



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **25TH DAY OF SEPTEMBER, 2002** AT 9:30 A.M.

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

Commissioner Saltzman arrived at 9:34 a.m.

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

On a Y-4 roll call, the Consent Agenda was adopted

	Disposition:
COMMUNICATIONS	
1143 Request of Michael Kelly to address Council regarding the City's transition to a sustainable urban model (Previous Agenda 1125)	PLACED ON FILE
1144 Request of James Bliss to address Council regarding the Sit/Lie/Stand Ordinance (Communication)	PLACED ON FILE
1145 Request of Paul J. Ballway to address Council regarding the Sit/Lie/Stand Ordinance (Communication)	PLACED ON FILE
1146 Request of Patricia Annis to address Council regarding the Sit/Lie/Stand Ordinance (Communication)	PLACED ON FILE
1147 Request of Richard L. Koenig to address Council regarding a declaration of war (Report)	PLACED ON FILE
TIME CERTAIN	
1148 TIME CERTAIN: 9:30 AM – Accept the Pleasant Valley Concept Plan as adopted by the Pleasant Valley Concept Plan Steering Committee (Resolution introduced by Mayor Katz) (Y-4)	36096

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CONSENT AGENDA – NO DISCUSSION	
<p>1149 Accept Bid of 2KG Contractors, Inc. for remodel of Fire Stations 5, 13, and 42 for \$2,010,000 (Purchasing Report - Bid No. 101645) (Y-4)</p>	ACCEPTED PREPARE CONTRACT
Mayor Vera Katz	
<p>*1150 Amend contract with NWP & Associates, Inc. to increase total compensation for engineering and implementation project management of the Integrated Regional Network Enterprise (Ordinance; amend Contract No. 34