation. All right. Let's read item 961.

**Item 961.**

**Katz:** Okay.

**\*\*\*\*\*:** Good afternoon.

**Frank Hudson, Deputy City Attorney:** Today's hearing is an on-the-record hearing. This means you have to limit your testimony to materials and issues in the record. That means that during this hearing you can only talk about the issues, testimony, exhibits, and other evidence that were presented at the earlier hearing before the hearings officer. You can't bring up anything new. This hearing is designed only to decide if the hearings officer made the correct decision based on the evidence that was presented to him. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded that you must limit your testimony to the record. The order of testimony will be as follows -- we will begin with the staff report by the planning bureau staff report for approximately ten minutes. Following the staff report, city council will hear from interested persons in the following order. The applicant will go first -- excuse me. The appellant will go first and have ten minutes to present their case. Following the appellant, persons who support the appeal will go next. Each person will have three minutes to speak to the council. This three-minute time limit applies, regardless of whether you are speaking for yourself or on behalf of an organization such as a business association or neighborhood association. The principal opponent, in this case the applicant, will have 15 minutes to address the council and rebut the applicant's -- the appellant's presentation. After the principal opponent, the council will hear from persons who oppose the appeal. If there's no principal opponent, the council will move directly to testimony from persons who oppose the appeal. After supporters of the appeal conclude their testimony. Again, each person will have three minutes each, whether you are speaking for yourself or on behalf of an organization. Finally, the appellant will have an additional five minutes to rebut the presentation of the opponents of the appeal. Council will then close the hearing and deliberate. After the council has concluded its deliberations, the council will take a vote on the appeal. If the vote is a tentative vote the council will set a future date for the adoption of findings and a final vote on the appeal. If the council takes a final vote today, that will conclude the matter before the council. If you wish to speak to the city -- to city council on this matter and have not signed the list located outside of council chambers, please sign up at this time with the council clerk. And I want to go over a few rules with respect to the scope of testimony today. As I said earlier, this is an on-the-record hearing. It is not an evidentiary or de novo hearing. This means you must limit your remarks to arguments based on the record compiled by the hearings officer. It is permissible to refer to evidence previously submitted to the hearings officer. It is not permissible to submit new evidence today that was not submitted to the hearings officer. The planning staff and I will be listening carefully to your argument and if it strays from the evidence or issues presented at the initial hearing, I may interrupt and remind you that you must limit your argument to issues and evidence in the record. If your argument includes new evidence or issues the council will not consider it and it will be rejected and city council's final -- in city council's final decision. If you believe a person who addressed council today improperly presented new evidence, or presented a legal argument that relies on evidence that is not in the record, you may object to that argument. The council will provide a time at the end of the hearing for anyone to offer this kind of objection. Finally, under state law only issues which were raised before the hearings officer may be

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raised in this appeal to council. If you believe another person has raised issues today that were not raised before the hearings officer, you may object to the council's consideration of that issue. Again, the council will provide a time at the end of the hearing for anyone to offer an objection.

**Katz:** Thank you. Declarations of conflict of interest by any of the council members? Declaration of ex parte contacts by council members? Anybody want to challenge our silence on the two issues? If not, we'll proceed. As we proceed, I want to make it very clear to the audience, if it's not clear to them already, what are the legal parameters for this council in terms of making a decision. We may be swayed by some of the arguments or with our own personal positions, but we are limited within the legal scope. And I want to make sure, if i'm wrong, that I am corrected. If i'm right, that we clarify that for everybody on the council as well as for members of the audience. Okay? Come on up.

**Mark Walhood, Office of Planning and Development Review:** Good afternoon, mayor Katz, members of council. I'm mark, staff of pdr, staff planner to this case file today. I do want to mention that there's two numbers associated with this on the briefing. It's also 02-008239 -- yeah, we're ready for the power point. I'm sorry.

**Katz:** Can you talk into the mic? Let's not have shouting conversations. This is a very thoughtful, quasi judicial process.

**Walhood:** Thank you. I apologize. Again, i'm with staff of pdr. There is a secondary tracts identification number.

**Katz:** If you are hard of hearing or can't hear, we have little microphones for you to use -- not microphones -- earphones for you to use. Why don't you ask karla. She'll be more than happy to provide that for you. Okay.

**Walhood:** We're here today on an appeal of the hearings officer's decision if approval of a zone change in the case with conditions. The application is a zone change from single family r-5 to high density residential rh. It is in compliance with the comprehensive plan -- let's see, the appellant is susan price. I have to correct my power point handout, I listed the appellant for tomorrow's hearing. It's susan price. The staff recommendation was identical to the hearings officer's recommendation approval with conditions. The council today will uphold, uphold with modifications or overturn the hearings officer's decision. As I mentioned, this is the site plan submitted by the applicant. It's a 100 x 100 squat -- square foot lot, 10,000 square feet. At the present time the applicant is contemplating a 25-35 unit apartment with low-income, about 20,000 square feet, four stories over some partially below-grade parking. I should emphasize that the applicant has requested this review has been based upon simply going to rh as opposed to the specific development proposal.

**Katz:** I'm sorry, say that again.

**Walhood:** The code gives us two ways to review these types of land use reviews. One is to base it on a specific proposal, e.g., the 35-unit apartment.

**Katz:** Right.

**Walhood:** Or base it on rh.

**Katz:** With the zone.

**Walhood:** Exactly. So we've gone with the rh per the applicant's request. We have existing and proposed zoning. Basically what happens is it goes from r-5 with a scenic overlay and recreational trail to rh with a scenic overlay and recreational trail. Recreational trail goes along the frontage of the site on baltimore. And the scenic -- i'll just mention real quickly -- is due to a panorama from the center span of the st. Johns bridge, basically looks over this area to the northeast to the four mountains, st. Helens, adams, rainier, and i'm forgetting the fourth one. This is a view into the site, looking at the house and garage sort of slash carport on the site from edison, looking west, forest park in the background. Again, looking into the site, this is from basically the corner of the street at

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baltimore and edison. You can see that the baltimore is going down the street on the left, edison's on the right. And you see that the south lot's basically vacant. Just one house on the north half. Again, looking at this site from baltimore, you can see in the foreground how the sidewalk sort of stops at the corner. One of the conditions is to install a new street tree planter strip and then a sidewalk setback from that, which would clear and clean up the grassy, weedy frontage along baltimore. Looking down baltimore to the west, cathedral park is at the bottom of the hill, you can see the river, st. Johns bridge, really a beautiful, scenic area. Again, looking down baltimore, there's some row houses down on the left, foot of baltimore. Just another closeup of the frontage along baltimore. You can see in the very foreground you can see the existing curb, which will give you an idea of the extent to which the frontage along baltimore will be pulled back. The first -- I don't know how deep it is -- 6-7 feet of grass will be taken away, turned into the parking. Again, just another closeup. I don't know if it's blackberry, but bushy along baltimore. Another closeup of the row houses down the street on baltimore. Again, this is looking up north decatur, half a block west of the site. The west half of the block is a wooded, steeply sloping hillside. This is looking east of the site. There's a -- excuse me. There's a three-story apartment across the street and another block to the east is the housing authority's shrunk tower I think from the 1970s. Could be wrong about that. The hearings officer's decision was to approve the request from r-5 to rh subject to conditions. The first condition is that the applicant reconfigure and improve baltimore and edison with a street tree planter strip and a sidewalk. The second condition is for a performance guarantee being posted for the cost of the approved improvements. And the approval criteria in the review, i've got code language in green and my comments are in blue or black. These are all zoning code excerpts. We can do a quasi judicial, as the mayor Katz noted land use review to change zoning. We can also do legislative zoning changes. For example, through the st. Johns lombard plan which is underway. I do want to point out, because it will come up later, that barry and marguerite are here from bureau of planning, and they're happy to talk with people who are interested in the st. Johns plan. The approval criteria require that the applicant show that the following things are met. That it's in compliance with the corresponding zone of the map, which it is in this case. That adequate public services are available, specifically water supply, transportation, police, fire, sanitary and storm water, sewer systems. The approval criteria is applied only to the specific site. This is the long criterion, but really the primary and sole criterion, that the application will be approved if the city service bureaus, who review the proposal, determine that the services are adequate. Specifically, again, transportation, water, police, fire, and the bureau of environmental services. The response from water bureau indicates there's existing water service and additional waters available from both the frontages. The fire department reviewed the proposal and found that there were no objections or requirements. They did look at where the hydrants are, water flow, other fire/life safety concerns. Bs has bonded that both the sanitary and storm water disposal systems are adequately lit. Basically applicants got to meet the with the permits. The transportation department has responded that the goal 6 and all related policies, including the transportation element of the comprehensive plan are met per the applicant's. I do have shear and jamie here from transportation. I'm reluctant to answer the transportation questions myself.

**Katz:** I'm sure there will be questions after the public testimony and we'll bring them up.

**Walhood:** Finally the police have responded that they'll be able to provide adequate police services to the site and the proposed zoning will not greatly impact police services. Just the last approval criterion, about going to ir zoning, so it's not applicable, and we discussed the transportation element. Other bureau responses not directly relevant, opdr has given an okay. The urban forester has provided an okay and provided a list of acceptable street trees. We're going to hear two primary issues on the appeal, one about the transportation system. I've listed out the main



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arguments, basically public safety hazard concerns. There are specific concerns with transportation's review and their narrative. Basically an argument as presented that transportation staff did not adequately consider the neighbors' concerns. We have a similar argument for the police service adequacy concerns. There were some issues raised in the police bureau response regarding the project, specifically whether it was owner occupied, whether the project was designed according to crime prevention through environmental design, cpted principles. Basically we have to -- staff responded to that in memos that we can't look at tenancy, not regulated by the zoning code, it could be for rich people or poor people --

**Katz:** No, but we can review environmental issues with regard to public safety.

**Walhood:** Of course. I'm just simply pointing out the police issue about whether it's low income or not is irrelevant.

**Katz:** Go ahead.

**Walhood:** The crime prevention principles, we didn't really flush out, I guess, our response has to be that the concerns about privacy and safety are embedded in the existing regulations. Cpted, porches accessing to the sidewalks, basically simple site design concerns. And then the parking is addressed by transportation. Other issues that we're going to hear today, my position is that they're not directly relevant to the approval criteria. This is just a quick summary of some of the comments that have come in. There's concerns about the appropriateness of rh zoning, especially given the pending st. Johns lombard plan. Concerns about not getting okays from everybody we should have, and that further study is necessary. I'll take the liberty to say, for the first time what I think the zoning should be, which should be --

**Katz:** Are you sure you want to do that?

**Walhood:** Let me caution that with the point is that it's irrelevant. I can enter my comments. I think it should be rx zoning, 200 feet. I think they should have 200-foot towers at the top of the hill and four-story buildings down the hill, and the develop standards should make it look like russian hill, but I don't get to choose these things. My point is there's lots of good ideas out there.

**Katz:** That's why I wanted you to be -- I wanted you to clarify.

**Walhood:** That was new information, so strike that.

**Katz:** Have you ever done this before in front of the council?

**Walhood:** It's my first time.

**Katz:** I know it's your first time. It will be a learning experience for all of us, but I think what you're trying to get at is the very narrow approval criteria.

**Walhood:** I get to say these are the criteria exclusively related to whether the city bureaus, said yes or said no.

**Katz:** And you want to explain that, because?

**Walhood:** Because that's all the approval criteria get to. We wish we had a criterion that said the neighbors like it or --

**Katz:** Okay.

**Walhood:** I don't mean to dismiss people's concerns and good ideas, I think they're valuable and important, but the idea is to get involved with barry and marguerite and the st. Johns plan with all due respect.

**Katz:** All right, thank you. Are you finished? No, you're not finished.

**Walhood:** This is the last one. Council has three choices. Uphold the ho decision, uphold the ho decision with modifications, overturn the ho decisions. That concludes my presentation. Any questions?

**Katz:** Yeah, I need information. When was this -- when did the comp plan map reference --

**Walhood:** That was something I missed in my presentation.

**Katz:** Yes. That's what I wanted you to do.

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**Walhood:** We'll go into that right now. The site has been, since 1981, the zoning has been the same. It's r-5 with rh comp plan. There's a scenic overlay and rec trail. Then it was identical except

with no scenic overlay. From 1959 to 1981, it was r-5, single family, no rh, no scenic, no trail. From -- zoning started in 1922. I think it was 1921. From 1921 to 1959 it was multi-family white two-zone. That was all we had, we had a color-coded map, and it was multi-family as opposed to single family. That's pretty much it. With the exception of 1959 to 1981, always been zoned for apartments since we've had zoning, since '81.

**Katz:** Okay. I'm sure there will be other questions later on. Thank you. Further questions?

**Saltzman:** Just looking at the map here, the zoning map, am I correct in understanding that most of the adjacent properties are rh, except for the properties right next to the subject property?

**Walhood:** That's correct. This is the center of an approximately ten -- well, it is ten blocks of rh. Either rh by right, like you have immediately to the west, although that's rh, and it's that wooded hillside you saw.

**Saltzman:** Okay.

**Walhood:** But generally there's rh comp plan or straight out rh for a ten-block area there.

**Saltzman:** Okay, thanks.

**Katz:** All right. We're going to have the appellants now. Ten minutes for the appellants. Then there will be three minutes each for supporters of the appeal. And then we will have the principal opponents of the appeal. And that will be 15 minutes. And three minutes for those who support the project. And then there will be five minutes for rebuttal by the appellants. All right. Let's -- who's the principal opponent?

\*\*\*\*\*: That would be me. We need to change the computer.

**Katz:** Go ahead. We won't start the clock until you're ready. Let me recommend that you move closer to the mics because -- okay.

**Katz:** We're scrolling. Move closer to the mic.

**Katz:** Is that your machine?

\*\*\*\*\*: It's my wife's.

**Katz:** It's not scrolling for you?

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

**Katz:** Okay, then it's our problem down here.

**Saltzman:** That one stopped scrolling.

**Katz:** That one stopped scrolling.

**Saltzman:** Yeah, mine stopped. Mine's okay now.

**Katz:** We just want to -- thanks. All right.

\*\*\*\*\*: Okay. Are we all set here?

**Katz:** Yes. I've never done this either, so --

**Katz:** Let me give you some clues. You see that little time to go? That gives you ten minutes. You can see on the screen. All you need to do is introduce yourself.

**Eric Palmer:** I will certainly do that. My name is eric palmer. I live at 8207 north edison. I'm speaking on behalf of my neighbor who has filed this appeal, susan price. She lives within a few houses of the contested site and already concerned about near misses that she encounters while driving through the intersection of north baltimore and north edison. And she has not been reassured by the testimony that's been provided by either city staff or the applicant regarding this application. The key -- the key point of this appeal is that the applicant has not met the burden of proof required in this proceeding, that inadequate evidence has been provided by the applicant, that the bureau recommendations have provided conclusionary and sketchy testimony in that there are many unanswered questions that -- that the neighborhood has that -- regarding the sufficiency of

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some of the city services specified in the zone change criteria. Against the evidence that's been submitted by the applicant, we have a large volume of neighborhood testimony that includes real world descriptions of the intersection by people who live there. It is also supported by photo and video evidence. And it also provides documentation for safety issues that are not addressed in a meaningful way by applicant or staff. I don't want to spend a lot of time repeating testimony that's already in the record here, but I think it's important to note that the traffic issues that -- that neighbors have observed at this intersection are -- appear to be manageable now. Or are manageable. It's a problematic intersection, but has a manageable level to it, but we're very concerned that with the added density it will make them unmanageable and there won't be any recourse for the neighborhood at that point. So coming to the zone change criteria, mr. Walhood already went through some of this material very adequately, but we assert that the application does not meet the burden of proof for the cry that I don't know, that this is the criterion that he mentioned that addresses the adequacy of city services and that we have specific concerns, both ms. Price and many other people in the neighborhood, regarding the recommendations that have been provided by the transportation bureau and the police bureau. So coming to the transportation bureau testimony, what the testimony that's been -- or the recommendation that's been presented to us provides a traffic count and a demand calculation. There's a traffic count from 1997 that's used to kind of give a base number and then additional numbers have been added based on the projected demand of the maximum buildout of this site. So this number is given to us, and an assertion by -- or a claim by the transportation bureau that the infrastructure is sufficient to handle that number. However what we haven't been able to determine, either from transportation or anywhere else that I know of, is what the standard for sufficiency is. We have no way of evaluating whether the -- the quantitative nature of this data is valid or not without having that standard and we don't see it, it hasn't been submitted into the record. Additionally, we assert that this recommendation does not address the unique traffic mix at the site. Down below the site there are industrial sites. There's the -- there's the boat dock at cathedral park and there's a very high volume -- during the day almost a steady stream of large trucks, large trucks towing boats, 18-wheelers, delivery trucks, just -- this is not -- you know, we don't observe that this is an intersection of two residential streets. This is an intersection that has a really unusual mix of traffic. And we don't see in the count methodology that that's accounted for in any way. As I said before the traffic count is outdated, over five years old. There's been a lot of change in our neighborhood and we'd like to see that examined more closely before approving an application like that. Specifically, and then also coming to the safety issue, there's a 20% grade as was illustrated by mr. Walhood's pictures, dropping away from edison on baltimore. And there was a lot of neighborhood testimony regarding the line of sight issues created by this grade and the possibility that development of this density would aggravate the -- that problem. The transportation recommendation claims that the line of sight issues would not affect this development. However we did not -- there wasn't any testimony submitted regarding how they determined this. There's no repeatable methodology provided. we haven't seen any measurements or other supporting data to go along with this. It also mentioned in the recommendation that the driveway of this project could be positioned such that it wasn't affected by any line of sight issues at the intersection. But there's no testimony provided about where those locations might be or what the methodology for determining their location and evaluating their safety would be. Against this, like I say, I don't want to repeat too much testimony, but I pulled a couple of kind of key quotes out of the neighborhood testimony. And there's also several pictures submitted of which this is one. You can see right there that there's a truck coming up the road and you can't see the bottom half of the truck because of the line of sight issue that neighbors have talked about here. And you can see that the -- the site itself is there on the right by the steep truck sign. And just real quickly, the grass on the road gets over one foot tall, you're unable to see down north baltimore street for oncoming

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traffic. You get to the top, you can't see left to right until you edge out into the intersection. Just with the currents with cars parked on the street, it's hard to turn. Additionally along with these quotes, there's much testimony regarding line of sight issues where the transportation bureau only mentioned one particular approach as being problematic. Also concerned about the police bureau testimony in this -- or recommendation. Basically, again, it's a conclusionary argument. There's no evidence of documentation of demand analysis by the police bureau and the bureau recommendation specifies that they can support maximum buildout at rh, but one of the unique aspects of this site -- or one of the unusual aspects of this site is that at an rh with a 4-1 far. So we can't tell from their recommendation whether they have analyzed -- at which density they analyzed this site. Additionally their recommendation was inclusive. They said, quote, based on the limited information we have reviewed, they provided their recommendation. Additionally the police bureau will be able to provide adequate, in quotes, public services to the site. In mr. Walhood's request for information from the bureau, he requested some information -- he suggested they include information about levels of staffing or response times, but they did not do that. I've learned almost everything I know about land use in Portland in the last few months while working on this application and i've spoken to many people about local land use issues. And in doing the research for this appeal. And I frequently have asked people what does a neighborhood do when we identify a shortcoming in the comprehensive plan map and how can we deal with that? The answer that i've gotten is that -- and which i've also attempted to communicate back to ms. Price and my other neighbors in cathedral park -- is that we can pursue a legislative approach as with the st. Johns lombard plan or to stop some applications we can occasionally pursue a quasi judicial approach, bringing us here today. I have a hard time convincing my neighbors that this is how the system really works. It seems unbelievable to many that there's no simpler way to accomplish -- to change specific decisions in a 20-year-old plan. I mention all this because in the eyes of our community, this is an opportunity for the council to demonstrate that the land use system as it stands today in Portland functions correctly. It's an opportunity to examine this application and say that despite its consistency with the comprehensive plan map it does not meet the zone change criteria. To observe that the neighborhood has gathered a compelling body of evidence, followed both the letter and intent of the rules of these proceedings, and finally to say that this application should be rejected. Is that my time?

**Katz:** Nice job.

**Palmer:** Thank you.

**Katz:** All right. Questions by council? All right, supporters of the appeal.

**Katz:** You're finished?

**Barbara Quinn, Land Use Chair, Cathedral Park Neighborhood Association:** We have a couple people with slides. Good morning. My name is barbara quinn. I'm land use chair for the cathedral park neighborhood association. And I have a letter here. I'd like to kind of read that. My and my neighbors' opposition to this project, or rather this zone change, is no not about whether to do high density in our neighborhood, it's about how to do it. This comprehensive plan map rh area is a 20-year-old model for density, which placed a 75-foot high buildings with an extremely high far, as high as you would find in the pearl district or lloyd district, pretty much in a -- right in the middle of a predominantly single family area. On one side there's a single family zone that covers several blocks. It's going to be right up against this rh zone with a maximum far on the north side. This creates an extremely uncomfortable transition for the single family homeowners. No one i've talked to, among my long-term neighbors, and there are many, remembers hearing about this amendment to the comprehensive plan map, nor were they asked for feedback. We need a 2002 density model, which is more integrated, places the highest density housing near retail areas and as within scale for the surrounding neighborhood. Unfortunately many of my neighbors also have

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associated this zone change and development proposal with the current st. Johns lombard plan instead of the -- of the outdated counterproductive, nonintegrated 20-year-old comprehensive plan map zoning that it is. I urge you to support the planning process, process that's now ongoing, by supporting the appeal and opposing this zone change request. Thank you.

**Katz:** Thank you.

**Moore:** Come up three at a time.

**\*\*\*\*\*:** Good afternoon. I'm just here. I live adjacent --

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

**Tonie Stevens:** My name is tony stevens. I live on edison, Portland. I live diagonally across from the proposed site zoning change, and am one of those houses that is adjacent to the proposed zone change. As you saw, the pictures that were presented by mark, looking to the east of the site, there's already an apartment structure there, and higher up on is the schrunk plaza. Those two apartment places currently view my property, and this would cut out any last remaining free space that I can see. And i'd just like to attest to that. And also the blind hill once again is a very serious issue. There's anywhere from bikes and people, pedestrians, going to the park, and there's a mix of industrial cargo trucks, delivery vans and semis as well that go down that hill. So I would be concerned about that. But anyway, I would urge you to go with us to oppose this and not to change the zone.

**Katz:** Thank you.

**Amy Robbins:** My name is amy robins, I live at 9025 north edison. My main concern is moving density of this type right into the middle of a neighborhood as opposed to locating it within or adjacent to our shopping area. I don't want to belabor the point, but traffic is very much a concern for me there also. I walk to the park every day and have had many, many near misses at that intersection. I'd like to see -- I would like to see actually how the studies were done on traffic before any decision is made on that. So those are my concerns. Thank you.

**Katz:** Thank you.

**Dave Kramer:** Madame mayor, respected commissioner, my name is dave kramer. I live at 9736 north edison, five blocks from the site in question. My wife and I have lived in the cathedral park area for one year now. In the short year we've been here, i've heard some folks complain about the city's government lack of interest in the st. Johns area, however i've seen this governing body listen to the concerns of those citizens and make tough decisions demonstrating to us that you do care about our neighbor. We still have our police precinct and I thank you for that. The main issues regarding the decision of the zoning officer, he's made his decision in good conscience based on the evidence provided to him and within the guidelines of the law. I think, however, these guidelines are sterile and test only the bricks and mortar aspect of neighborhood planning. My wife and I came from a rural area in northern michigan with very low population density. That neck of the woods it gets crowded when somebody builds a single family home on the 40 acres next to your 40. As you can imagine, Portland has been somewhat of a culture shock. The why's of high density and urban growth boundaries are quite new to us. We do however understand the need to control urban sprawl and appreciate the time and effort that's gone into finding a solution in the form of the comprehensive plan. I'm asking you to consider our case in the context of the goals of the comprehensive plan. These include goal 6, which provides for safe, effective and efficient movement of people and goods while preserving, enhancing or reclaiming neighborhood livability. Goal 12, which is intended to preserve and enhance the character of the Portland neighborhoods. In my wildest imagination I cannot see how the proposed development works toward meeting these goals. In fact, I think it would take this neighborhood in the opposite direction. Things are changing in st. Johns. The comprehensive plan came into being 20 years ago the planners realized it would have to be reviewed and modified as time changes. With this in mind, they include goal 9,

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which provides for review and amendment of the adopted comprehensive plan and ensures city involvement. We are concerned, not only does the proposed development at this site short-circuit this goal but will have a negative effect on the comprehensive plan. As you review the results of this case, you will find the citizens are not against metro growth management and density goals. Many neighbors support redevelopment of the baltimore/edison intersection at the density above the r-5. We fear most the maximum buildout of this site made possible by the zoning change.

While we believe there are many underused and uncontested locations in the st. Johns area for high density development, we did not become involved in this process to defeat the high density of this site. But to help in finding an appropriate level of high density for it. Therefore i'm asking you to overturn this decision of the zoning officer and help us find a solution to this site that will help meet the city's density goals and let the residents of this area maintain their quality of life.

**Katz:** Thank you. Thank you, everybody. Go ahead.

**Kathryn Holland, Chair, Friends of Cathedral Park Neighborhood Association:** Good afternoon. I'm katherine holland. I live at 8207 north edison, but also the chair of the friends of cathedral park neighborhood association. Not to belabor the point, I think i've heard before, but wanted to speak on behalf of the neighborhood association, and we took a vote and we're opposed to the change in the development --

**Katz:** What was the vote?

**Holland:** It was to oppose the --

**Katz:** The numbers.

**Holland:** Oh, i'm sorry. I don't remember. It was the majority of the members of our meeting.

**Katz:** Okay.

**Holland:** Again, as mr. Kramer indicated, it's not that the neighbors are necessarily opposed to density or greater density in our neighborhood, but we're very excited about the st. Johns lombard plan process and are working closely with mr. Manning and his group. What our concern is about this particular site is that it's from a comprehensive plan that is old and outdated at this point, and if the zone does get changed then we're sort of working against that in our new planning process. The other major concern that the neighbors indicated was again the traffic. I know you've heard about the line of sight issues and the transportation, but there isn't a great deal of transportation infrastructure in that area. High density at that level, at the 4-1 level, means there are going to be a lot more people there and they'll need adequate transportation. In that area we have some bus lines, but there are no buses that go straight to downtown. It would take a long time for anyone to get from that particular area down to the major areas of Portland on the public transport. The other issue that came up was safety. Based on, of course, again, you've seen those pictures of the number of trucks coming through and how difficult it is to actually see them when you're on either of those streets. One of our concerns is that by having high density in that area we're going to increase the number of residents and most likely the number of children, and our concern again is about the safety of those children playing in that area without adequate -- or just again with the way that that area is built. So as a neighborhood itself, we would be opposed to this particular zone change at this time. Again, we want to have a comprehensive plan and very excited about seeing our neighborhood grow and thrive, but we think it needs to be in a more appropriate area. Again, I believe as amy robins mentioned, the closers to our existing shopping districts, which this particular area is not. And just a couple of more comments that the neighbors had is that the 4-1 height structure is not consistent with the surrounding historic scenic area. And that the fear is that these changes are happening too fast to hear the neighbors' concerns. So with that I will close. Thank you.

**Michelle Mylet:** My name is michelle mylet. I live at 8835 north edison. This is diagonal across the street from the proposed site, northeast of the site. This is the first time i've bought and i've

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lived there for two months. What attracted me to st. Johns is the affordable older homes, the diversity of the community, and the unassuming working class character of the area I was living in Portland before, and I moved down here to go to nursing school. And one of the reasons I moved to Portland is because of the livability. You know, it's touted as a very livable city. I'd like to see the neighborhood stay that way. What stands out to me from the previous testimony and the testimony today is that there's a large number of unanswered questions still out there. Concerning traffic, how valid is the traffic study? You have the neighborhood component, a large body of significant evidence from neighbors who have concerns. They've lived in this area for years and, you know, they've made their observations, and then you have the city's study. You know, they've come in and done a study in weeks, days. So i'd like to see the -- I haven't heard that the neighbors concerns have been adequately addressed. Another issue, another question, is the adequacy of police coverage. You know, the police gave a heavily qualified minimal response. And this is an issue of great importance to families living in the area. I'm a single woman and often home alone. This is something that often concerns me, especially concerning transportation. Where's the infrastructure to support this proposed development? You've heard about the lack of infrastructure in the st. Johns area, unimproved streets. As we continue to grow, you know, where does that going to leave us? I don't want to see this be -- i'd like to see the planning and not the reaction, have this be a reactionary development process. Overall, as a new member in the community what i've seen are people who are excited, passionate and hopeful about the future of the st. Johns community. Individuals have used their own personal time to work with the city planning bureau. They've done the city -- the neighborhood walks, they've done the visionary workshop, they're on the planning committees. And this zoning change just -- it seems -- it doesn't seem compatible or consistent with the current st. Johns lombard plan that's underway. So I kind of just wonder what kind of message is this leaving about citizen involvement? Is this a citizen involvement a futile thing here or do we really have some power to make a change?

**Katz:** You understand that we're not doing this because we want to do this. I mean, this is not an issue that's before the council because we asked for it to be. There is an applicant now who has a map that's zoned appropriately, that is in waiting for the st. Johns plan. Unfortunately he's not waiting. He doesn't have to wait for it. You understand that?

**Mylet:** Yeah, I understand that. I would just like to see this opposed, basically, because there's this other -- it's based on this 20-year-old comprehensive plan. There's a new -- you know, the st. Johns lombard plan underway, finished in 2003.

**Katz:** Okay.

**Mylet:** I'd like to see that plan underway first.

**Katz:** Okay, go ahead.

**Susan McDonald:** My name is susan mcdonald. I live at 6816 north new york avenue. I'm about three blocks from the proposed site. As part of my testimony i'd like to show a short video. I don't know the exact time. I was told it's about 2 minutes.

**Katz:** Okay.

**McDonald:** It shows traffic on the proposed corner. But i'd like to go on record, because I heard mr. Wallhood say it was a four-story building. According to the plans that I have, I counted five. So I just want to go on record saying that. And I guess it's time to the video. [ audio unintelligible ]

**McDonald:** These are steel trucks. I saw one time they lost a huge load of steel. Here comes another good example of how quickly they disappeared and how -- you know, you can see the car pulling out across from that telephone pole.

**Katz:** Thank you.

**McDonald:** That's the end of my testimony.

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**Katz:** Yeah. Thanks a lot. Go ahead, karla.

**Katz:** How many are going to be testifying on behalf of the appeal?

**Moore:** Quite a few.

**Katz:** Just wanted to get a sense of timing. Go ahead. You want to grab the mic?

**Deborah Fay:** Yes. My name is deborah fay and I live at 8836 north edison street. I am one of two existing homes on the block where the development is slated to go. My home was totally rehabbed in 1996 and the house next to me, which will be directly adjacent to this highrise was constructed in 2000. And these were both using the more recent city tax abatement program, which has been more successful than the original zoning for high density 20 years ago. What i'd like to do at this time is just -- i'd like to go over the -- the decisions of the hearings officer document and just address some facts in there which have been addressed at previous meetings with the city and in writing. Part 2, the analysis on page three, talks about the site and vicinity. The report doesn't even mention the existing homes and new construction that are already on the property, which one of the homes would only be ten feet away from a five-story building. Another part on page four is talking about how north baltimore street is only a 20% grade. This is incorrect. I think you can get from the videos that 20% looks more like an average for the street, where in fact the block right there has more of a 45% grade. Page six and seven talks about edison street and how they're going to put a planting strip. In the applicant's drawing that was submitted, it's not even indicating that the entire rest of edison street doesn't have a planting strip. And it shows no accommodation to join up a sidewalk with a planting strip with the existing sidewalk that is already there. Page five talks about the comprehensive plan. The plan is changing. 2003 will have a new one. The current plan doesn't provide for any transition between single family residential housing and, you know, rh, high density housing. A tradition would be nice to have single family, some multi-family, and then the larger high density, so that the small single family house isn't completely overshadowed and towered over by a highrise. On page eight, the neighborhood review. I had submitted evidence about property values. My first reaction when I heard about the zoning change was, sell my house and get out of there with my investment while I can as a first time home buyer and single woman that was really my only recourse. I had professional realtors do a market survey, marketed my house at the appropriate price. House is in good condition, totally rehabbed in '96, in need of no repairs, and I did not get one single offer in three months because of the impending zoning change. So for the hearings officer to say that this would enhance property value in the area is totally false.

**Katz:** Your time is up.

**Fay:** Okay. I'm sorry. That pretty much concludes my presentation.

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

**Nina R. Brown:** My name is nina, and i'm living right next door to the proposed proposal. I figure i'm going to be looking at a garbage can about four feet -- it's 8820 north edison street. It wasn't listed as existing, a home built in 2000. I wasn't even notified because my address was not correct in the city, still linked with my next door neighbor, had not been separated. Took me 7« months ago to get my address corrected. I have written one letter, but i'm not on the list. I have sent e-mails. I am concerned, but this is the last home that I was going to buy. I'm raising two grandsons and an invalid husband. I'm real concerned about the traffic with the grandsons and 35 apartment buildings -- five-story building. That would change the whole atmosphere of this neighborhood that i've watched come about, real pleasant, remodeling homes, single family dwellings. That's one reason why I bought there.

and I -- I don't know. That's about all I have to say.

**Katz:** Thank you.



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**Betsy Valle:** My name is Betsy Valle. I live at 6802 North Baltimore. For 12 years I've lived in a house. I've raised three children there. We used to play this game before they went to college. It was called apple ball. You stand at the top of the hill and try and get the apple to run down to the train track. If you were lucky a train would squish it. In the wintertime, the hill is barricaded off and people slide on it. All the kids come from all over town and slide on it. And the adults would be sliding on it till 2:00 in the morning. It's a fun hill. But it's a gateway for the industry that's below it, the river and railroad line down there. The propeller company that makes -- I mean, these are like five-ton propellers they make, the steel yard, the repair shop for earth-moving size equipment, cabinet making shop, a foundry, a ship rebuilding place that's working on a coast guard cutter right now. Moonstruck chocolate is there. And it's the back entrance to the Toyota import yard. This is why there's semi-trucks of all sizes and types going up and down the hill all the time. It's the most direct and probably only possible route for the -- for some of the big ones. Industry is nothing to be ashamed of. I'm proud that Portland makes things. It's kind of an endangered thing, though, and part of the habitat the industry needs is transportation. Industries is a good neighbor as it goes home at night and on the weekends it's not there usually, at least most of it. On the weekends the boat trailers come with the fishermen, pulling boats of all sizes and shapes. I work at Lewis & Clark College as a carpenter, and three of the guys that I work with who live in different parts of the city come there to launch their boats. It's a gateway for the boats too. I can't imagine pulling out in the middle of a hill in front of these boats and trailers, these semis. I can't believe it would ever happen. What I would like to see there is a smaller scale development and with access not on Baltimore Hill. Thank you.

**Katz:** Thank you.

**Miriam German:** My name is Miriam. I live at 9124 North Willamette, which is about one block from the proposed site. No one here has mentioned the word death, and my -- in thinking about this morning I was thinking who -- we have an opportunity right now to be responsible to take care of the neighborhood. Not just from an environmental perspective, but the people in the neighborhood. And there's -- there have been so many near misses, that something is sure to happen. That's the biggest fear of mine. And who's going to take responsibility when that happens? If it does happen, once this building's been built, the building stays, the person's dead. And it's a harsh reality. I think it's one that we can try to prevent now. So I just implore you to -- even if it involves looking outside the box of what these -- all of these kinds of legal parameters are, that this whole thing's been set up as far as these hearings, if that's what it takes, then I urge you to be -- to take a human approach to this as well.

**Katz:** Thank you.

**\*\*\*\*\*:** Good afternoon, Mayor Katz and council members. I've been here on other occasions. Now you'll see the issue --

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

**Laurie King:** I'm sorry. Lori King. Now you'll see the issues that affect my family, where we live. I've lived at 8728 North Edison Street with my husband and children since 1976. First I would like to address a comment that Mr. Walhood made at the hearing in order to clarify our position to you. Mr. Walhood said, quote, we've heard a lot from property owners, but we haven't heard anyone from advocates for low-income housing or housing advocates or people who are actually interested in urban housing, unquote. I want to clarify possible implications of Mr. Walhood's comment. We are not upper-end folks, afraid of or against low-income newcomers to our neighborhood. Most of us are low income or quite moderate income folks ourselves and we're proud that our neighborhood of St. Johns is the most ethnically diverse in all of Oregon. We want to see more affordable housing in Portland and more affordable housing in our neighborhood, and we have testimony in the record supporting high density development in our neighborhood. Many of us would accept, as we have in

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many other cases, buildings on the baltimore-edison property in line with the other condominiums and apartments in the neighborhood. However, five-story residential buildings are pretty rare in Portland, period. Virtually all of them are, as they should be, in urban areas, such as northeast broadway, southeast belmont, northeast 23rd. Many of us would be happy to see the long lombard street or entire areas near the river become more urbanized as is southeast belmont or northeast broadway, et cetera. With residential buildings above interesting storefronts. I'm from new york city. I would love the mix of commercial and residential property with people from diverse ethnic and income groups walking to stores and other places. I hope that our neighborhood struggle will end up being an opportunity for the city to reverse the zoning change for the baltimore-edison property and to really look at the now more than 20-year-old master plan -- or comprehensive plan that does open the door to the highest density and highest far in this particular area. We would really love to see the city clarify its vision of what appropriate infilling means and what urban means, so that we all can have neighborhoods to live in, to grow old in with our children and with our grandchildren. Thank you.

**Sten:** Can I ask you a question?

**King:** Sure.

**Sten:** I hesitate, because I know you can't speak for the neighborhood, but I just want to get at something. I understand the argument, I understand very clearly why people wouldn't want this building in this site. That all makes sense to me. Kind of getting at the transportation criteria that's one of the arguments, I guess i'm struggling a little bit with the argument that it's safe to pull out on busy streets on lombard, which have a lot more traffic than this street, but there's no way it's going to be safe to pull on to street. There's other issues going on, but can you see what I mean.

**King:** Yeah.

**Sten:** How do you react to that? Knowing that we generally cluster density in other places, the places we cluster density are much more busy than this place, and so instinctively I find the transportation argument that the street can handle it compelling.

**\*\*\*\*\*:** Right.

**Sten:** Do you --

**King:** I understand what you're saying. One essential fact that I hope that you saw in the video and heard from people's testimony is the hill. I mean, there's no hill like that on lombard or practically anywhere else in the city. It's a very steep hill. I think someone pointed out that the 20 periods of time is probably an average grade. The very top of the hill where cars are just going over is steeper, is the steepest part of the hill. So it's not just people pulling out on some particular street. I mean, and this is something that we had a difficult time explaining to the people in transportation, that it's the hill that's concerning us and the grade of the hill. I mean, that is the number one issue, I think, to the residents in the area. From the amount of testimony that you hear on it. If you look up the testimony from the hearing. So, I mean, I think you're making a good point, that traffic is a difficult problem everywhere, but we're essentially concerned with the hill and safety.

**Sten:** I did ask transportation some questions, so that's why I was trying to clarify that piece. Thanks.

**Julie Burns:** I'm julie burns. I've lived on north willamette boulevard for the past 6« years. I live one house away from north baltimore and one block away from edison. I love my neighborhood, I have great neighbors and I can see why people would want to move into this neighborhood. I am opposed to the zone change and I do see a lot of issues with transportation. I know you're all familiar with lombard street because my family waves you to every year as you're in the st. Johns parade. During the hearing process neighbors raised concerns about the ongoing traffic issues such as noise, pollution and safety related to the truck route which borders or single family neighborhood. We have 1500 freight trucks a day, most of which are nonlocal and a third of which

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are carrying hazardous materials passing through an area the comprehensive plan identifies as a pedestrian zone. I don't see a truck route being a safe street for kids to cross on their way to school, but that's what happens in our neighborhood. We have a unique and troubling traffic situation that the department of transportation conducted a special study of the area. A year ago when the study was completed, former commissioner charlie Hales described the situation by saying, quote, there's really nowhere else in the city that's that bad. He went on to conclude that the study results didn't get far enough. Ivanhoe is only three blocks east of the proposed site and baltimore is the route trucks use in our neighborhood to reach the river. Our concerns about these issues were not adequately addressed by the department of transportation. In fact, in their response they listed north ivanhoe, and north philadelphia, the st. Johns bridge, as major city traffic streets, but failed to mention they're also industrial truck routes. We were also unable to figure out how exactly a traffic study was conducted. In the traffic study are 18-wheelers considered on the same par as passenger cars? And how do you count trucks with boat trailers? None of those questions were answered. This area is currently zoned for very high density, but the only transportation plan offered seems to rely on the existing street system in proximity to bus lines, most of which are available on north lombard, on the other side of the truck route. One of the questions that jumps out of the movie is -- one of the questions which jumps out to me is where is the transportation infrastructure to support the high density currently planned for this neighborhood? All along we've had trouble receiving clarification on specific issues from the transportation department. Mr. Palmer called at one point during the hearing process and asked some very specific questions about how a traffic study was conducted. Many of those questions were never specifically answered. As the city council, you're in a position to be able to review this case and the process which we feel shows very clearly a transportation plan not well thought out and would create additional hazards for current and new residents. At the initial hearing, the hearing officer recommended that the department of transportation review and examine current traffic problems which had been clearly stated by neighbors and which he saw existed in -- at other intersections outside of the specific baltimore-edison. That request was not complied with. Thank you.

**Katz:** I don't see that in the record at all. Was that request by the hearing officer made to pdot? I'll get to it later. The question, you might want to -- was that request of the hearings officer made to pdot and did they comply with that request? We'll get to you and the mic later on. I don't care. Somebody needs to answer that later on. Okay. Go ahead.

\*\*\*\*\*: Me?

**Katz:** Yes.

**Dave King:** Okay. I'm dave king. I live at 8728 north edison, right directly across baltimore from the proposed building. And first thing I want to do is celebrate the people from our neighborhood that took time from their busy days and made it here. [ applause ] it's a great crowd.

**Katz:** We're not going to do that.

**King:** Okay. I raised two kids in the neighborhood. I -- my son, I caught him riding his big wheel down that hill. It's a dangerous hill. The video doesn't really -- eric, the hill and the visibility didn't really come across owe video sometimes doesn't get what -- you know, really what it is. There were a couple of folks from "the tribune" yesterday and we were standing there where the driveway was and they got it. You can't tell when a car -- you know, a car just pops over that hill, and you could be turning out and you'd get hit. It's not a place for -- and what I want to get at here is the traffic department never really has dealt with that. The best response I saw from the traffic department is here in a revived response, the office of planning and development review, land use review, may 16th, Portland transportation development review, and the only place where they really address that particular place and that particular problem is this little teeny paragraph. There is existing -- it's on page four. There is existing limited sight distance for left turn movements from

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south. [ river bound traffic ] on north baltimore to eastbound edison. That's making a left turned before you get to the hill, it's hard to see. That's true. And then they say, therefore -- oh, however driveway access can be located such that sight generated traffic is visible. Therefore sight distance limitation is accept I can't believe. I don't get that. I don't know if you understand that that means it's safe there or not, but I don't get it. And that's as close as -- you know, all these words, and all our -- like almost everybody in the neighborhood's talking about the safety of that place. That's as close as we get to addressing that issue that I could find. I think that's it.

**Katz:** Thank you. Get the mic.

**Cyndy Chan:** My name is cyndy chan. I live at 9034 north edison street. Thank you for granting our appeal and giving us the chance to have some more testimony about this. I just wanted to remind you, i'm sure that you're aware, but the part about this increasing the density that really gets to me is that the granting of those zone change isn't attached to any specific development scheme, and the applicant could pursue a variety of future development proposals that are conformance with the higher density designation. That means that whatever the owner and developer are telling us their current plans are for this property isn't the issue for granting the zoning change, it's about what the maximum allowable standards are under the rh designation, and I believe that we can increase the residential density in our neighborhood in a way that's acceptable to the people in the neighborhood. You've heard that there are people here who are willing to work with the planning process and people have gotten involved with the st. Johns lombard neighborhood planning meetings. I believe that people are willing to do this and increase the density in our neighborhood without going to this full maximum, to the 40,000 square feet residential floor area on this lot, 75 feet maximum height, 85% lot coverage. I think that people really do want to negotiate about what the plan for our neighborhood is and given a chance people will. The I also understand that one of the criteria for -- for the rh designation has to do with accessibility by public transit, or that's one of the considerations. And i'm a public transit rider. I commute by tri-met to my job here downtown. And from the intersection that this property is located at, it's at least six blocks to the nearest bus stop, and that bus stop has service that -- I think there's actually only one bus running on weekends, and one of the -- one of the bus lines that serves it is only during rush hours, like 7:00 to 9:00 in the morning and, you know, like 3:00 to 5:00 in the afternoon. It's not exactly like the optimal public transit situation. We have to plan our trips really carefully. That's just to get downtown. To get points to the east side you have to take a circuitous route. I don't feel like this is a transit hub right now. Maybe that situation will change in the future, but I feel that that's -- whatever public transit accessibility criteria were applied here, maybe you actually need to talk to the people that ride the transit from this part of the neighborhood from what they've experienced. I also brought you photographs of the site.

**Katz:** Your time is up. Why don't you just hand that out.

**Chan:** This is to show you there isn't the planting strip that someone mentioned earlier that's been showing up in those drawings. It's really not this. Still not there.

**Katz:** Thank you. Okay.

**Doug Theriault:** My name is doug theriault. I live at 9034 north edison street. I work for Portland public schools as an educational assistant, and have done so for the last five years. And in other words I work with a lot of children. And I believe that the corner on baltimore and edison is personally not a -- not a safe cross-street for children, especially with the downgrade. And I believe the applicant's in our last hearing argued that a planting strip, that they would put in, would be enough for these kids to play on, but I believe that they will most likely end up on the street, out on the street. And near that dangerous corner. And so -- and over the years i've heard members of city council specifically talk about how they want -- how you guys want your neighborhoods to be a

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place that is safe, livable, and a place to raise a family. I believe that this new zoning change would make that much more difficult. And I urge you to reconsider. Thank you.

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

**Katz:** Anybody else want to testify? Okay.

**Richard Fitch:** My name is richard fitch. I live at 9024 north edison street. I'm very much concerned about the -- what has been proposed there. Mr. Erik Sten, commissioner, you were mentioned one thing about pulling out into the traffic. From the diagram that we saw on the first time I saw this, it will be on -- it on a hill. Now first of all, level from edison street to the 200 feet exactly, it's 45-foot up. Somebody has stated that it's 40. Yes, it's 40 from the back of the property. The property goes down like this. Okay. Now that makes it about -- instead of a 20%, it's about a 22 or 23% -- and I went out and actually tried to measure it, and it runs somewhere around 22-23% in grade. On a highway, as 6% grade is a steep grade. You've seen -- always seen where it says trucks slow down or gear down. At a 6% grade. This is a very steep grade. Now I checked -- we had -- we had a concert down in the park, and I noticed that there was a car parked here, right at the top. I could see it, because I was -- I was just walking across the street like this, on the other side of edison, and I could see this car, but there was another car below it, and another car below it, and I could not see it. So I walked across the street until I -- walking across the street, I could -- oh, there's another car down there. Now if in a 50 -- 100 foot, it's going to cut off the bottom 14 feet, I think, on the back of his property, back property. But coming out, down here, there's -- you cannot -- you would not be able to see coming out on to this street and pulling out. People coming down that hill are not going to be able to see it. You can't see it. And i'm concerned, especially if you have children come in to that area. I think these people are -- are very concerned about children. We need to consider that, really. Now secondly, on the first proposal I wrote out a little diagram like I do -- always did, and I submitted it to the first time. I'm forgetful now.

**Katz:** Go ahead.

**Fitch:** Okay, yeah. On the first diagram it showed that the property had -- was going to -- there's going to be the street -- the street would be redone, a parking space, and then a sidewalk, six-foot sidewalk. But on the original diagram that I saw, there was so much space on each side of this building, equally. Right now the new construction that's shown on that -- on that building is that thing's going to be right on the corner. It's exactly the same thing. You go right up to -- to the lombard, and that bar is right on the corner.

**Katz:** Okay, thank you.

**Fitch:** Okay.

**Katz:** All right. Let's -- yes?

**\*\*\*\*\*:** Can I say something?

**Katz:** Do you really want to?

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

**Katz:** All right, come on up.

**\*\*\*\*\*:** My name is mike. I live at 8835 --

**Katz:** Grab the mic.

**Mike Secher:** My name is mike secher. Two points. First point, is there's a lot of buildings around that area, the north side of st. Johns bridge. They have for rent signs and availability, everything. They're not even full. I don't understand why they'd build a lot of other buildings when the occupancy isn't reached. Another point, is I work for an engineering company and we transport a lot of boats around the northwest, and a lot of people are inexperienced in driving their boats around. They just go out on the weekends and, you know, go out, do the river trips or what not. Going down that hill would be very dangerous for an amateur truck driver with a boat on the back.

So just seems like a very dangerous place to be coming down, you know, if you have a boat, hook

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it up on the weekend, going down to st. Johns, take your boat out, seems like a very dangerous intersection for that. That's all I got to say.

**Katz:** Thank you. Let's hear from the applicant now.

**Terry Carney:** Terry carney. My address is 748 northwest mcclay boulevard, Portland. Miss mayor, you asked a question earlier that -- you asked it of katherine holland on the vote of the board of directors, and she had forgotten what the vote was, but I have here the minutes of that meeting, which show you. Can I show you that?

**Katz:** Why don't you give it to karla, please, and then proceed with your testimony. We'll start the time all over again. Okay.

**Carney:** I'd actually -- i'd like to read that if possible.

**Katz:** All right, then go ahead. Start the clock.

**Carney:** To begin there under old business. This special meeting was called to review the zone change for proposed apartments at baltimore and edison. Timing of the special meeting was dictated by a closing date for appeals to the zone exchange. The acting chairperson, barbara quinn, set a format. The pro appeal and the not appeal sides were allotted time for comments and arguments. Both sides were heard. The motion to file an appeal to the zone change in the name of the cathedral park neighborhood association was made by barbara quinn. Jim barnes seconded the motion. Eligible board members voted as follows -- yes, file an appeal, and you'll see there are four names --

**Katz:** You don't need to read the names. No, I understand that. No, do not file an appeal. And there are four names there. I further read -- the vote was a tie. Therefore an appeal in the name of the friends of the cathedral park neighborhood association did not pass.

**Katz:** Okay, go ahead.

**Carney:** I'd like to address some of the concerns that were brought up today. One concern was that this project doesn't fit the neighborhood as situated. I'd like to point out that this property actually abuts current rh property, just downhill from it. The property directly across the street is currently apartments. Just up the hill from there are the schrunk towers, so there are -- and actually just down the street are more apartments. So this relatively high density building structure is currently in the neighborhood. The narrative that was written does use the word "low income." "low income housing." I want you to know I wrote that narrative. And what may better have been used is "affordable housing." these units are slated to sell for \$150,000 apiece. Mark walhood suggested that if he were king, he would have the zoning with the tall buildings at the top of the hill and shorter buildings at the bottom of the hill. Well, if the schrunk towers up above this and the maximum height for this building is 75 feet, this building fits in just perfect. Ms. Price, the appelland, I feel her property will only increase in value as this time of project is introduced to the area, bringing more infill and business to the area. Further reason why this project fits in so nicely, just below this is industrial area, with a boat launch and nearby park area. As far as safety of the hill, one criteria is that the driveway has to be a minimum of 25 feet from the intersection.

I think from seeing that video it actually shows there's fairly good visibility going down that hill. This project would be required to widen the street there, only increasing visibility. Much of Portland is built on hilly terrain. Someone mentioned that the st. Johns area is seeing changes too fast. These folks would have a moratorium on building and shut down all projects. They mentioned that the police bureau may not have taken in all the information in making their decision that they did have adequate services. The police bureau had access to all the information that all the other bureaus had. I can only assume that they used that information. I challenge the comment that the nearest bus stop is six blocks. Since the public hearing on march 18th, I have attended nearly all the friends of cathedral park neighborhood meetings. Both the board of director meetings and the general meetings. In these meetings i've shared my thoughts of the proposed zone change and have

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gained ideas from board members and neighbors of what they would prefer. They've actually submitted to me photographs of buildings that they would like to see on the site. Further, here's a good, here's a bad. They also showed me ones they don't want to see on that site. I've gotten plenty of photos that i've gotten from the friends of cathedral park neighborhood association, the people that really care about that neighborhood. I'll let you know a little bit about my vision. I see the st. Johns area as being the next northwest 23rd or pearl district. But to accomplish this goal we need infill and density to support existing and future shopping areas. This project is within walking distance of existing shopping areas. You will hear from people today, or have heard from people today, saying they don't want this area to grow. These people have the classic "i have mine, now I don't want anybody else to have theirs" mentality. This is the exact mentality that kept Portland from growing for years. Thank god we've turned that around. Thank god we're growing. I think it's pretty obvious that we meet all the criteria or the hearings officer, greg frank, would not have approved the zone change. But ms. Price has alleged that two criteria have not been met. Specifically she believes adequacy of transportation and police services are of question. The criteria for transportation consists of four major areas. The policies of goal 6, pedestrian facilities, traffic analysis and safety, especially at this particular intersection, and the right-of-way improvements. Than i'm not going to go through goal 6 right now. It's fairly lengthy. I'm sure you folks have reviewed it. Essentially, though, all these items tie in together that you have adequate pedestrian, bicycle and motorists transportation routes. This project meets all those criteria. One condition of approval is that we do put up a performance guarantee for the street improvements. That criteria will be met. Sherry has done extensive traffic study here at this intersection and feels that it is safe. In summary, all criteria have been met -- excuse me. As far as police services -- and I think actually eric palmer brought this up. Based upon the limited information we have reviewed the Portland police bureau will be able to provide adequate police services to the site listed at 0200027 zc. The proposed zoning of rh for one 10,000 square foot parcel of land will not greatly impact police services. In summary, all criteria have been met or can be met. Currently the local streets are under-utilized. This change follows the comprehensive zoning map exactly. And should be approved. Thank you.

**Katz:** Thank you. Questions? You have questions?

**Sten:** Is there -- is there any flexibility on how -- if you did have approval of this to build it, how arrange the driveways in terms of where people pull in and pull out?

**Carney:** Yes, I believe so.

**Sten:** I can't right off the top design this, but my sense is maybe there's some ways to make it more safe rather than less safe in terms of --

**Carney:** Well, the options, i'll certainly lean towards the more safe. Like I said, one criteria, not that the hearings officer noted, but that's part of the code, is the fact that that driveway is at least 25 feet from the intersection. And we're going to try to pull that back further.

**Sten:** Have there been other issues that have come up in your meetings with the neighbors? I'm just curious in general, things that you're working on or responding to?

**Carney:** With the community meetings?

**Sten:** Yeah. It sounds like you've been to all the neighborhood meetings.

**Carney:** Yes. Their major concerns have been onstreet parking and -- actually the height of the building itself. This 75-foot maximum allowable, my proposed project would only be approximately 60-65 feet. Although with the neighborhood -- I have to tell you that's still a concern with them at that height. And the low income term. Again, that was probably a misuse of that term by myself in writing the narrative.

**Sten:** Yeah.

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**Carney:** What I meant is affordable housing.

**Sten:** Yeah. \$150,000 is not low income.

**Katz:** I'm not sure it's affordable either, but that's all right.

**Sten:** Okay, thanks.

**Saltzman:** Just on the driveway issue, as I read the requirement, it says 25 feet from the property corner at an intersection. Does that mean your property or does that mean just the property corner? Because your property is already --

**Carney:** Well, the property is on the corner.

**Saltzman:** Is it on the corner? Okay, i'm sorry.

**Carney:** Yes, so it be our property. To answer your question, it's from the corner, but it would be our property because our property's on the corner.

**Saltzman:** I misread the map, then. So there is flexibility as to where to locate that driveway, taking safety into consideration?

**Carney:** Yes.

**Saltzman:** Okay.

**Katz:** All right, thank you. We may bring you back a little later on.

**Carney:** Sure.

**Katz:** All right. Let's hear from public testimony.

**Rowen C. Rystadt:** Yes. My name is rowen rystadt. I've heard a lot of testimony today, and I don't think most of it really pertains to the issues. We've met all the zoning criteria. There is some concern about the baltimore-edison street intersection. And I think that's a very valid concern. Although our development is only going to enhance the situation there. People had talked about kids having to cross edison -- cross baltimore to go down to the park. Well, currently they have to do that, because there's no sidewalk on baltimore. We're going to be providing a sidewalk on baltimore so kids can go down bottom of the hill, don't have to cross at the top of the hill. So as far as the situation there, everything we're doing is to improve it, the current situation. Other people talked about the tall grass and there won't be any tall grass there anymore when we get done extending the pavement and adding a sidewalk. So that was the biggest issue I think that was brought up here regarding to the criteria that needed to be met. I just believe we've met all the criteria and just enhancing the street from its current situation. So thank you.

**Katz:** Thank you. Anybody else? The neighborhood has five minutes for rebuttal.

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

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

**Palmer:** I'm sorry. It's eric palmer again, speaking on behalf of susan price. My address is 8207 north edison. I guess mr. Carney spoke a little bit about goal 6, and we are very concerned about goal 6 as well, because it's the one that talks about safety. That's exactly the issue that we've brought before the council today. We have an interpretation of what would constitute safe development. Mr. Carney has a different intersection of what constitutes safe development at this intersection. You know, we're coming to you to figure out what the -- what the right answer is. Coming back to some of the specific assertions, specific things that mr. Carney and mr. Rystadt talked about in their testimony, when they stated that the required street improvements will deal with the visibility issues that the neighborhood has raised, but they have not submitted any evidence to the record to support that assertion. We have no line of sight analysis, no measurements, no timing, no anything that would -- that would help correct that circumstance. Additionally, no requirement to address that issue is specified by the hearings officer in his finding. Also -- i'm sorry. Another -- another question that came up, mr. Carney stated that the neighborhood is not fully behind this appeal because the friends of cathedral park executive board voted not to apply its



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own fee waiver to this appeal. Obviously, first of all, that's not part of the approval criteria. Second of all, that's an item that's not in the record here.

**Katz:** I know that. I just asked the question.

**Palmer:** Oh, i'm sorry. I just wanted to reassert that the only testimony formally submitted by friends of cathedral park and available in the record is exhibit h-4, which details the same concerns about police and transportation and safety. It was voted on by the general membership of the association. And we have the minutes of that -- of that meeting available here as well. Mr. Carney also said that the council should rely on the recommendations of city staff who have applied their expertise to the issues raised by this community. However, we have seen little or no evidence of that expertise submitted into the record. Particularly in the case of police, which the police bureau, which he talked about. He talked about the assertion that the police bureau made, that they would be able to handle this density of -- of development, but there was no demand analysis or no other data that was provided with that. It's merely an assertion. And we think that -- that more needs to be provided to meet the applicant's burden of proof. He also talked a little bit about the -- kind of the price point of the project and the kind of residents that he expects to have on this site. That whole topic is, of course, not part of the approval criteria, neither the city, nor the neighborhood, has the option to examine specific details regarding that kind of quality of development in this proceeding. And there's nothing in the record that -- talks about -- that would constitute evidence regarding quality of residents that might be in this development. He also said that the project is consistent with other high density residential developments in the vicinity. However, that also is not part of the approval criteria. And additionally, he talked about schrunk tower, the tallest building in the vicinity. But of course that is a site that is not actually in compliance with current zoning regulations and could not be approved today. So that's not consistent with the scenic overlay at the site. He also referred to the fact that neighbors are -- he used different terminology, but the terminology that I will use is niby. Of course that also is not relevant to the approval criteria and the record -- what's in the record is the large number of neighbors have expressed support for high density development this neighborhood, but also a large amount of testimony that this states that this particular site, we believe, cannot be appropriately or safely developed at that density. Oh, I just wanted to come back around to the -- the question that commissioner Sten had, the comparison between lombard and baltimore. I believe that the person that was testifying to that answered it pretty well, but just wanted to reinforce the idea that the difference between lombard and baltimore is that there's a slope issue, there's a line of sight issue. On lombard you're likely to see traffic signalization, that type of thing. Also the rarity, the unusual fact that we have this kind of residential development mixed with this high level of industrial development, heavy boat trailers, trucks, that kind of thing.

**Katz:** Thank you very much.

**Sten:** One question. We're getting near the end of the testimony. I wanted to ask a provocative question, and if you can't speak to it, feel free to say so. You've done a remarkably great job, which usually doesn't happen of sticking to the criteria by which we have to decide this, so I appreciate that. You basically got two arguments -- transportation and police. Not speaking for the council, speaking for myself, I don't think the police argument's going to be compelling. I mean, just realistically, the police serve a huge area, and you're not going to win an argument. This will go to luba potentially on the both sides, the police can't serve one building, especially -- I mean, actually it's illegal to distinguish between homeowners and renters as the police seem to have done, but it's condos. I don't think that's a compelling argument. The transportation one i'm going to spend some time with the transportation department today to try and make sure I understand it, because I see that in terms of a hard camera. This is a long winded question, I apologize, but i'll bring it around. I'm going to spend some time trying to understand the transportation argument, because I think

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whether or not their services really hinges on that question, whether or not the street can handle the transportation, clearly I think it can handle water and sewer, all those other issues. And in our land use system, which this code does need an update, you get the comp plan designation if there's services. You've done a great job of sticking to that. I want to compliment you on that. My question is, you know, that's an up-down vote, one side wins and one side loses. Is there things that would make this -- we can put conditions on a development at this level. The developer can choose to accept them or not, depending on how they go forward, but are there conditions that would interest you rather than having an up-down vote, kind of -- i'm not saying which way the council will go at this point, and I don't even know where I am until I spend time with transportation, but are there things I can do -- I didn't hear anybody go after the low income issue, which usually happens. So I don't see any of that going on here, but I see kind of two separate issues. A reasonable desire to say you don't want a building this size right there, and I think that's reasonable. I think it is on the comp plan. And then I also hear some very specific issues around transportation and design and other issues. I'm trying to get at, are there any things that might make this more palatable that you would put on the table at this point?

**Palmer:** Umm, well, sure, absolutely. I mean, as to mr. Carney's credit, he has been very active in coming to community meetings. I've spoken to him at length many times, talking about the issues, that type of thing. And so there is -- and as he observed, there has been a dialogue going on about what kinds of things would be more suitable or less suitable that several members of the -- of the neighborhood have been involved in. You know, I regret that that was kind of used to kind of turn against, you know, this group of people testifying, however one of our frustrations with this process has been that there's no way that we can be involved in this process other than to say no. There's no way we can have influence over this process other than to say no. That's what we're unfortunately forced to do here today. As far as the -- what you talk about, you know, conditions, and that type of thing, as I said before, we are very -- I can state my opinion, I can't speak for everybody in the neighborhood.

**Sten:** Yeah, I know. I understand.

**Palmer:** But my opinion is that it's completely reasonable that this site should be developed at higher than r-5 density. And I think that that would be -- you know, we've talked about, you know, row houses, other kinds of higher density development that would blend in with the neighborhood better, that would be more suitable, there'd be less density, fewer traffic problems involved with that. We have -- however, you know, the reason the neighborhood is here is because we're not in a position where we can deal with either unenforceable promises. There's no way, other than having you all put conditions on this thing, or having staff put conditions on this thing, that we can have an enforceable way of -- of seeing what we ask for from the developer actually gets done. And the way the system's set up, we have to deal with the maximum buildout in this proceeding. We can't deal with anything less than that, unless in the end -- and I don't even know the legalities or if it's possible, or whatever, but this the end there is some kind of acceptable conditions that can legally be put on this site. In the meantime we're looking at the -- the developer are developer's told me he thinks he can put as many as 40 units on this site. The transportation department said as many as 55 units on this site. The developer says that he actually plans 29 units on this site. Those are all too much, way too many. I think if we could get -- in my mind -- units down to -- I don't know -- six or eight. You know, this is a site that has one small site and basically a little side yard on it right now. So the idea of taking that up to -- up to 29 units or much past, you know, I mean somewhere -- somewhere in there there's a number that might make a reasonable compromise between us and the developer. But as i've said, i've spoken with mr. Carney many times, and he's very determined not to -- not to cut the density any further than what he's done. And he's very determined to build a five-story building.

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**Sten:** Okay.

**Katz:** Okay.

**Sten:** Appreciate that.

**Katz:** Thank you.

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

**Katz:** All right. I know transportation -- i'd like to -- i'd like to ask planning -- I know it's not -- we had this discussion before. The council can basically ask any questions, right? Okay, good.

**Saltzman:** They always say yes to that.

**Katz:** Talk a little bit -- I know it's not relevant to this, but since i've been somewhat involved with the planning process in st. Johns, talk a little bit about where -- where the community is gearing up on this. And as I said, this is not relevant to the decision on this, but i'd just be curious and you're here and I haven't seen you for a while.

**Barry Manning, Bureau of Planning:** That's right. A couple months. Barry manning with the bureau of planning. I'm the project manager for the st. Johns lombard plan.

**Marguerite, Bureau of Planning:** Marguerite, staff on the st. Johns lombard plan.

**Manning:** We're here today basically to learn more about this case and basically learn what the community's desires are too. We've been involved in the process of learning more about what the community would like to see in st. Johns over the last year now. Working with the public, finding out what their issues and desires are. What we've recently done is completed a vision process and a series of neighborhood walks where we actually went out with the community and walked through neighborhoods and talked about issues and problems out there and what their future desires for the area would be. And I can leave the council with copies of that, but you probably want to know --

**Katz:** I want to know -- the issues that we're dealing with, a 20-year-old comp plan, and the issue of zoning for this or other areas, come up in your walks?

**Manning:** Yes. We have discussed land use and the types of development that would occur, given the current zoning, and under the current zoning and comp plan designations throughout the entire plan area, and it has been a real topic in this area, as you can imagine. The walks took place in may, which was -- the timing was such that it coincided with the application here. I can go into some detail about what we've heard from the community so far.

**Katz:** Just a little bit.

**Manning:** Without tipping our hat one way or the other, I want to first say we're still in the earlier parts of the planning process. We've gone out with neighbors and other interested parties and walked through and found out what their concerns, what they would like to see. We haven't gotten to the stage where we've done any technical analysis open transportation or economics to find out what's happening.

**Katz:** This is the disclaimer.

**Manning:** Right. And that is coming within the next couple of months. And we're aiming at some urban design concepts in the fall. Having said that, what we've heard so far in that particular area is, as you've heard before, that there is a -- an acceptability of higher density housing in that area. People were generally amenable to the notions of multi-family housing and infill in that area. The area could be characterized as a real mix of development styles. There's some single family housing, there's some existing apartments that's been pointed out, and there's different scales, the schrunk tower being at one extreme of the scale and smaller apartments being predominant in the other areas. There's quite a few new row house developments in the area, and then there's industrial as well, so it's a real mix. But people were recognizing that the area could accommodate multi-family housing. What we did here pretty strongly in most of the walks was that they didn't feel comfortable with the scale of housing -- or housing at the scale that the rh currently allowed which is the 75-foot maximum height. We heard pretty loudly that that was not what they wanted to see

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in the area. I should state, though, that's not a universally shared position. We have both oral and written -- I wouldn't call it testimony, but information from other folks in the neighborhood that think that that is an acceptable level of density too. So we've heard it on both sides.

**Katz:** Okay.

**Marguerite Feursanger:** If I could just add, we also heard talk about the design of multi-family structures, and that was very important, the materials that were used. People were generally unhappy about the recent development that's been infilled there, and were hoping to see better buildings.

**Katz:** Yeah. That's something that -- yes, you know I feel very strongly about in terms of the design. Thank you.

**Manning:** That's certainly a direction we're looking ahead in, is to look at those issues in more depth, particularly in design.

**Katz:** Anybody else with questions? Thank you.

\*\*\*\*\*: Thanks.

**Katz:** I didn't put you on the spot, right? I didn't ask you what you thought. We were told another plan of thought. All right, transportation, come on up. Commissioner Sten and some of us have questions.

\*\*\*\*\*: -- serves the marcom ship building. And this is this propeller manufacturing firm. Is that an appropriate type of traffic to be consistent with a local street designation?

\*\*\*\*\*: I'd defer to jamie on that one.

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

**Jamie Jeffrey, Office of Transportation:** Jamie jeffrey with the office of transportation.

Typically the designations on the streets are a policy designation. And the type of traffic that a local street would have on it would be traffic that is serving the local uses in the area. In some areas of town you'll have -- you'll have important street connectivity, so some local streets will carry a higher volume of traffic because those are -- you know, there's fewer streets to get the traffic to the local destinations. So in this area it isn't -- it isn't typically based on whether it's -- i'm not sure if you're talking about types of traffic or whether you're talking about --

**Saltzman:** Types of traffic.

**Jeffrey:** -- trucks and things like that.

**Saltzman:** Yeah.

**Jeffrey:** Typically, depending on what streets are available for those -- for those vehicles to get to the places of business that they're going to, a local street would be an appropriate street for them to be on, depending on whether it's taking them to their place of business necessary or whether they're driving, say, using it as a cut-through route or something like that. If streets have cut-through problems with trucks and things like that, and there are other streets which are -- which are classified higher that are available to them, we try to make efforts to discourage that traffic, you know, as much as we have available in our toolbox.

**Saltzman:** Are there other streets that are higher -- higher, better use for that type of traffic? Seems to me there is one further south, on the other side of the st. Johns bridge, but I can't think of the name of it.

**Cherrie Eudaly, Office of Transportation:** It would not serve those businesses at the foot of the hill. Sighing so baltimore is basically the connection. I would also say, even though i'm not a traffic engineer, i'm in development review, baltimore is -- of the streets coming into baltimore are sign/stop. Baltimore basically goes from the foot of the hill up to ivanhoe. Ivanhoe has a signal. so it might be -- neither jamie, nor I were involved in the classification of the streets when that was done in the transportation element, that because it was such a limited, such a short street, basically coming from the heart of the st. Johns area down to cathedral park, that it might have been just

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missed as a neighborhood collector for whatever reason, but all of the streets, willamette, syracuse, they all have stop signs as they come to baltimore, until it gets up to ivanhoe and ivanhoe is a signalized intersection.

**Jeffrey:** It functions more as a neighborhood collector by the amount of traffic that's using it, but the reason it's doing that is because there aren't a lot of, you know, fully improved street connections all around the area. And then usually we find that traffic signals will tend to encourage traffic a little more. So, you know, we try to be cautious when we put signals in as well.

**Saltzman:** So were it to be considered a neighborhood collector, that probably wouldn't change your finding, that there's enough capacity? Because the neighborhood collector would have a higher capacity.

**Jeffrey:** And capacity is not defined by -- pie classification. Capacity in the technical sense is strictly defined by how many vehicles can fit in a travel lane per hour on a street. And that number tends to be extremely high. When we look at a signalized intersection it's typically the -- before you start putting in all the constraints, it's typically 1900 vehicles in a single hour in each lane that enters into that intersection. So capacity is usually rarely an issue, especially on local, and the lower volume streets. It becomes more of an issue on the higher volume streets and the busier streets in the city.

**Saltzman:** There was mention about using the '97 transportation -- traffic counts, I guess, as being outdated.

**\*\*\*\*\*:** Uh-huh.

**Saltzman:** And there was mention that the neighborhood had submitted evidence in the record refuting -- or not refuting, I shouldn't say, but providing alternative information about traffic counts. Are you familiar with that information?

**Jeffrey:** I haven't seen, other than the statements in the appeal, stating that they feel it's outdated. Typically with traffic counts, it's a bit of a judgment call as to whether the count is -- is good enough to give you the information you need or whether you should get a more current count. In this case, with the amount of development and such that has gone on down in this area that might add traffic to this street, or both of these streets, it wouldn't be high enough to create a problem for the criteria we look at, which would be the level of service or the street capacity. So 1997 counts, with not a great deal of development in the area, are going to be -- usually going to be sufficient for us to draw some conclusions in terms of the approval criteria.

**Saltzman:** Then lastly, whose job is it? Is it transportation? Is it police? To make some determination about safety of a 20 to 22% slope with 18-wheelers heading downhill and a driveway? I mean, who makes that kind of a safety call in.

**Jeffrey:** The actual access for a site is reviewed by transportation and approved by transportation.

**Saltzman:** Taking into account safety criteria?

**Jeffrey:** Correct. When we look at safety in the broad sense, we look at a variety of things, depending on the situation. In this case we would look, first of all, at the intersection and the collision history associated with that. In this case, as noted in the record, there was only one collision in the 1997-00 time frame. By our -- in comparison to all of the intersections we typically look at, that typically would tell us that the intersection seems to be operating acceptably. So we don't -- we don't note it as having a significant safety problem, because drivers -- recorded collisions show that drivers appear to be negotiating it successfully. The second thing in terms of safety is the access point. In that we -- in a zone change we don't review the actual -- zone change we don't review the actual building design until they come in for building permit. At that time we would want to verify that wherever they're proposing an access met acceptable sight distance

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standards. And an analysis would have to be done by the applicant that verified that for us. In this particular site --

**Saltzman:** They don't need to make that finding ahead of time, that there is an adequate access way from a line of sight perspective?

**Jeffrey:** In this particular site there are access availability along two frontages -- edison and baltimore. And so when we look at this site we know that for the most part edison has some places along it which would have acceptable positioning for access points. So from that perspective, if we couldn't guarantee any access too this site, we would basically have to call it undevelopable, but we can determine that there is at least some spots along at least one of the streets, and it appeared from the field investigation that there may be some along baltimore as well where an access could be located. So that would be verified during the building permit.

**Saltzman:** Okay.

**Sten:** Is it possible -- i'm sorry.

**Saltzman:** Go ahead.

**Sten:** Is it possible from that argument that there may not be able to be access from the hill?

**Jeffrey:** That's correct. If the sight distance analysis didn't actually show that there was adequate sight distance for vehicles exiting the site, in addition vehicles that may slow down to turn into the site, both directions, then we would have to say that, you know, we weren't comfortable with the -- the safety issues associated with this not having adequate sight distance and we'd have to be exploring other options.

**Katz:** Further questions? I think you've asked all the questions that I wanted to ask. Okay. Thank you. Before we -- let me just address the police issue. Police respond based on -- today, though that may change later on -- calls for service. If there's a higher level for calls of service, there's usually an adjustment in personnel from one area to another. Or it's managed and we keep an eye on the crime rate. And I think that's the reason that commander smith basically said adequate. He doesn't make the final decisions on shifting personnel from one precinct to another or adding additional officers, but we do watch those numbers. And I think I understand why he made the qualifications, though it's probably not appropriate between renters and homeowners, because we've had discussions about that in several precincts. Setting that aside, I think -- I know there'll be adequate service. In fact, that north precinct has the lowest crime rate in the city right now. Did you want to say anything?

**Walhood:** You had asked me that you wanted to -- let me just discuss how the secondary service bureau layer fixes and responses came about. That was during the first hearing, the hearings officer saw that we had what could be -- what could appear as conflicting responses. We had some responses saying the proposal is a 35-unit apt apartment and then we had the other half saying it's for rh and we had nothing from the police. I had written a finding saying the police didn't respond, so they don't have concerns, which is something we do quite often, to be perfectly honest. We clarified that. The hearings officer directed me to send out an e-mail to all the service bureaus, get a second response, specifically saying it's for rh, and also two other clarifications. The traffic count data for transportation. And he asked for information from police that I passed on, but we never got. Levels of staffing, levels of response time. So I wasn't able to arm-wrestle the commander for another response, and we got the one we did. I had to read the yes statement and go with that.

**Katz:** I know. i'll take care of those -- those big issues. But I did ask the question with regard to hearings officer asking pdot to -- to do some analysis. Was that an accurate comment?

**Walhood:** That's true, at the hearing.

**Katz:** Pdot did do the analysis?

**Walhood:** We had two further responses, a supplemental memo and a response. They clarified --

**Katz:** That's what he based his decision on?

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**Walhood:** That's correct.

**Katz:** Okay. Further questions? Oh, one last one. Design review.

**Walhood:** Absolutely no design review. No overlay.

**Katz:** We can put one on, can we not?

**Frank Hudson, Deputy City Attorney:** That's been done before.

**Katz:** Excuse me?

**Hudson:** It's been done before.

**Walhood:** There's a scenic overlay, but no design overlay.

**Katz:** We can --

**Walhood:** If you put a d on --

**Katz:** We have to just identify design review. We can't do a design overlay just like that for the area, but for this particular site we could designate design review.

**Walhood:** Apply the d overlay, the applicant would either have to meet the design standards or --

**Katz:** Right, for that particular site.

**Sten:** Okay.

**Katz:** All right. I'll take a motion.

**Saltzman:** I will move to -- I believe to uphold the hearings officer, overturn the appeal, and subject the property development to design review.

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

**Sten:** I would make a friendly amendment if it's acceptable to -- I think we can, and i'm playing -- sounds like it would acceptable -- to let him the height to 65 feet, if the -- I mean, if we can't do it I would ask the applicant if he'd be amenable to that. And i'm -- I haven't come up with language, but i'm interested in some type of finding that states -- I want to state a preference, but not 100% binding -- i'm looking to transportation -- to do the primary entrance and exit on to edison instead of on the hill. I don't want to make it completely binding, because you could possibly set up a situation where it's worse for the neighborhood because somehow that makes the design terrible, but I somehow want to do a condition that the council asked transportation to make the primary access from edison unless, you know, somehow -- I don't have it quite worded right, but somebody could help me with wording that would think of how to do that. I don't want to make it absolute and all of a sudden you have a building you hate the design because it's designed to have a driveway where you don't want it. But I think the council stating a strong desire to get that access off of the hill would get at one of the major issues that the neighborhood is right to be worried about. That's the longest, least precise amendment.

**Katz:** It will come back for findings, so we'll have time to craft the language. Can we put a height limit on this one? Yes, okay. Come on up. She's letting you do the work. Come on.

**Katz:** She's the pro.

**Walhood:** You could. I should mention part of the reason the driveway is on baltimore --

**Katz:** We'll have the applicant come up.

**Susan McKinney, Office of Planning and Development Review:** Part of the reason the driveway is on baltimore so it can be below grade as opposed to surface. So given the grade of the site, if it's required to come on edison, it's more likely you'll get a surface parking lot, as opposed to the below-grade which was proposed.

**Katz:** That's a big factor. Hi. You want to identify yourself for the record.

**McKinney:** Susan mckinney, office of planning and development review. I think council can put conditions on a zone change if you so wish. We just need to have a basis for it in the findings. Since the approval criteria are looking at service adequacy, i'm not sure how we make that connection to height to it. If you have some suggestions --

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**Katz:** Does everybody in the audience understand what we're struggling with? Okay. We have to keep to the criteria and we can stretch it, but it also can be appealed.

**McKinney:** Right.

**Katz:** All right. So we'll -- you'll be able to figure that out.

**McKinney:** Hopefully.

**Katz:** Okay.

**McKinney:** If council can give us some guidance on that, we'd appreciate it. We'll work open it too.

**Sten:** You know, i'm not going to -- I think, you know, the applicant said that's the height he wants to do. You know, I think the design review is probably adequate to address it without a specific height cap, but I think, you know, there's going to be -- i'm trying to -- well, let's have the applicant come back up.

**Katz:** Yeah, okay. Why don't you come back on up, both of you, one of you, whoever's going to hire the architect. So we can put a -- we can put a design review on this deal -- a d overlay on this site, and that's agreed by all of us. The issue, I think, that council members want to know, what really is your -- what are your plans in terms of the height and the issue of the access on a different street.

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

**Katz:** Identify yourself.

**Carney:** Terry carney speaking again. One concern with the access on edison would be the fact that without the subterranean parking, we're actually pushing the building up higher. So with that train of thought, we did want to access off of baltimore to keep the height down. When I mentioned that our height was 65 feet, we are in a preliminary design phase at this point. And to limit it exactly at 65 feet would limit us. If we had to have a limit like that, without just following the code of 75 feet, and rowen, I have to throw this out to you too, but I would feel more comfortable with 70 feet as a limitation. However, our thought is it's going to be around 65 feet.

**Rystadt:** I had a question.

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

**Rystadt:** Rowen rystadt.

**Katz:** Do you want to add to that conversation we just had?

**Rystadt:** Yes. The height will be determined by the street access. Obviously we'll have to go higher if we enter on edison. I wouldn't want to put a height limit on it. I think the biggest concern is the access. I think just by having a sight distance requirement -- it sounds like we'll be subject to hiring someone to do a sight distance analysis, and that's really going to determine where we have to put our driveway.

**Sten:** Those two are seriously in conflict, I guess. I can't speak for the neighborhood. I think it would be more desirable for them to get the access on to edison than exactly the height is my sense from where the testimony came.

**Rystadt:** If you have 75, I don't think it's going to make that much difference.

**Sten:** I'm going to withdraw the height.

**Katz:** You're going to withdraw the height and the access.

**Sten:** Yeah. I'd like to leave some language about a preference for the access. I mean, it just creates a record, you know.

**Katz:** Okay.

**Sten:** I'm not going to put binding --

**Katz:** Some language on the preference of the access based on safety and transportation issues. I mean, that's legitimate. And a d overlay. Yeah?

**\*\*\*\*\*:** Question about a d overlay.



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**Katz:** Never mind. Come on up.

**Walhood:** If we do the d overlay, they have two track option with the design standards or design review. They can't do anything with the design standards over 55 feet. In other words, if they propose a building that's 56 feet tall, they would be required to go through the --

**Katz:** Design review.

**Walhood:** -- design review.

**Katz:** So they're into design review. And you will be working with the neighborhood on that. You'll also be working with the design commission on that.

**Carney:** Correct. Terry carney again. That's a current standard?

**Walhood:** Yes.

**Carney:** Okay.

**Katz:** Yes. We didn't -- we can't change that.

**\*\*\*\*\*:** Sure.

**Katz:** All right, right today. All right. Let's -- so the motion basically is to adopt the findings the hearing -- yes?

**Palmer:** Are you guys getting ready to vote?

**Katz:** Yes.

**Palmer:** Can I speak?

**Katz:** We'll draw the motion and allow you -- we'll keep the motion on the table and have you come up for a second.

**Palmer:** The first thing --

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

**Palmer:** Eric palmer. The first thing I want to say is now you know why we don't think this structure, this site, can be developed at this density safely, because of the issue with this balance between the height of the building, the density of the building, and the positioning of the driveway. We don't think it can be done to accommodate mr. Carney's desires, the neighborhood safety concerns, and kind of the structural integrity of the site, and also the aesthetic quality of the site. That said, it's my understanding that under these proceedings we can request a seven-day extension on submitting additional testimony. If that's the case i'd like to do that so that we can analyze the motion more carefully and comment on that in detail before y'all vote.

**Katz:** Go ahead.

**Palmer:** So I make that request.

**Katz:** Okay, all right. Let's clarify the motion again, commissioner Saltzman.

**Saltzman:** To uphold the hearing officer, overturn the appeal, require design review for the subject property. And some sort of language to be developed, the finding that would emphasize a preference for access on edison street based upon traffic and safety concerns. But not a requirement.

**Sten:** I was just thinking, you'll figure it out, but maybe since it's going to the design commission, if it can be -- meet the design threshold.

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

**Sten:** Second.

**Katz:** All right. Roll call.

**Saltzman:** Well, I think the --

**Katz:** This is a -- this will have to come back to the council?

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

**Katz:** Okay. Roll call.

**Saltzman:** I wanted to add to commissioner Sten's credit to the neighborhood for putting together a case based upon basically the world we have to work within, which is the criteria of a comp plan

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change. You've done a good job arguing it, but I don't think you've persuaded me that we can alter the recommendation of the hearings officer and the recommendation of the planning that this property should be zoned according to the comp plan based on the evidence before us. I do think that it's frustrating, I think, to all of us, I think as Lori King mentioned, you know, you want to clarify the vision, and we want to work with you to clarify the vision of your neighborhood, and that will happen over the next year or so. We do submit a vision. But we don't have the right to ask -- deny applicant, a required applicant to wait until we clarify that vision, as long as he or she is proposing something with the plan we laid forth, even though it was '81, it's still the law of the land under which we have to operate right now. In this case they've met the criteria. And I feel we need approve this. I think design review will help. I think also if we can work something out on the access to Edison that could help too. Aye.

**Hudson:** Sorry to interrupt you, Mayor, two things. Yes, you do need to come back for adoption of findings.

**Katz:** Right.

**Hudson:** Secondly, only in a denovo hearing, can the applicant, just the applicant, can request that this hearing be held open. Since the hearing is on the record, there's no provision for holding the hearing open.

**Katz:** Okay. Go ahead.

**Sten:** I'd also say, on one hand, the timing is unfortunate, because you're in the middle of doing great work trying to figure out how to rezone the neighborhood, and will get a warm hearing when it gets here, on the other hand this will clarify for people what they want to focus on. My simple analysis is that I -- you know, I do think it meets the criteria, that this will go to Luba on those issues most likely, and I don't think there's a case that the street can't handle it and that the police can't handle it. I think now with the design requirement, there will be a design review process that you can work with and we'll have quite a ability of to influence. I believe this developer will keep working. That's obviously not what people wanted, but it is more opportunity than existed. I think there's a wide range in terms of both how it affects the hill, the transportation and how it looks with how this thing could be designed. I think it's one of those points of view where designed well, something can be very different than people hope and designed poorly it can be just the opposite. So, you know, it's my sense, it does meet the criteria, but I think it will be beneficial to put some extra design focus on this through the design review process. From my sense of the developer, he's open to that. Aye.

**Katz:** This is a tentative finding. We'll set a date in a few minutes as to when this comes back. We'll double-check with our city attorney on keeping the record open for seven days. I don't have my code in front of me. This was a difficult decision, and I think the opponents to the project, the appellants, clearly understood and did a very good job in staying as narrowly as possible to the criteria, but you also saw the difficulty that we have. We can't basically set everything aside and wait for a review of the zoning that the community's working together on. Or ask the applicant to wait a year, or maybe longer, before we make some decisions with the community as to what the future zoning of the area would be. I asked for the design review, because I think quite frankly that's where most of the problems occur. They occur in the material, they occur in the design. They don't necessarily fit into the community. And if they don't fit into the community, they're not -- they're not a design excellence that actually attracts positive attention to the building. And design review will push the applicant and the architect to make this a very interesting and -- and design excellent building. You will have to work with the neighborhood on this. And they will have the opportunity to work together, side by side, but in the final analysis the design commission will have the final say, and you'll be able to talk about it at the design commission with the applicant as a community members. Aye. [ gavel pounding ] date for the findings?

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**Hudson:** I think the applicant --

**\*\*\*\*\*:** If we go under 56 feet --

**Katz:** No, we're not going to talk about that right now. I need a date. When do you think the findings --

**Moore:** Do you want two weeks or three weeks?

**Katz:** Two weeks.

**Moore:** Which will be the 14th.

**Katz:** Speak up. Three weeks?

**Moore:** Three weeks would be the 21st and that's a 6:00 p.m. Meeting.

**Katz:** Two weeks. Let's do it in two weeks.

**Moore:** August 14th at 2:00 p.m.

**Katz:** That's fine, you can do it in two weeks. All right, now, record. Frank?

**Hudson:** Record is closed.

**Katz:** Okay, fine, everybody. We'll be back in two weeks. The date in two weeks is?

**Katz:** August 14th at 2:00 p.m. Thank you, everybody. We stand adjourned until tomorrow at 2:00. [ gavel pounding ]

At 4:35 p.m., Council recessed.

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**Katz:** Good afternoon, everybody. The council will come to order.

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

**Katz:** Present. Commissioner Francesconi is on vacation. We have one item before us, 962.

**Item 962.**

**Frank Hudson, Deputy City Attorney:** Good afternoon. Welcome to council chambers. Today's hearing is an evidentiary hearing. This means you may submit new evidence to council in support of your arguments. This evidence may be in any form, such as testimony, letters, petitions, slides, photographs, maps or drawings. If you haven't given the council clerk a copy of the evidence you plan to submit, you should give it to the council clerk after you finish your testimony to council. Any photographs, drawings, maps, or other items you show to the council during your testimony should be given to the council clerk at the end of your testimony to make sure that it becomes a part of the record. The order of testimony will be as follows -- planning bureau staff will begin by identifying the applicable approval criteria and will give an overview of the development application. Next the applicant will have ten minutes to present his or her case. Following the -- excuse me, I meant to say appellant, not the applicant. Next the appellant will have ten minutes to present his or her case. Following the appellant, persons who support the appeal will testify. Each person will have three minutes to speak to the council. This three-minute time limit applies regardless of whether you are speaking for yourself or on behalf of an organization such as a business association or neighborhood association. The principal opponent, in this case the applicant, will have 15 minutes to address the council and rebut the appellant's presentation. After the principal opponent, the council will hear from persons who oppose the appeal. If there's no principal opponent, the council will move directly to testimony from persons who oppose the appeal after supporters of the appeal conclude their testimony. Again, each person will have three minutes each, whether you are speaking for yourself or on behalf of an organization. The council may then close the hearing and deliberate. After the council has concluded its deliberations, the council will take a vote on the appeal. If the vote is a tentative vote, the council will set a future date for the adoption of findings and a final vote on the appeal. If the council takes a final vote today, that will conclude the matter before council. If you wish to speak to the council on this matter and have not signed the list located outside of council chambers, please sign up at this time with the council clerk. Lastly, I'd like to announce several guidelines for those presenting testimony and participating in the hearing. These guidelines are established by the Portland zoning code. Any testimony and evidence you present must be directed toward the applicable approval criteria for this land use review or other criteria in the city's comprehensive plan or zoning code which you believe apply to the decision. The applicable approval criteria are identified in the staff report. Before the close of this hearing, any participant may ask for an opportunity to present additional evidence. If this kind of request is made, the council will either grant a continuance or hold the record open for at least seven days to provide an opportunity to submit additional evidence and will hold the record open for an additional seven days to provide an opportunity for parties to respond to that new evidence. Under state law, after the record is closed to all parties, the applicant is entitled to ask for an additional seven days to submit final written arguments before the council makes its decision. Finally, if you fail to raise an issue supported by statements or evidence sufficient to give the council and the parties an opportunity to

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respond to the issue, you will be precluded from appealing to the land use board of appeals based on this issue.

**Katz:** Declaration of conflicts of interest by the council members. Declaration of ex parte contacts by council members. Anybody want to challenge our silence on these issues? I need to state that I -- I think I went to visit the site last night. I think I know where the site is. I just saw the map and i'll take a look at it a little later on, but I think i'm aware of where -- exactly where the site is.

Wanted to see its relationship to the neighborhood. We'll have the staff report. Then we'll have the appellants for ten minutes, supporters of the appellant for three, the applicant then will have 15 minutes, their supporters will have three, and then we'll have a rebuttal by the appellant for five minutes. Mark, do you want to come up here? Let me just help you along. Just for people who were not here yesterday, yesterday was mark's first presentation, and it was quite original, quite amusing, and quite unorthodox. And he got punished for it, and we want to encourage it. It was unorthodox, he did his work well, he made us laugh, and he really didn't influence us at all, but at least he had us thinking a little differently. Mark, in just this particular one -- in this particular one the issue is really the definition of a detention facility and a group living and how the two -- what is required, okay?

\*\*\*\*\*: Exactly.

**Katz:** Go ahead. We wish you luck.

**Mark Walhood, Office of Planning and Development Review:** Okay. As you mentioned, i'm mark -- I should start. Good afternoon, mayor Katz, members of council. I'm mark wallhood, staff with opdr. We're here for the appeal of a hearing officer's decision for approval with conditions. The facility is a proposed as a 75-bed detention facility with interior and exterior remodel of a vacant office building. Also other site improvements. Utilities, basically new storm water management techniques, some rearrangement of the vehicle areas, net result about 100 parking spaces walkways, fencing, lighting and landscaping. The appellant is someone who represents the ramada inn immediately to the north of the site. Staff recommendation was for approval with conditions. Council will uphold with changes or overturn the hearing officer's decision. The mayor she went out to the site last night. It's just north of Columbia boulevard in kind of this industrial pocket. I don't know how best to describe it, but the east side of the site is the parkway of 82nd avenue, so there's no direct access. The only real access is to the west on 80th. And it shows the site plan. there's sort of two parcels. The front parcel up by the street on the upper left of the screen is vacant. It's going to remain a landscaped area. There's no some new landscaping along the driveway, but basically we're remodeling the building. To the west you see a little rectangle, an outdoor activity area with fencing. These are just some sites. This is looking -- you can see the ramada hotel in the background. The post offices are right at the north side of the driveway that leads back to the office building. You can sort of see the vacant park where the pave is and the grassing -- excuse me -- the paving and the grass on the front of the site. Looking across the street, an office park. Gives you an idea of the surrounding area. Generally industrial, low-density office, and airport-related hotels nearby. Looking straight down the driveway, the office building on the left. This is looking along the south, over the south property line to the distributing business to the south. You can see the holiday inn in the background, but that's on the far side of 82nd. Be quite a walk to get there. Again, just another shot of the office building. The little courtyard the west side where the outside play area will be. The east side of the building, which is really the main door, and you can see through the yard, if you see the red roof, that's the ramada, it is right there. The southeast fire lane access, there's no road on the east end, as I mentioned, but there's a little fire lane that's gated. Then the northeast end of the property, where there's a

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condition for a new gate, you can see there's already a swinging gate. Again, I mentioned the proposal is renovation. It amounts to about 29,000 square feet. The building will include 75 beds. Recreation and staff spaces on the second floor. On the first floor there's business offices and staff spaces and residence services. Landscaping and vehicle area improvements, as I mentioned, also a new pedestrian walkway out to the street, fencing, lighting and parking. Again, the site plan. The approval criteria in the review are the standard conditional use criteria for detention facilities based on appearance of the facility, that it won't detract from the desired character of the eg-2 zone, which is to provide a diversity of employment opportunities and enhance the appearance, the safety criterion and public services criterion, finally the transportation element of the comprehensive plan. I'll go briefly into the appeal issues and the status, what happened with the hearings officer. The appellant's two issues are that the safety criterion, b, was not met. A. And then, b, we misclassified the use as a detention facility when it should have been group living. From the hearing officer's perspective the safety criterion was met with the proposed fencing and lighting and all the staffing levels and other components which are in condition b. C. And the hearing officer's new conditions, I and j, to address the safety criterion, he found with conditions b, c, I and j safety issues were adequately addressed. In terms of the use classification, and I have had conversations with both Joe Oberall and David Noran, the appellant and applicant's attorney on this issue, the hearing officer's argument regarding the use appears on pages 8 and 11 -- excuse me -- the hearing officer's decision, primarily pages 10 and 11. I will paraphrase from those pages to summarize the hearing officer's position on the use. Chapter 920 is the zoning code chapter that tells us how to classify uses and that gives us the use categories.

**Katz:** Where are you now? The hearing officer's report?

**Walhood:** I'm sorry, I haven't gone to the next slide. There's no slides for this part.

**Katz:** All right.

**Walhood:** I'm sorry. I'm reading, paraphrasing from the decision, the hearing officer's decision.

**Katz:** Oh, okay.

**Walhood:** The use classifications are contained in chapter 920 on the zoning code. The process for classifying and the categories themselves. Based on information submitted from attorneys on both sides before the hearing officer, the information came forward that at least part of the residents of the facility are coming directly from the federal corrections system, and they are performing -- or excuse me -- are completing the final confinement portion of their sentence. In other words, it's not postincarceration, but alternatives to incarceration, where some amount -- for example, 10% of a term is completed in one of these transitional facilities. Also in the record, submitted into the record, was information that the -- under contract with the U.S. Department of Justice and Federal Bureau of Prisons, they will be having a former offenders, who as a result of this, will be required to serve the balance of their sentence at the facility and that they will be under 24-hour supervision by sworn officers. This was in exhibit h-22. Finally, there's two other elements of the use classification that the hearing officer's considered. I'm now on page 11 of the hearing officer's decision. The example section of the code lists halfway houses as an example of a group living use. The exceptions section states that -- exceptions section of group living states that programs where people are under judicial detainment and under the supervision of sworn officers are included in the detention facilities category. Basically what it comes down to is even though halfway houses are an example of group living, the fact that we have 24-hour supervision by sworn officers results in the hearing officer having agreed with staff that the use more closely fits the detention facilities category. I will also mention -- and there is information in the record -- a memo from me stating that early on in this process, during the preapp, OPDR was aware of this issue, that it

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-- and as the hearings officer has confirmed, theoretically it could go either way, but the fact that our examples are generic and we're told in the code to take a broad look at the use we made a conservative judgment that it was a detention facility. And also I think it's important to point out, it is also in the record, that if it were classified as a group living, it could go on this site, but they could -- they would have to tear down the office building and put back another building. You cannot renovate an existing building in the eg-2 zone for a group living use. It has to be new development. That's related, I understand, to the industrial sanctuary restrictions where we don't want housing going into the industrial areas or employment areas, unless it's a new building, not using an old building. All that's just anecdotal.

**Katz:** This is an editorial comment, right, mark?

**Walhood:** It's not, it's not. I thought that was germane.

**Katz:** It is. It is bizarre, but that's all right.

**Walhood:** I'm done. Hearing officer's decision was approval of the facility as proposed on the exhibits. I won't go into the exhibits. There's a standard zoning compliance page required. This condition on the next two slides is basically encapsulating the primary safety concerns and these are conditions that were submitted by the applicant, minimum of two staff members, security cameras at all times, criminal background check, and u.s. Bureau of prisons approval for staff, prescreening for those with sex offenses or violent behavior, and then --

**Katz:** One moment.

**Walhood:** Excuse me.

**Katz:** Step back for a second.

**Walhood:** Number four. All residents will be classified prior to acceptance, or screened prior to acceptance, and those with a background of sex offenses or violent assaultive behavior will not be accepted, and that's standard.

**Katz:** Let me just go back.

**Walhood:** I'm sorry.

**Katz:** On the all staff members will undergo a criminal background check and u.s. Bureau of prison approval prior to employment, they need to be correctional officers, right? They need to be law enforcement officers?

**Walhood:** I will let the applicant clarify that.

**Katz:** Okay.

**Walhood:** My understanding is there are some staff who are and some staff who are not, that there's a mix.

**Katz:** All right. We'll go and talk about that later. Go ahead.

**Walhood:** Fifth part of b is a checkout log, annual inspections by the fire bureau and the county health department, and then an annual -- seven is sort of optional, either -- i'm sorry, this isn't the limits optional, just a contact with the naked association. Onsite pedestrian walkways and vehicle areas must be lighted. There was a condition added because we didn't have lighting details on the plan, but lighting was part of the reason the applicant said safety was met. That was put in there just to assure that lighting is provided. D is related to public services, just water, firefighting ability. Another service criterion, e, for the septic system being decommissioned, meeting the storm water management manual at f. For transportation adequacy, dedicating three feet of frontage and completion of a sidewalk and planning strip. H, this was applied by the hearings officer in response to a neighbor's concern about the appearance of the site from the street, so basically requiring a row of shrubs along and near the sidewalk on 80th. This is the or condition I thought I was on before. This condition requires the operator of the facility to have a board of

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directors person communicate either with the cully neighborhood association once annually or attend a meeting of the cully neighborhood association annually. This condition j was applied by the hearings officer out of concern for residents to just directly access the ramada to the north, and so a condition was applied that the gate -- and I showed you that access drive -- will be gated and locked with Portland fire bureau approval, because I think they have a fire access easement there. The alternatives facing council, as I mentioned, are to uphold the decision, uphold the decision with modifications, or overturn the decision. That's all I have.

**Katz:** All right. Questions? I have one other question, mark. All of them -- when we talk about 24-hour supervision, is some of them are going to be going to work? The residents?

**Katz:** Residents.

**Walhood:** Some of them will be. Then again we should probably talk to the applicant.

**Katz:** Your understanding.

**Walhood:** My understanding is there are -- and I could be wrong, but my understanding is there are postincarceration residents, meaning they often have jobs and they go out and visit people and -

**Katz:** And some of them are finishing their term.

**Walhood:** Right. Some of them are doing alternatives to incarceration.

**Katz:** We'll find out, then. Questions, anybody else? All right. Appellant, you've got ten minutes.

**David Noren, Attorney for the Appellant:** Good afternoon. Mayor, commissioners. I'm david noren, the attorney for the appellant in this matter. With me on my far left, far right, is steve brewer, general manager of the ramada inn, and immediately to my left is kevin torkleson, here to provide information about you what a sworn officer is, because he is a corrections officer with the Multnomah county sheriff's office. He's an instructor down in monmouth and he'll be able to provide you with information about what that kind of training is.

**Katz:** You have ten minutes. So use it wisely.

**Noren:** I submitted today what looks like a lot of information. It's not as much as it looks. The bulk of it is copies of the federal manuals for contracting for these sorts of facilities. And I think that will help illustrate the level of different activities that these inmates go through while they're there as residents, a progression toward increasing freedom and participation in the community. And I think demonstrates clearly that they're not under 24-hour supervision. They not only go out to work, but they're being encouraged to socialize increasingly as they move through their transition into outside life. What i'd like to do is just walk through the three-page letter that's at the beginning of this material and have mr. Torkleson speak briefly. Mr. Brewer submitted a letter, and his manager submitted a letter. He will not testify unless you have questions for him. The central issue is whether this is a detention facility, that is one that has inmates and detainees under 24-hour supervision by sworn officers or if it's really a group living situation, a halfway house where folks are in incarceration or alternative incarceration for a period of time from the federal probation office, where they've never really been sentenced and they're not under the custody of department of justice or coming out of sheridan or some similar facility where they're wrapping up their time. Those sorts of facilities are traditionally regulated under your code as residential facilities. That the part of the criminal justice philosophy, I think, is to get these folks out into the community. It's been the zoning philosophy of the city of Portland to include these as residential uses throughout the city. The same way you do other sorts of residential facilities for a variety of folks, perhaps with handicaps, perhaps with drug and alcohol treatment issues, these folks are encouraged to be in



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residential areas. In some cases they're prohibited by law from discriminating against these sorts of groups in keeping them out on the concept that they aren't a family or along those lines. So in general, you want these sorts of folks in residential areas. Also from a planning standpoint, you do not want to have your industrial areas, your employment areas, with residential uses plopped into the middle and disrupting them. This is a type of residential use when you come right down to it. It's not a detention facility. Because it is a type of residential use it's going to create conflicts here.

That's what comprehensive planning is intended to avoid. The conflicts may not even be actual safety problems, actual harm done to folks, but merely the perception that harm will be done. That will be disruptive to the business community there. The hearings officer concluded that it was a detention facility based really only on the proposed condition that there would be a minimum of two staff officers and one will be a sworn officer that is a person certified in correctional officer training. There's really no evidence that that makes somebody a sworn officer. There's no evidence in the record that i've been able to locate that any of these folks are correctional officers in terms of training. There's certainly no requirement in the statement of work for the contracting that appears near the end of your materials that any of these folks be trained in corrections. They do need some training in terms of operating and carrying out the contract. I'd like to turn to Kevin at this point and ask him to speak briefly to his experience as an instructor and as a correctional officer.

**Kevin Tarkalson, Corrections Officer:** Good afternoon. To be a corrections officer in the state of Oregon the initial process or application process is a similar or exactly the same as that of becoming a police officer in the state of Oregon. After a thorough investigation and background investigation and testing process, if an applicant is hired, they're then sworn in as a corrections officer in the state, at which time they're scheduled to attend a five-week training academy sponsored by the state of Oregon, department of public safety standards training held in Monmouth, Oregon. The same place where law enforcement officers go for their training also. At that training they receive education and training, I guess is what i'm trying to say, in criminal law, case law, use of force, training in use of firearms, training in use of defensive tactics, training in use of special communications skills in dealing with adversarial situations, training in dealing with individuals who suffer from chemical dependencies, whether it be alcohol or drugs, and suffer from a variety of different mental health issues. Once the applicant or probationary officer at that time has completed that training, they have a year to complete additional training back at their original facilities. After that probationary period is completed, every year on an annual basis most of the corrections agencies in the state of Oregon require the officers to attend 40 hours of additional training per year where they are refreshed in the case law and criminal law elements, defensive tactics, use of force, mental health issues, communication skill issues, as well as first aid and c.p.r. Training.

**Noren:** The materials concerning what is required for participation by a contract with the federal government indicate basically you need a program director who's got four years of college in counseling or a related field or similar on-the-job training. There are no requirements in the work requirements for either level of community corrections center or a somewhat more ambitious center, a community sanctioned center, which involves a somewhat higher risk inmates. In both cases you don't require folks -- the feds don't require folks to have corrections officer training. More to the point in terms of your definition is that they're not sworn and they're not really officers of any public agency. I've provided copies in the materials of -- and this is consistent with your code -- of Webster's Third International that talks about a definition of sworn, bound by an oath, and again the second definition, serving under an official oath of office, certified under an oath. This is

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what the dictionary says you mean by sworn. That's what we have with sheriff's deputies and other sorts of sworn officers. It's not what we have with contractors with the federal government. An officer defined by the dictionary is one charged with the duty and maintaining -- with administering and maintaining the law. That's sort of the lead definition. That's what we think of when we think of an officer, somebody who really holds an office granted by government. That's the most consistent way to read this. I don't think there's any indication that these folks are officers charged or provided with any authority by the federal government. The possible result of treating this as a detention facility because the folks who are engaged in the contract with the federal government are required to have some sort of training and their inmates are there under judicial detainment through the federal probation office, or they're serving out the end of a sentence after they've been discharged from a correctional facility, if you interpret this as being a detention facility, I think you're going to find that any other time someone comes in with a legitimate group living facility, halfway house, that in the past you've said you want to have a -- in residential areas to integrate with the community, you'll find neighbors coming in, this is the case that said these are detention facilities. And you're not going to be able to approve group living facilities -- what are really group living facilities, where you think you should be able to, you'll have to put them in your employment zones, under the circumstances because that's the only place that detention facilities are allowed. So I think if you follow the reasoning of the hearings officer's decision, you'll wind up with very bad results down the line. With respect to safety problems, we don't know that there will be a safety problem. We're concerned there may be. It's not safety on the ground of the facility so much as it may be, this is a three-story building. Inmates who don't have work for perhaps the first week or two, and even when they do have work, when they come back from work, on the grounds of the facility for a long time, they'll see opportunities. These are wonderful opportunities when you see folks coming in for long-term park-and-ride, parking their car, taking their luggage and they're gone for days. One of their friends comes by, and says what's going on over there, that lexus, folks left two hours ago, that car gets stolen, it's not missed for days. That's a big opportunity to put in front of these folks and an indication why it's not appropriate to put this sort of particular residential use in an employment zone. Another one of those conflicts that your zoning is designed to avoid. In addition to the appearance of problems, I think that the appearance is really one of the issues that troubles my client the most, because they're going to suffer in terms of their regular customers that they have, airline pilots, other folks who come and stay with them on a routine basis, and once they find out that this is there, they're going to be concerned. There may not be a real safety problem. In fact, everything we know about these folks, they've done a good job in the buckman community, but the perception of it is very damaging. That's part of what your zoning is designed to avoid. Again, properly interpreting your provision concerning whether they're under the 24-hour supervision of sworn officers, you won't allow these uses in sort of a zone, they ought to go in other sorts of zones. Only in these zones should you have detention facilities where folks know they're secure and generally they're big operations, the inverness jail with several hundred inmates, but folks know it's secure. There's no this type of conflict that you have with this variety of use. The additional materials that I have in the record that I've submitted to supplement the record help to address some of the history. We did try and look at the history in 1990 to see if there was any definitions of sworn officers. Didn't find anything. I've provided examples of some other federal halfway houses that contract that are in residential areas. These are the sort of folks who would not be able to qualify if you make the interpretation the hearings officer did. Thank you. I'll take any questions.

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**Katz:** Thank you. Questions? I don't know if these questions are for you or not, but I need to know historically -- and I see frank here, and there may be others from the community siting program -- this is not for you -- 24-hour supervision, what does that really mean? A. B, what's a sworn officer as defined, whether in our code, in the ors, or somewhere else. Those really are the key issues.

**Noren:** If I may respond to that question about 24-hour supervision. The code, I think, gives us a good indication what it means. It says 24-hour supervision, except when on approved leave. Now they're still on a string when they're on leave. That's the same sort of supervision I think we're talking about when somebody is either staying at home on probation or they're in this sort of facility on probation. They're on a string with the probation officer. They're supposed to check in with him occasionally and he's supposed to know where they are, but he's not the one on site, keeping an eye on them day in, day out. I think that's the distinction here. Because the code says 24-hour supervision, except when on leave, we're talking about oversight supervision, not probation officer supervision.

**Saltzman:** Just a question about your point about sworn officer. I'm trying to understand what you're trying to make here. The hearings officer requires a sworn officer be on duty, at least one at all times, and says parenthetically, example, a person certified in correctional officer training. Now, is it your point that a person certified in corrections officer training is not a sworn officer?

**Noren:** Yes, commissioner, that's exactly my point. And I think it's not only an example in the way it's phrased, I think that is a definition of a sworn officer, that the hearings officer is offering there. A sworn officer, that is someone who's certified in correctional officer training. I think regardless of the level of training they may have had in the past the important parts are what office do they hold and do they hold it by an oath in the way that corrections officers with the sheriff's office hold. What that implies is full force of the state is available to them immediately. With these folks, if there's a problem, they have to call the marshal's office and hope they show up. In fact, I included among my materials are the escape procedures that are required. They're required to provide notice to the contract manager up in seattle within 24 hours of an escape. It's not the same as a jail. It's a contract.

**Saltzman:** Just one further point on that, and i'm sure the -- the contractor can probably provide more information, but can a sworn correctional officer, working for Multnomah county, work in an off-duty situation and be still considered a sworn officer under your definition -- or under the more generally construed definition?

**Noren:** My response would be not off-duty. I think perhaps through contracts where he's exercising his authority as a corrections officer. Now a peace officer might be a different situation, because they continue to have -- and i'm talking about a police officer -- has round-the-clock authority to enforce the law. That might be a little bit different situation. Whether or not that would be appropriate --

**Saltzman:** That would not be applicable, in your view, to a correctional officer?

**Noren:** No. I think that would be a different function. And while it may be possible for them to be a sworn officer supervises them, i'm not sure if it at all would be appropriate, or whether that was contemplated. They're off duty, they're not really exercising the authority of the state at that point.

**Saltzman:** I don't even know if that's what contemplated.

**Sten:** Under that you're saying we should interpret our code to say that detention facilities can only be run by the government?

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**Noren:** I think that is what your code says, yes, they're under the 24-hour supervision of a sworn officer.

**Sten:** Your interpretation has it say that. The way you're defining a corrections officer, they can only be a person on the clock for the government at that time.

**Noren:** Yes, that's how I would define sworn officer.

**Sten:** Which means they can only be working for the government, which means that the federal government couldn't have any detention facilities in the city of Portland through anybody other than the county or the city.

**Noren:** I think that's accurate, yes. I think to meet your definition of a detention facility, they need to be under the supervision, 24-hour supervision, of a sworn officer.

**Sten:** Thanks.

**Katz:** Okay. And that's the definition -- definitional issues that we're going to have to come back with at the very end of this conversation. Your time ran out. You didn't leave your manager any time. He didn't plan to speak?

**Noren:** He's available for questions. He submitted written testimony.

**Katz:** All right, gentlemen, thank you. Supporters of the appeal. Three minutes.

**\*\*\*\*\*:** Your honor, steve brewer was the manager.

**Moore:** Oh, i'm sorry, thank you.

**Katz:** It's you.

**Larry Harvey, Tri-County Lodging Association:** Who knows where everyone else went. Good afternoon, mayor Katz, members of the council. For the record, my name is larry harvey. I'm here today on behalf of tri-county lodging association. I believe the record reflects that we initially submitted a letter stating our concerns with regard to safety issues and the possible impact that that could have, basically not only on small business, but specifically those small businesses involved in tourism. I won't rehash what the gentleman before me said, but there are many, many opportunities because of the nature of the businesses in the immediate area of the proposed halfway house that it's not just the parking for folks who are flying out of the airport, which obviously is important, but there are issues beyond that. I appreciate and have read several times the inj suggestions of the hearings officer, and i'm not certain that an annual meeting by a representative of the corporation that operates the facility necessarily will satisfy the needs or concerns of the folks in the community. I would hate to be a member of the neighborhood association who was -- received a response that simply said, gee, we're sorry that your car was stolen and make sure you bring that up next year at the annual meeting. It also simply requires the folks to respond. That is not necessarily what i'd call binding. It means if you have an answer, and the answer could be, well, there's nothing we can do, I don't know that that satisfies the safety or other concerns. I also appreciate the fact that there are stipulations that these potential residents cannot be folks with a history of sexual abuse or assaultive behavior. But many of the issues that I think we're going to have to be addressing here from neighborhood members are property crimes. And so if I were making the decision, I would certainly send all of my property crimes convicts, or potential parolees, if you will, right out to the facility out here, simply because they qualify and those are the very types of crimes that we're most concerned about. It would be a shame to have folks coming to Portland from all over the united states, not to mention the pacific rim and some of our friends in germany, et cetera, to begin to have to make distinctions between whether or not they'd like to have a room in the facility that overlooks the detention facility. Gee, would you like a view of the jail or would you rather have a view of the river? Then choose their hotel accommodations accordingly. This is an issue that is of concern to more than just the owners of the ramada inn. Those crimes

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won't be confined to a very small area. I don't mean to be a smart aleck, but it comes right down to where do you want to take your family when you get here. If your relatives have visited the area and know that their belongings were stolen, then that creates a problem. I assume that means my time is up. I appreciate very much seeing you again. Thank you very much.

**Katz:** Questions? All right. Come on up.

**Larry Smith, Chapter Manager, Northwest Lion Construction:** Your honor, and commissioners, my name is Larry Smith. I'm chapter manager of the Northwest Lion Construction chapter of the NACA which has the office, the tan building just north of the vacant lot. We've been there since '74, and our members have seen a significant growth of developers and corporations working in there, building a real strong middle-class work force among other things. We operate the apprenticeship program for our outside linemen from that office. Hundreds of young men and women come and interview and do some side work there, not their main training, but they're frequent visitors. Our membership believes that there is a societal need for places like halfway houses. I had the opportunity to visit with Steve down at the existing one. And he does a great job down there, runs a tight ship, 15 beds. He's an exceptional leader. When you see -- at the other hearing, when you see people discussing -- and in the staff report -- about hiding the commercial -- the commercial appearance, hiding the aspect of it, that it's a halfway house, and the landscaping, when even the staff that's going to work there undergoes criminal behavior, physical exams for communicable diseases. They might need a physical exam, but wouldn't need one for a communicable disease. Why would they put people out like that? 9:00 p.m. Curfew, that means after dinner, they can run around and do what they want. Run over to the holiday inn and see if they can get in the pool over there. Having visited the existing halfway house, I'm pretty impressed by the program. The thing that bothers our membership and our board of directors is going from 15 to 75, a five-fold increase. Steve is a unique man. An exceptional leader. You can tell that you spend a half hour, an hour with him, but what significant additional staff is available to run an operation like it's proposed here. The -- both the staff report and the decision of hearings officer state, quote, that only -- all of the precautions proposed should -- they use "should" -- ensure that OHH at this site will not pose an unreasonable safety threat to nearby uses and residents. To spend 2 or 3 million dollars, or \$5 million, whatever the expense to do this, it seems unreasonable to pursue that without having a firm solid ground on what that safety factor is really going to be. What's our margin in going ahead on this? I think that our people feel like there's a need for this, but not in the -- in the business park that we're in in the stage of development that it's in. Thank you very much. Any questions?

**Katz:** Karla, anybody else?

**Moore:** That was all.

**Katz:** All right, principal opponent, you have 15 minutes.

**Joe Voboril, Attorney representing Applicant:** Mayor Katz, members of the council. My name is Joe Voboril, representing the applicant, Oregon Halfway House. My office address is suite 1600, 888 Southwest Fifth Avenue, Portland, Oregon. Joining me this afternoon -- we'll do this in 15 minutes, I assure you, Mayor Katz. To my right is Steve Boucher, who has been the director of the Oregon Halfway House for the past 26 years. To my left is Steve Lax of the federal public defender's office. He's the currently chairman of the board of directors of Oregon Halfway House. Let me begin, first, with this issue as to whether the staff and my client really processed this under the correct code section. The question is should it have been processed as group living or a detention facility? As Mark has explained, the staff concluded after -- during the preapplication conference that this really should be processed as a detention facility, not a group living residential facility.

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And they did so, I think, in part, because they recognized, or they felt that safety would be one of the key issues. And if you look at your code, under the group living, residential section, you'll see that safety is not even an applicable criterion, whereas in the case of detention facilities it's clearly one of three criteria that have to be met. Mark described this in his memo to the hearings officer, and I use his words, a conservative, appropriate and common sense approach in this situation. It's ironic that really when you listen to appellants and the supporters of the appeal, really the key issue is a substantive issue, is one of safety, or in this case now the appearance of a safety problem. I think, though, that if you look at the contract that Oregon halfway house has with the federal bureau of prisons, I don't think the staff or my client, for that matter, had any choice in this matter. It had to process it as a detention facility. Let me explain why. Their contract with the federal bureau of prisons requires them to take some -- not all of their residents will be in this category, but some of their residents are going to be former offenders who under the result of a district court commitment are required to serve the balance of their sentence at this facility. Some of these individuals must be under 24-hour supervision and some of these individuals will not be allowed to leave the facility. There will be other residents who will. So in a sense this is both a halfway house in part, but with other residents it's a detention facility. And so the staff, I think, did the right thing. They said, well, since -- we'll take the more conservative approach, and since it's both, we're going to treat this as a detention facility, make them meet their safety requirements. We also, though, because of the definition in your code, it says, and it kicks you out of the group living category, and i'm referring to this section of the zoning code, and I quote, it kicks out of group living, quote, facilities for people who are under judicial detainment and are under the supervision of sworn officers, are included in the detention facilities category. We have some of those people. We know we're going to have some of those in that category, so we belong, unfortunately for us, we belong if the detention facility category, which is a much tougher standard to meet. Really for the first time today I hear that the real issue is that we don't have sworn officers. Let me take just a -- I have other speakers. Steve lax can speak to that. Ken bowman from the u.s. Attorney's office can address this far better than I can, but the truth is that the term "sworn officers" is not defined in the zoning code. As we looked at that, we concerned that, well, what does it mean? And so we suggested, what we thought was a good definition. The words, a person certified in correctional officer training, came from us, we suggested that as a reasonable definition of what's mean by sworn officers. Commissioner Sten, I think, in his question, I think his finger on it when he asked, well, if only the government can hire sworn officers, as you define it, mr. Noran, then only the government can run a detention facility. I think that's the logical conclusion. We looked at it differently. We looked at it and said what is the purpose in the zoning code of the term sworn officers? What's meaningful? We felt, that as the other gentleman from the - - from monmouth spoke to it's a person certified in correctional officer training. That's far more meaningful, as I think you'll hear from steve and ken, whether a person has a badge is far less important than how are they trained we thought it made more sense to focus on training. I'm going to cut my testimony short. The issue of appearance has come up. If you look at the improvements that are being proposed it will be part of the renovation, the exterior lighting, the landscaping, the fencing, I think when you're finished with this project you will see a far better facility than you have today. This facility has been vacant for three years. It's not hooked up to -- it's on a septic tank, not even hooked up to the city sewer system. No sidewalks on northeast 80th. All of these things are going to be improvements. Frankly the hearings officer concluded would enhance the appearance of the neighborhood. The only really substantive issue is safety. And i'm going to let

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steve go next and speak a little bit about the operational and safety plan that we've proposed that have been incorporated into the conditions of approval. Steve?

**Steve Boucher, Director, Oregon Halfway House:** Mayor Katz, members of the council. My name is steve boucher. My mailing address is 1413 southeast 15th, Portland, Oregon, 97214. As he mentioned, i've been the director of the Oregon halfway house for the past 26 years. I'm very proud of our record in having successfully operated a safe and widely respected program to assist nonviolent federal offenders in transitioning back into the community. I'm sorry for -- that we have to be here today. I had hoped that our extensive outreach efforts would resolve concerns at the opdr hearing. We have represented our ability and willingness to be good and safe neighbors. We have had meaningful and positive dialogue with the cully neighborhood association, the Portland office of neighborhood involvement, the central northeast neighborhood coalition, the central northeast crime prevention specialists, the northeast precinct police bureau, the columbia corridor association environmental and land use committee and numerous other businesses and organizations near to the proposed site. The only opposition or concern has come from the adjoining business owners, and most of those have been satisfied that we can be good neighbors. Far more turned out for the original hearing than you heard from today. The appellant owners of the ramada were given notice of our plans prior to any land use application. No representative of ramada registered any specific concerns until the opdr hearing on may 7th. They have remained resolute in their opposition to our proposal. We remain open to resolving their concerns, and should the council rule in our favor we have every intention of having a good neighbor relationship. We have provided a seven-point safety plan, accepted by the hearings officer. These points were the most objective, but did not include numerous other safety provisions which were less quantifiable in the original application. I hope that you have had time to read this information. The bureau of prisons requires that public safety and resident accountability is our highest priority above all other program services. We take this obligation very seriously, carefully screen referrals regarding public safety. You've heard the criterion of rejecting those with a background of sex offenses or violent assaultive behavior. We ensure resident accountability through rules, regulations and conditions. All resident departures from the facility must be approved in advance. Employment plans are approved in advance. Most residents are required to participate in drug treatment. There is zero tolerance for any behavior which might be a threat to public safety. As was mentioned earlier, the hearings officer found there is substantial evidence in the record that the proposed use has no history of safety problems in the existing location and should not pose an unreasonable threat nearby uses. We have enjoyed highly positive relationships with our neighbors. The buckman neighborhood association have submitted letters of support. Some have found time to speak today. I would like to submit their previous letters, as well as those unable to attend today. Unless you have further questions, we'll have our next speaker.

**Steven Wax, Federal Defender, Board Chair of Oregon Halfway House:** Mayor Katz, commissioner Saltzman and Sten, thank you for the opportunity to speak today. I'm steven wax, federal defender, 101 southwest main, Portland. I've been affiliated with the halfway house for 19 years. I've been the chair of the board for -- oh, I guess it's about 12 years now. I think it might be helpful to you to understand the composition of the board. We have today a representative of the united states attorney's office on the board, ken bowman, he's here today and will speak in a few minutes. We've had a representative from the united states attorney's office on the board for most of the life of the halfway house. We do not currently have the chief federal probation officer on the board, although he's here today and I anticipate will be speaking in our favor. The original chair of the board was the head of the u.s. probation office. In addition we've had on the board

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and continue to have on the board a practicing criminal defense attorney. We've also had members of the business community. At that point our business representatives are Ken Thrasher, the former C.F.O. of Fred Meyer and an architect here in town. The federal halfway house situation is somewhat different from that with the state facilities because of the difference in the nature of offenders the two systems deal with. It's perhaps somewhat embarrassing to say or difficult to find a correct way to say it, but the people who go through the federal system tend to be somewhat older and somewhat easier to manage than some of the offenders who go through the state facilities. The incidence of violence, for example, at the Sheridan Federal Correctional Institution to be less than the incidence of violence in some of the state facilities. I think the same is true with respect to the problems that arise at state as opposed to federal halfway houses. I think that's an unfortunate reality of one of the differences in the two systems. In terms of the safety, another unfortunate reality involves the amount of money that the federal government has to spend in comparison with the amount of money that the state and county and city governments have to spend. The federal government is sometimes perhaps embarrassingly well funded, perhaps from the perspective of the city. In terms of the halfway house, what that means is that many of the offenders, the clients, residents of the halfway house, are actually supervised by a multitude of entities. The halfway house has of course its resident staff that is responsible for safety on a minute to minute, hour by hour basis. In addition most of the residents have supervision from the federal probation office, the caseloads in the federal probation office are reasonable and there is meaningful supervision provided. In addition, hanging over the heads of most of the offenders is the weight of the United States District Court and the United States Bureau of Prisons. As Mr. Boucher indicated, with respect to some types of incidences, there's a zero tolerance policy. The residents of the house know that. In terms of the, you know, sworn officer issue, I'm going to make a comment and ask Ken Bowman to come up, since one of his responsibilities with the United States Attorney's office is to represent the Bureau of Prisons. It seems to me that we're dealing with a term that has a multitude of possible definitions. We're also dealing with the issue of federal-state relations. The ORS definition of a sworn officer might not necessarily be consistent with the federal definition. What we have in the federal system are a whole variety of people who are perhaps sworn officers by someone's definition, but who might not meet the definition in the ORS. The questions that Commissioner Sten asked about, you know, public versus private detention facilities run into an interesting area in this day of contracting by all levels of government with private prison facilities. And at this point, since our time is running short, I'm going to stop, because Mr. Bowman knows this issue better than I --

**Katz:** You've got about a minute. Keep going.

**Wax:** Well, all right, I'll keep going. Thank you.

**Katz:** You don't have to. Go ahead, finish up.

**Wax:** We have private prison facilities, private prison facility, contracting with any number of, you know, levels of state government, federal government. People are not necessarily sworn officers. They are not Portland police officers, federal Bureau of Prisons employees, Oregon State Department of Corrections people, yet they are responsible for the detention of people in facilities where they are serving sentences imposed by the Oregon judiciary or the federal judiciary. I think to say that in order to meet the sworn officer definition, a person has to have taken an oath in front of some Oregon official, both ignores the reality of what the state is doing with its inmates who are in contract facilities and also the reality of what happens with the federal government. I, for example, took an oath when I obtained my job. Am I a sworn officer therefore or not? So I'm not sure that swearing is necessarily the key. Training I think is the issue.



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**Saltzman:** So what are these people called who work in owe -- work in contracted institutions?

**Wax:** I'm not sure. I think it's clear that they have authority to provide safety to the public that surrounds the facility and to impose order and restrictions on their residents. Whether or not they meet any particular definition of correctional officer or sworn officer, I think we could dance a little bit on the head of a pin trying to resolve.

**Saltzman:** Well, did the applicant submit the term "sworn officer" when it agreed to this condition of the hearings officer? Was this your language?

**Voboril:** Yes.

**Saltzman:** You came up with the term?

**Voboril:** Commissioner Saltzman, "sworn officer" is in the code, and so we suggested the parenthetical to help define it so we would know whether or not we were in compliance with the condition, and the hearing officer accepted that language.

**Katz:** I understand why you did that. You did that to make your case a little stronger. I'm more interested in what precedent we use as a city in the definition of a sworn officer. You can define it anyway you darn please for your purposes, but I can't remember another case before the council on this, and I don't have the -- the history, the legislative history in the city, to know what we meant. I know when I say sworn officer, I know what I mean. I didn't see a definition in the ors. There's one of a probation officer, police officer, corrections officer, but doesn't have a definition of a sworn officer.

**Saltzman:** And there's no definition in our city code anywhere.

**Katz:** So it's important to understand, in the legislative setting, what we thought of as a sworn officer. And I don't know if anybody in this room knows that.

**Saltzman:** Or we change the language, clarify it.

**Katz:** Or we clarify it.

**Voboril:** I don't think it's answered in 1990 when the section -- there's no interpretation or code commentary at that time that would help guide you.

**Katz:** Because it does say 24-hour supervision of a sworn officer. That's another issue. You can't have 24-hour supervision, or can you, if you go to work, unless you have a bracelet on or some other --

**Voboril:** Can I respond to that? Or maybe steve.

**Katz:** Why doesn't steve. Identify yourself for the record, steve, because there's three people talking.

**Boucher:** Steve boucher again. Our definition of our program has been 24-hour supervision ever since we began contracting with the federal bureau of prisons. The understood statement is that inside of that the facility has 24-hour supervision, seven days a week. There may be approved absences, curfews, different kinds of restrictions on their activities, but it does not preclude their leaving the facility. 24-hour supervision doesn't mean that they are locked up and confined during that period of time. That would be a different definition. And so it's not meant to be custody in a lockup facility.

**Katz:** Oh, I wasn't going there.

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

**Saltzman:** But some of the people will be.

**Katz:** Yeah, some will have the 24-hour supervision.

**Boucher:** Some will be phased in, not be able to leave the facility for months, then they may be able to go work as a transition process.

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**Katz:** But if you're defined as a detention facility, the definition under our code, requires you to have 24-hour supervision for everybody as a detention facility. Identify yourself for the record.

**Voboril:** Joe. I was trying to be candid as I could about that. There will be individuals in the facility, we believe, that will have the ability to leave during the day and come back. And Steve Boucher is explaining he considers that to be 24-hour supervision. What I said in my testimony, and I think I'm correct on this, Steve, if I'm wrong, correct me, there will be another smaller group of people who are under 24-hour commitment to that facility who cannot leave because they're serving out the balance of their sentence.

**Katz:** We're not communicating.

**Voboril:** Oh are we're not. Okay.

**Katz:** Under the definition of a detention facility, it requires 24-hour supervision of a sworn officer. Yes? No?

**Voboril:** No.

**Boucher:** You're trying to suggest that it's exclusive, and there cannot be a mix of population?

**Katz:** Well, no, you could have a mix of population. The question is how do you have -- I mean, I can counsel you what I think a 24-hour supervision of a sworn officer might be even for people going to work or not, but I'm asking some questions here. Mark, do you want to comment? Come up so we don't waste a lot of time.

**Walhood:** I'll point out. It's 920.520-a, and the sentence is -- it's characteristics of detention facilities. Under 24-hour supervision by a sworn officer, comma, except when on approved leave.

**Katz:** Identify yourself.

**Hudson:** Frank Hudson, city attorney. This may help advance the discussion. I think, unfortunately, because the code is narrowly written, we almost have a situation where a private entity can never operate a detention facility. And let's just walk through it. I mean, we've talked about sworn officer. But if you look at subsection c, the examples it gives -- prisons, Sheridan, Oregon state penitentiary, we know those facilities are operated by sworn officers. If you go down, juvenile detention homes, Macclaren. That's run by sworn officers. Jails, Inverness, that's operated by sworn officers. So one argument could be made, and I'm not saying it's accurate, but one argument that can be made is that the intent of the code is that these facilities only be operated by public entities.

**Katz:** Questions?

**Saltzman:** One other question.

**Katz:** Hold on.

**Saltzman:** Many of the letters we received in opposition refer to a -- if we do approve it to include a condition requiring that halfway house inmates will not enter any nearby business properties without prior written consent from the property manager. I'm sure you've seen this language before. What's your opinion of it legally, policy-wise, whatever?

**Boucher:** Well, I mean certainly we could have some reasonable agreements with the local business neighbors. We make our own internal rules for our residents. I think the only thing that we need to be mindful of is that there might be some certain constitutional rights that we could not legislate, despite their judicial category, but we do have the option of making rules. And we do make rules in our existing program that -- there's certain activities that they're prohibited from. So it's not impossible, although I'm reluctant to say they would never go to another business for a legitimate purpose.

**Saltzman:** Without permission from them?

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**Boucher:** Without permission, without whatever kind of stipulations. I certainly don't intend for them to camp out and create a nuisance value for a local business. I wouldn't tolerate that.

**Saltzman:** How about the attorneys? What do they say?

**Voboril:** I believe mr. Bowman, who is far more expert on this issue than I am will speak to it. If you can remember, commissioner Saltzman, ask ken bowman that question, if you will.

**Saltzman:** Okay. One other question, then, of probably mr. Boucher. Well, the classification of residents. It talks about -- let me get the right condition here. All residents will be classified prior to acceptance, and those with a background of sex offenses or violent assaultive behavior will be rejected. First of all, who does that classification?

**Boucher:** That would be myself right at this point, but it's our screening committee. And --

**Saltzman:** Who's on the screening committee typically?

**Boucher:** My treatment supervisor and I at this point under a larger structure. We would probably have more like 3-4 people who do that screening. But it's noteworthy that the bureau of prisons also does a classification screening before I even see the referral. And so they're mindful of and concerned about public safety. So there are certain categories of offenders that they don't even want to release early. They have them do their entire sentence in the prison system.

**Saltzman:** But are there some to do have a background in sex offenses or violent assaultive behaviors, that they are asking you to take in, and you decide by your own screening criteria not to take in?

**Boucher:** On occasion. Here's the key point. I just don't consider their current and most recent offense. I look at their entire criminal history. So they may have had a very violent incident that occurred 20 years ago. I might be able to look at it and say there were mitigating circumstances where there has been no further history that shows he's had that kind of behavior, but, you know, clearly, if there's a pattern, that's a no-brainer for me to say that person is a public risk. And so the bureau of prisons may feel that somebody qualifies who does have a sex offense prior to their current federal charge, or violent assault active offense. It could even be that they were a teenager -- assaultive offense. It could even be that they were a teenager at the time, but its part of the.

**Saltzman:** You have the whole history of criminal behavior?

**Boucher:** Yeah. And the bureau of prisons can't mandate that I accept those people. I maintain the right to reject them.

**Saltzman:** So do you have anybody who's convicted of rape in any degree, sodomy in any degree?

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

**Saltzman:** You don't, okay.

**Boucher:** I think those people need programming, but we're not in a position to do that.

**Saltzman:** Okay, thanks.

**Katz:** Okay, thank you -- steve, one second. Describe your sworn officers that you've been using all these years for 24-hour supervision of those that are not on leave.

**Boucher:** They're entitled counselors rather than corrections officers. And they -- they have had college training, background in correctional practices. And they also have in-house service training from myself and from the bureau of prisons. The intent of future training is also to draw upon the correctional training program and the community college -- at the community college and the american corrections association also has a training program for correctional officer.

**Katz:** Have you ever used a correctional officer off duty that wants to work part time at your facilities or --

**Boucher:** We have not, but we certainly would consider it.

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**Katz:** Or a sworn police officer?

**Boucher:** Right. No, we'd definitely consider it and we would solicit for that.

**Katz:** Okay. Thank you.

**Saltzman:** So the certification that your future counselors will go through is different from the certification of a state certified correctional officer, correct?

**Boucher:** Right.

**Saltzman:** Different certification.

**Katz:** Thank you. All right. No, we have other people who signed up. The reason I think that commissioner Saltzman and I are taking so much time is that several years ago we were involved in a task force that was trying to review all of this language, and identified the potential -- or the real problems within the community based on the definition of when you're a group home facility or a detention facility. So we're spending a little bit more time than we normally would for obvious reasons. Okay, supporters.

**Katz:** Come on up.

**Katz:** Okay.

**Ken Thrasher, Board Member, Oregon Halfway House:** Good afternoon, mayor and commissioners. My name is ken thrasher. 610 northwest westover terrace in Portland, 97270. I've been a board member of the Oregon halfway house for 7-8 years. I think if I look at the issues being addressed here, I think the two issues, safety and detention, i'd like to quickly summarize and tell the value that we think we add. On the safety issue, this really isn't an issue of perception, it's an issue of actuality. The question is, is our community better right now with the big need that the federal system has in having people leaving the system or commuted sentences, going out on the street. Is that a better place for them than going through a transitional facility like the Oregon halfway house? I think that the record shows that, that that's a positive. It also shows the track history of the Oregon halfway house, has had no incidences and has been a about good neighbor in the buckman neighborhood and recognized as such by the letters you've received from the community. So I think that along with the added security measures that this facility will have with cameras and other things we'll be doing, additional staff, sworn officers, that we're doing everything we can to make sure that safety is a reality and not a perception. The second is on the issue of retention. Since we do have commuted sentences here, we are, I think, following safety standards that make that requirement around retention be an important requirement. I think the fact that their sentence is being completed here really relies on two significant factors for the folks that we serve. Number one, that they have a transitional housing and two that we can help them transition to the workplace. Those are the two critical elements in the success of a person not just being another recidivism statistic. That's what we're here about. Bottom line is our job is really to help these people improve their lives and get back into the community productively. We do that, I think. In the process here, we're going to add jobs and also spend \$6 million to rehab a facility is that sitting empty today and i'm not sure really quite frankly is safe in its existing condition. So I think that my track record here is on the board, but also having hired a person that went through this facility. I can tell that person was a great employee, has transitioned, went on and got a college degree, and is a valuable part of our community today. If we don't start giving more people a chance and help the system today, I think we're going to make a big mistake if we use perceptions versus reality in dealing with these issues. Thank you.

**Katz:** Thank you, ken.

**Frank Dixon:** Good afternoon, mayor Katz, commissioners Sten and Saltzman. My name is frank dixon. I live at 2205 northwest johnson in Portland. I came here today to testify about the safety

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issue based on the fact that I was the first resident staff member of the Oregon halfway house that Steve hired in 1976. And when we moved into the Buckman neighborhood, all eyes were upon us, so to speak, to see how we would do. I can tell you without a doubt that we were extremely successful in blending into this residential neighborhood, and that there were no safety problems or appearances of safety problems. We have here someone over the last 26 years that has established a record that is beyond reproach. If we can't cite this particular facility based on a safety issue, there is no facility that we can cite in the city of Portland. So I would -- I would encourage you to put that aside. On the technical issue, I can try to answer questions, but I -- as I recall, in working with the residential siting program, we never got down to the detail that we're talking about here today over the issue of sworn officer. I can tell you that I know that when Steve -- you know, Steve Boucher joined us early on in this process. He served with you on the panel that heard and discussed the issues. And he also was one of the first to work closely with Eric King as -- in an effort to site this facility. So he's been working with the city for over two years trying to get this facility sited. In fact, he had it sited over in -- in a similar situated property in northwest Portland about a year and a half ago. Unfortunately that deal fell through on the property side, but he was prepared to support him in that location. I mean, you know, the question is, is it a detention center or a detention facility, or a halfway house? I mean, the logical place it should be is a detention facility given its size and the nature of the population. This anomaly that we're talking about, I don't know. I remember when we got into these really fine points, the person that we relied upon was Mr. Rogers. I mean, he's the one with the most experience in the city in terms of legal issues on this. And when he came down and met with us one of the times he was able to clarify the issues for council. So that's -- that's about all I can say.

**Katz:** Thank you.

**John Gilson:** Good afternoon. My name is John Gillson. I live at 6021 Southwest Kelly in the Corbett Terwilliger neighborhood association and I'm here to support a hearing officer. I've known Steve ever since high school. We grew up together. And I've watched this facility grow from day one to its present state. I've just -- I'm really proud of my friend. He's worked quite hard to put this whole thing together, exceptionally hard, and I think that he works this hard for a nonprofit organization, it's just amazing. I do some part-time repair work on the facility over on 15th Street, and I heard these people referred to as inmates. And I would never refer to them as inmates. They're just regular common folks. They're folks that are -- they're not looking for cars to break into or mischief, they're looking for jobs, looking to get back with their families. They want to be part of a community. I just think it would be a great service to the city of Portland to have a facility like this located in our city. And people would look down on it, will well, there's a halfway house or there's a detention facility. No, is it's going to be a facility to get these people back in society being -- being an asset to the community. As far as safety, the house next door is rented out to some young women, and I just spoke to them yesterday, and they're quite disappointed if they -- if they lose their rental because they just love it there. There's been absolutely no problem with them. They're right next door. And I just want to support this house. Thank you.

**Katz:** Thank you. I was just checking, we have no history on the definition of the sworn officer, so right now it can be whatever we want it to be. And that's the only point that I was trying to hone in on, because I can imagine in other situations you would have the neighborhoods coming in screaming at us about what they think what a sworn officer is. We may want to consider that at that point, but I just double-checked, there is no history on what -- what past councils thought of. All right, let's continue.

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**Kenneth C. Bauman:** With your permission, i'll go first. My name is kenneth c. Bauman. I reside on upland drive. My business address is at the united states courthouse, southwest third avenue. Time is limited so i'll be quick. As I could, I jotted down some notes from questions that were asked. Commissioner Saltzman, you asked about private contracting. What do they call them? They call private contractors employees of wackenhut. That's who they are. They're employees of wackenhut international. A lot of them are former state employees, but not sworn officers anyplace. There's just a contract facility. Of course the government is involved in the experiment of contracting out these facilities. The other one was assignment of people to a community corrections center. That's what the bureau of prisons calls them. They're screened at the community corrections center, but there are a good number of inmates that the community corrections center never sees. There's an elaborate process within the bureau of prisons, screening people who should or should not go. It actually has to have the warden's approval of that institution before a person is referred to a community corrections center. As ken thrasher said, however, I would like to stress the community of Portland, or any community, is going to get these prisoners back. What you're talking about is whether you get them back in january after having gone through 3-4 months at a community corrections center, adjusting to the community with some way of finding a job and being ready or as we used to do, just putting them back into the community. The congress felt that a time at a community corrections center was beneficial to cut down recidivism. I believe that is true. It gives a chance for these inmates to find a job, get back into -- for some of them have been in jail for a long tile -- riding the bus, being out in the community, having something that doesn't have walls around it. There's an adjustment period that goes on. There was also some discussion about safety issues. And I have obviously dealt with a lot of people that have been sentenced over the years, either using them subsequently as witnesses or speaking with them at high schools. A quote from one individual I remember will well. If you were in a federal prison and you've been serving 12 years and near the end of his sentence, his comment was you could have an earthquake and the fences would fall down and I would not leave. That is true of all the people at the community corrections center, because they're inmates, they're finishing the last of their sentences. If they violate one of steve boucher's rules, they're back at a federal institution before the sun sets. If they walk away from that institution, they're prosecuted by our office. If you had spent 12 years in prison, would you want to risk that? I say that in those are probably some of the most well-behaved inmates you're ever going to find. And I gather that was my time. Can I continue on?

**Katz:** Go ahead.

**Bauman:** One of the problems i've dealt with legally over the years in the state of Oregon is the state of Oregon tends to define law enforcement officer, corrections officers, and they forget about the federal government. It's statutory. You know, is an f.b.i. agent go down to monmouth? Does a united states marshal go down to monmouth? Is he sworn in by the state of Oregon? Is a fish and wildlife person? No. But I believe they're all trained as well as any law enforcement officer in the state of Oregon much so the definition that the state of Oregon may apply excludes federal law enforcement officer. The same is true of Oregon's definition of correctional officers. I believe that the correctional officers out at fci sheridan are as well trained as any in the state of Oregon, but they don't meet the statutory definition of corrections officers in the state of Oregon. I say that because as you have said, your code has a word in it, and it doesn't define it. What do you want out at a community corrections center? Do you want somebody who's trained to handcuff people and march them down the hall and put them in a cell? Or do you want somebody that's trained dealing with these people as they are coming out of prison, getting ready to be your neighbors? And

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dealing with them in a sense of these people are inmates near the end of their sentence, we need to deal with them in this way. That's what Steve Boucher's people are trained to do. And I think the definition that is used in your code -- or the words that are used in your code allow you to define it.

Who do you want to take charge of these people? I suggest to you it's the definition that the hearings officer came up with.

**Katz:** Thank you.

**Eric Suing, Chief U.S. District Probation Officer:** Mayor Katz, council members. Eric Suing, chief U.S. Probation officer for the district of Oregon. My address is 1000 Southwest Third, Portland, Oregon. My office relies very heavily on halfway houses, or community corrections centers. They're a big part of our supervision and augment our supervision. Officers in the federal system carry about 50-60 offenders. A percentage of those offenders are at any time at the CCC, community corrections center. We also get involved in the prerelease process, where a person that's coming out of the institution into the center is still considered an inmate, but we still begin working with them at that time to provide for pre-release planning, make sure they're working at the right job, making sure that things are going well with the family, making sure that they're involved in treatment and so forth. My office in terms of supervision conditions, can have somebody in the halfway house or community corrections center that is having difficulty in the community finding employment, maintaining a stable residence and so forth. So there's a huge augment to our supervision practices. I think Mr. Thrasher said earlier, and I thought he captured it pretty well, that by having these programs, we are able to certainly protect the community at a much greater level and also provide the rehabilitation and the -- the assistance that these people to keep them doing what they need to be doing in a law abiding fashion. It also keeps people out of the local resources, where a lot of my people are currently going to find temporary housing and food and shelter, that sort of thing. I did just a brief --

**Katz:** Go ahead.

**Suing:** Okay? Okay. I did a brief look at statistics over the last approximately ten years, and my caseload has increased approximately 4% a year during that time frame. The Bureau of Prisons has told me that their population is about 160,000 inmates currently. They expect that inmate population to be at about 200,000 by the year 2007. So the bed space in Portland, federal bed space, certainly has not kept up with the bed -- with the needs that we with currently have on my caseload or the Bureau of Prisons. Often times we're unable to -- we call the halfway house, or Mr. Boucher, and he's unable to place somebody just by virtue of there is no space. And so then we have to look at other forms of placement for those people.

**Katz:** Thank you.

**Don McGillivray:** Mayor and commissioners, my name is Don McGillivray, I'm speaking as a citizen in support of the Oregon halfway house proposal. I'm past chair of the Buckman community association. I also purchased my house in Buckman the same year that this facility arrived in Buckman as well. Again, they've operated a highly responsible and trouble-free program in the Buckman neighborhood over this period. I know them to be a good neighbor and responsive to community concerns. I believe that their excellent record will continue at any new location. And again, if not in this location, where? It's like -- you know, I've had a lot of experience through -- in Buckman with various facilities like this, and again it's -- I think this is a unique proposal and deserves the city's support. Thank you.

**Katz:** Thank you.

**Saltzman:** Question for Mr. Bauman.

**Katz:** Yeah.

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**Saltzman:** First of all, I wanted to clarify, if either one of you know, does the community corrections center have a 9:00 p.m. curfew?

**Bauman:** Do I personally know, no.

**Saltzman:** I'll ask later. Several people concerned about the facility have asked us to consider including a condition requiring that the residents will not enter nearby business properties without prior written consent from the property manager. Any thoughts on -- is that a legal condition?

**Bauman:** I read that letter this morning, and my immediate response was that it might violate the civil rights act. Just came back, like that. I'd have to study it to give you an answer.

**Saltzman:** Even though they're under the custody of --

**Bauman:** Yeah. I said i'd have to research it. It may be a rule of the halfway house. Again, it's kind of like an attractive nuisance, you tell them they can't go next door, and the day they get out, where do they want to go? Next door. Mr. Boucher is not going to let these people wander around and be on the ramada inn's property. If he tells them, don't go over this, they're not going to go over there. That's the point of fact. But to put a rule in, and somebody decided to challenge it, and god knows we have enough litigation, I don't know that it would stand the test of time.

**Saltzman:** All right.

**Katz:** Thank you. All right, karla.

**Katz:** How many other people?

**Moore:** That's all -- i'm sorry, one more left.

**Katz:** Who wants to go first? Go ahead.

**Beverly Booking:** Good afternoon. I'm beverly booken, 1020 southwest taylor street, Portland, 97205. I'm here in my capacity a private citizen. I first learned about this program through the columbia corridor association when the Oregon halfway house made a presentation. I have a special interest because in my social service life i'm the past president of mainstream youth program, a large alcohol and drug treatment program for adolescents and now on the board of its parent organization. We do a lot of work with a and d treatment in both the juvenile and adult corrections systems. So it's an area I have interest and exposure. However, you do know me as a land use planner and I know the rules on an appeal, so i'm going to address criteria, and there are three dealing with the detention center. Safety I think is an issue that's been covered adequately by others. Appearance, we're looking at significant improvement of the site in both -- both site and in building. Let me address the public service issue. Transitional housing is a legitimate and critical housing need. For people coming out of the corrections system, we need to provide safe, secure and structured environments where they can gain emotional, social and practical skills to live in the world and hope that they will not go back into prison. A&d treatment is a large part of it. That's why i'm so impressed with the Oregon halfway house program. The eg scone zone is a mixed use zone. We know that because housing, both residential and group living, as well as detention and postdetention facilities are allowed as conditional uses. It is not an industrial sanctuary and the proposed building is not an industrial site. We all know we have a shortage of industrial sites. This is a generic office building that could be in any of our commercial or industrial zones. It's empty. And its conversion to housing is an appropriate use in this circumstance, it's my belief. Given the need and the number of people that we have incarcerated in this state, a 75-bed facility is warranted, and it is also an operationally good size, providing that the program is adequate and the staffing is adequate. It is not appropriate to put a 75-bed postincarceration facility in a residential neighborhood. It is, moreover, not operationally efficient to put five 15-bed units in five residential neighborhoods. If a site -- if this use is not appropriate here, where is it appropriate? I really think that we have a niby case here. I think that's pretty clear. The issue is really a use



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classification, and I think that the hearings officer and opdr made the right judgment in bumping this up to the detention category, because there's a higher standard of review. But if it were only a matter of making it a group living, then we could come and do the -- you know, they could address the conditions of approval, the criteria of approval for group living and it would be done. The reason is, is that the building code does not permit this building to be converted ace group living. They'd have to tear it down. Obviously that would be far more expensive and as a result it would not site here. That is really the basis of this case.

**Katz:** Thank you.

**Don Kitterman:** Thank you, mayor, commissioners. My name is don kitterman. I reside at 14415 northeast 72nd avenue in vancouver, Washington. I'm one of the officers of the property currently. Will sell it assuming there's approval to the halfway house. I came here just to listen to the testimony and see what I could learn. And I want to testify in support of the staff's findings and recommendations, as well as the hearings officer's findings and recommendations. I jotted down three main points that I heard in listening to the testimony. One was the contention of whether the facility was actually a detention facility or not. I think that's clear. The residents of the facility are not able to come and go as they please. I think by anybody's definition that would mean they're under detention. And as it was mentioned in earlier testimony before me, there's a higher standard applied to that particular facility, so i'm not sure why that's under contention actually. There was a question by the mayor as to the 24-hour supervision. And I think it's clear that they are under 24-hour supervision when they're at the facility they're under 24-hour supervision. That code that was quoted, it says except for unapproved leave. So I think that's clearly met as well. There's a bunch of testimony and discussion about the sworn officer issue. I think as long as the halfway house can meet the requirement by the hearings officer for sworn officer, that you have two options there. One is you need to define that language, what is a sworn officer. So you have that opportunity, number one. Number two is I think it's clear that halfway house can meet that requirement. There are sworn officers, off-duty police officers, for example, that can and could be hired. The halfway house has indicated they're willing to do that. So you have two opportunities to meet that concern. Lastly was a safety issue. I would say the hearings officer adequately addressed that. The track record of halfway house is clear. They have operated for about 26 years with exemplary safety record. I don't know what more you could ask of a facility. That's all I have to add.

**Katz:** Thank you.

**Dan Slevin:** My name is dan slevin, i'm a commercial real estate broker in Portland. I'd like to address the building itself and the value that this remodel will create in that particular neighborhood. The area in question is primarily an industrial area. Many of the buildings are rundown to a certain degree. And I think with the amount of money and infrastructure that will be put into this facility it will certainly enhance the value of the properties surrounding this particular area in general. I just wanted to add that point.

**Katz:** Thank you. Okay. Any more?

**Katz:** Haven't seen you in years.

**Ed Westerdahl III:** It's been a long time since I went to school with jessie. My name is ed westerdahl. I live on hillside drive. I'm here to offer a few alternative perspective of halfway houses and what they offer to our community. I currently run a company with about 70 employees, a number of which i've hired from halfway houses. I've given a number of people chances at them -- or excuse me -- a number of people at halfway houses that have had chances at my facility. And i've had good luck with many of them, in particular while they were at the halfway house.

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Sometimes when they get out, they don't do so well and go back to bad habits. I would hope that some day give longer sentences to halfway house people because they seem to do well while they're in them. I think the positive influence that the halfway house has, kind of like being in the army. Forcing someone to be responsible, show up to the bus on time, be there for meals, pay fines, take care of things. Actually it's helpful. It's a good introduction to the community. I'm also here as a former person who was at a halfway house, in that the halfway house that Steve was here earlier administrated. I spent a lot of years in trouble, and I was introduced to the community through a halfway house. I've been lucky in my opportunities since then, and lucky to be out running a business now and own another one. And I think that the perspective I want to give is that recognizing the level of incarceration that's occurred in the last 15-20 years and the number of people that are in incarceration now compared to then, it's more than doubled in the federal system.

You filled up a bucket with people. And give them longer and longer sentences. Now it's time to open the spigot and they have to be released. Like it or not, whether the community wants it or not, they're going to be released. It's how you do it. It's the effect on the community that's the most important. I'm hoping people will recognize it's much better to release people interest a halfway house situation where they have time to transition and time to get a job and time to get cars and driver's licenses and start setting up the things that normal people have rather than just throwing them on the streets in a number of instances in years, people were just allowed to go straight from prison to the street, without a place, without a job, and often very quickly got in trouble again. I would also like to address the safety issue brought up earlier. One of the perspectives that hasn't been said was in spite of how good of a job they've done at these halfway houses, one of the primary reasons that there's not crime in the community around them is the level of observation by staff members in that community. You get a 75-person facility, you're going to have numerous staff people coming in and out 24 hours a day, trained corrections people, with one perspective, and that is community safety. These people will be on the lookout for anything that looks suspicious. It will be possible for someone to loiter. It won't be possible for someone to hang around in a parking lot. I'd recommend to the staff members of the ramada inn, they might find the safest places to park their cars as close to the halfway house as they can get them. They will have those cars watched 24 hours a day by staff members. No one can touch them safely. They said for 26 years, that the halfway house on 15th avenue, they haven't had any trouble. Well, what can you do? You've got guys working there, 24 hours a day, looking out their window. That's the last place you want to be.

**Katz:** Thanks, ed. Good luck to you.

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

**Katz:** All right, rebuttal. You've heard a lot of testimony. You have five minutes.

**Noren:** Thank you, mayor, commissioners. David noren. I don't envy you. You've got a tough decision. This is apparently a very good organization. They've done very well in a residential community. They fit in very well in a residential community, and I think in part that's testimony to the fact that that's where these sorts of facilities should continue to be located. They can work in those sorts of situations. There was a fair amount of discussion about the distinction between the federal system and the Oregon system and how maybe the state of Oregon doesn't always recognize that federal officers take oaths and have training that may not be out of monmouth, but I didn't hear anyone talk about whether these folks go to glencoe, georgia, where is where the federal bureau of prisons send their folks for training. I didn't hear about what sort of certification these folks are proposing. What I heard was some community college input. Now the condition that was imposed by the hearings officer was certification and corrections officer training. I have no idea what that

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means in terms of who certifies it, but I don't hear any indication that it's a federal corrections officer from glencoe any more than it is a state corrections officer out of monmouth. And more importantly, while we heard references to the fact that there are a range of folks in the federal system who may be officers, we didn't hear any indication of what office these folks hold. To the contrary, someone like federal enforcement folks, who are private, like wackenhut. That's the same situation here. An officer that carries the weight with them when they're there to enforce. And also I think it sends a message to the public when they're representing the state, when they're representing the county, that folks can feel better assured that it's a solid facility and that the risks are less to them than if it's a private facility. I think your code reflects that determination, that legislative determination, that you're going to have detention facilities as basically public facilities. I think that's very consistent with sound planning, for the reasons we indicated earlier, you're going to have conflicts with your industrial and employment areas if you start letting in these other sorts of activities, and that's why we're here. Deb indicated it was a good idea to convert this building to housing. She didn't say to a detention center, she said to housing. That's not what your code says. If your code says if you're going to put housing into these areas, have residential areas in an employment district, you need to have new development. There's a good planning reason for that. You want to save those buildings for employment-related use. The issue of whether there's 24-hour supervision. There's a progression of care, a progression of sort of freedom that's contemplated under both the ccc and the community sanction center, the somewhat higher level with the higher-risk folks. Again, the intention is to move from the initial period where you can get out only for work to increasing involvement with the community, and that's laid out in the materials we've submitted today. Folks may start out with fairly limited access, they may be under fairly close information initially, but I think the contracts indicate that the intent always is to get folks out into the community and make that transition eventually. It is not a detention facility. It's a group living facility. It's an effort to get folks -- communication with the surrounding community and get them out of the prison mind-set and into a community mind-set much it's not appropriate in an employment zone. With respect to the conditions of approval, the condition we requested simply asking the folks, don't show up next door or other businesses in the sounding area, I find it hard to believe that really poses constitutional problem. We hear on the one hand that he can do that, make that as a rule and folks are going to listen to him, but on the other hand, if he actually makes it a rule, he may get sued. I think that's an appropriate condition to impose in the event that you do decide to approve this. I hope you won't. I think it would be a very bad decision. I think it will create a lot of problems down the line, but if you do approve it you ought to at least impose that condition so if we are having those sort of problems we can come back and talk about it.

**Katz:** Thank you. Did you have some time left?

**Moore:** 26 seconds left.

**Katz:** Okay. I think the council wants to have just a tiny bit of discussion on -- and I think commissioner Saltzman has some language -- on the sworn officer. We are not going to define sworn officer today. I can see -- though I thought that it was a very important discussion to have, this is not the place or time, but if the council wants to revisit this issue and clarify what earlier councils meant by sworn officer, I think that's appropriate. The code is very clear, though, that you -- there is an exception for those that go out into the community for employment opportunities, that they don't have to be under 24-hour direct supervision. So that was clarified. So I think commissioner Saltzman had a tiny little word he want to insert into --

**Saltzman:** Yeah. I'll be happy to talk about that. I do have some further questions.

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**Katz:** Oh, i'm sorry. Mr. Boucher?

**Saltzman:** Yeah.

**Katz:** Steve, come on up. I'm going to turn it over to commissioner Saltzman, but I wanted to discuss the neighborhood aspect of it, to see if there's an ability to have far more ability to contact with the neighborhood if there are problems than once a year. Go ahead.

**Saltzman:** Just to deal with the first point, what I would propose is that we delete the parenthetical definition of sworn officer and just insert the word or so it will read staff members will be a sworn officer or a person certified in correctional officer training. That's not what I want to talk to you about right now. Is there a 9:00 p.m. curfew?

**Boucher:** There is a baseline 9:00 p.m. curfew for those that qualify at that level of the system.

**Saltzman:** What does that mean?

**Boucher:** Under the -- there are four phases of programming. The first phase is that they are restricted to the facility. They do not have community access.

**Saltzman:** Sure.

**Boucher:** The second level, they will have community access for employment. They will be going to outside treatment providers. And they may have 4-8 hour passes. When they get to the final fourth phase, they would qualify during week nights -- after they got home from work -- to have a social approved pass location or activity, but they must return to the facility by 9:00 p.m. And not depart before 6:00 a.m. The exception being if they have work that starts before that.

**Saltzman:** What about on weekends?

**Boucher:** On weekends, the ultimate is that they would have weekend passes at approved location in the community, usually where they're proposing to release to, and they would -- they would be allowed to have a pass -- 72-hour pass that begins after work on friday and they still have a 9:00 p.m. curfew at that residence. We verify that by phone contact. Some future date, we may also have electronic equipment.

**Saltzman:** But they still have a 9:00 p.m. curfew if they're at the facility over the weekend?

**Boucher:** Correct.

**Saltzman:** The only final point I want to explore, and maybe the mayor has other issues, but I do think that the ramada inn and other neighbors have a legitimate concern here about the safety. Even though you will not be taking people convicted of sex offenses, assaultive behavior, I mean that's the situation now. Who knows it could change. This facility will be here a long time, transcend both you and me and be under future operators. As somebody mentioned, these long federal sentences are coming to an end, so there is more pressure on the bureau of prisons to find community corrections centers that will take people that may have less of an acceptable background. I think there's knob more vulnerable to sex crimes than business william and people who work to clean hotels, things like that, and frequent hotel bars. So I am concerned -- I think there's a legitimate issue, that I want some commitment from you that you will work with ramada inn to develop some policies. Maybe you already have them in place, but if so something should be executed in writing in terms of a good neighbor agreement, that the residents of your center will not be frequenting the ramada inn bar, ramada inn restaurant --

**Boucher:** That's already in our program rules.

**Saltzman:** Well, if you can provide them something in writing that makes that in writing, makes that more secure, I guess i'd like to see that before -- it's coming back for a final?

**Katz:** Yeah. Let me just ask you, I have no problem with the good neighbor agreement, I don't think steve has a problem with the good neighbor agreement, but I want to make sure, since we

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need to have three of us support this, commissioner Sten you don't have a problem with the good neighbor agreement?

**Sten:** No. I'm not going to impose the condition they asked for.

**Katz:** No, but we have a commitment for a good neighbor agreement.

**Saltzman:** Ramada, we're telling you we're prepared to approve this.

**Boucher:** We would have been prepared to talk about this with them a long time ago.

**Saltzman:** Next time around, I would like to see something in writing that's been agreed to in that regard.

**Katz:** We won't put it in as a condition.

**Saltzman:** Otherwise I think i'm through, except for the amendment i'll offer.

**Katz:** Okay.

**Boucher:** Did you have one more question?

**Katz:** Well, he covered the small amendment. Commissioner Sten, did you have anything you want to add to -- anything language changes? Why don't we propose the amendment.

**Saltzman:** The amendment would be under hearings officer condition b, condition one, the -- change the definition -- i'm sorry -- change the end of that sentence to read a minimum of two staff members will be on the duty at the facility at all times and one of such staff members will be a sworn officer or a person certified in correctional officer training.

**Katz:** So it's the insertion of the word or? You have no problem with that? You do?

**Voboril:** Yes. Can I speak to why?

**Katz:** Come on up.

**Voboril:** Joe Voboril, attorney for the Oregon halfway house. I understand what you're trying to do. I would humbly ask that you do it as follows, that you say sworn officer, parens, a person certified in correctional officer training, or a person who has received correctional officer training as defined by ors, or if you're trying to get at that you want -- i'll use the words, because i'm not an expert -- or a person with a badge, it's important that you put it in the parentheses, because it's important that you're defining what you mean by the code, what sworn officers means. If you start adding to it with the conjunction or, now it looks like what you're saying is i'm going to add language that's not in our code by adding. And that's --

**Hudson:** That's problematic.

**Voboril:** That's problematic. But in your intent is to flush out -- because mr. Boucher did say --

**Saltzman:** The intent is to do the opposite of what you're saying. I don't think we're prepared to define what sworn officer means today, or to do in this narrow of a context.

**Voboril:** But you wouldn't have. Well, you will have said it will be either one. If you say, will be a sworn officer or, and you start adding language to that, now what you seem to be saying is we're going to allow something other than what the code requires. I think that's a problem for us.

**Saltzman:** How would you do it?

**Voboril:** I'm just saying I think you really need to do it within the definition -- or within some alternative definitions for the term sworn officer.

**Sten:** Let me just ask a question. I don't want to confuse this too much, but, you know, I found this whole discussion torturous and unnecessary. And I think it's a technical argument that's way out of place. I don't read the code to say that a detention facility absolutely has sworn officers. It says it's a characteristic of it. And then what is -- what this says -- it does say under the group facility, of a if there are sworn officers it's not a group facility, it's a detention facility. But it doesn't say anywhere in the code that it is not a detention facility simply because there's not sworn officers there. I think one side has put forward that argument, which is specious, and we've all

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spent two hours talking about it. What this is is a condition imposed by a hearings officer to give you a conditional use. It's not a definition of the code. It's condition b-1 from the hearings officer.

And the hearings officer has the authority to put conditions in addition to the code. That's how I read. We can define it however we want, but I want to be very clear on the record in case this goes to luba, I don't think there's any reasonable reading of this code that says you need to have a sworn officer for us to view this as a detention facility. It says it's a characteristic of that.

**Katz:** I don't agree with that. I read it differently. I don't want to make a big deal out of it, but if it is ever going to go to luba, we need to clarify that, where there's an agreement or disagreement on that. This whole discussion was torturous, but important enough to have for future discussion later on.

**Saltzman:** I think mr. Hudson wanted to add something here.

**Hudson:** Frank hudson city attorney. The downside --

**Katz:** Before you get to the downside of the issue that commissioner Saltzman read, do you requiring, even it identifies as a characteristic, it says inmates and detainees are under 24-hour supervision by sworn officers, except when on approved leave, does that mean it's just a characteristic or does it mean that you actually have to have some definition of a sworn officer, however steve and others define it?

**Hudson:** With my experience at luba with interpretation issues, if you don't define it, they will. And what I have going to say, the downside is that you lose the deference by not defining it. You have a great deal of deference, both from luba and the appellate courts when you define terms in the code. But if you don't define it, luba will.

**Saltzman:** So, okay, joe, your approach again was to keep the parenthetical but add --

**Voboril:** We don't have a substantive agreement. I agree with frank.

**Katz:** He wants to be more specific in the definition of sworn officer.

**Voboril:** I'm having a little trouble, because I don't have the expertise, but what I was suggesting is, just sworn officers, parenthetical, a person certified in correctional officer training or, and where i'm having trouble, i'm not sure what or mean. To me it means or a person with a badge.

**Katz:** It's the definition of either a police officer, correction officer, in the ors, understand that's clear.

**Saltzman:** We can work that out in the final --

**Voboril:** Yes.

**Sten:** Mayor, let me clarify this, because I think it's very important, and I might not be saying it in the way that you --

**Katz:** Okay.

**Sten:** It's crystal clear that if there were sworn officers watching people 24 hours a day it's a detention facility. It however is not, I believe the code's intent, to say if that's not there, it is therefore under no circumstances a detention facility. If we accept the argument that's being put out, we can't regulate anything that doesn't have sworn officers as a detention facility. I think it's a characteristic that defines something as a detention facility. We shouldn't accept the interpretation that something can't be a detention facility if it has something other than a sworn officer to watch the people. People are there ordered by federal judges to be there and ordered not to leave. We can say that's a group home because the code is weak on the sworn officer language. So it's a characteristic that makes it clear that that's a detention facility, but it can't be the only way of knowing whether it's a detention facility or not. I think that's the argument.

**Katz:** And I understand the difference, and I think we need a legal interpretation of that, whether that's -- how somebody would be reading the code as a characteristic of that. I don't think it has

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anything to do with this particular discussion or not, but as I said I think there are enough little pieces here that make this conversation very interesting. And torturous, but interesting.

**Hudson:** The rationale that commissioner Sten just articulated could be a part of how you interpret it. You could interpret the business about sworn officers as being a characteristic, but not necessarily something that will defeat the whole project.

**Saltzman:** Okay.

**Katz:** Okay.

**Saltzman:** So we can deal with that in the language you'll bring back?

**Katz:** I thought we could do this here, but I don't think we can. We need a little clarity in that language. So we have a september -- was it 14th? We have the other one coming back to us. Before we lose anybody else on vacation, that's the only --

**Saltzman:** August 14th.

**Katz:** I'm sorry, august 14th -- you can't?

**Sten:** It's the hearings officer's definition with the word or. Or like a phrase.

**Katz:** Can you -- these are tentative findings. I need -- for the council a little bit more clearer language as to what we are were talking about. Come on up.

**McKinney:** I guess my question is, are you looking for a date to come back with revived findings that --

**Katz:** Yes.

**Voboril:** The problem with two weeks is that mr. Vorobil is required by code to prepare the revised findings. They need to be reviewed by us, by the city attorney, need to be filed with the clerk the friday previous to the hearing, and i'm afraid that two weeks is not a long enough time to do that.

**Katz:** Okay. He'll work hard and get it to you. All right, I need a motion.

**Saltzman:** I move to approve the hearings officer -- overturn the appeal, approve the hearing officer decision with the changes we have made with respect to definition of sworn officer.

**Katz:** With the language or and a definition --

**Saltzman:** And the language or filled out.

**Sten:** As best --

**Katz:** As reflected in the Oregon revived statutes. Probably your best route to go.

**Sten:** Second.

**Katz:** All right. Roll call.

**Saltzman:** Well, i'll just state one more time in terms of my personal support on the 14th, I do want to see something in writing between halfway house and ramada inn that deals with the conditions you have the ability to impose on residents with respect to their frequenting or patronizing -- or patronage at ramada inn. Aye.

**Sten:** Will well, I think -- I mean, two quick issues I want to speak to. I definitely support the motion. You know, the technical issues are very, very important. And these cases often get decided and technical issues, but I was a little, you know, surprised not to hear any argument from the opponents about a single thing that was going to go operationally wrong with this. I don't think the perception of problems gets anywhere near the standard. You know, to be blunt, I think that was a really tortured technical argument that we should classify -- I mean, you're basically saying when you boil it down, that this council should classify a facility of 75 people who are under federal sentencing guidelines under a criteria that doesn't even take safety into effect, a residential group home, and then saying it would be bad precedent if we didn't go that way. I mean, that's a terrible argument. I just want to be on the record with that, because I don't want to there to be any

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sense at luba, that the intent of the code, whatever the words might be tortured into saying, would be that people under sentencing guidelines should be placed into residential neighborhoods on criteria set up for people that don't ever offer any safety problems. That is a terrible precedent. aye.

**Katz:** I think commissioner Sten just said what I was going to say. This was I think an interesting discussion. This is not a group home facility. This is a detention facility. In visiting the site I -- it was probably one of the better sites in the city to locate a detention facility after hearing neighborhoods argue about having these -- some of these facilities right in their backyard. Aye. [ gavel pounding ] we stand adjourned.

At 4:12 p.m., Council adjourned.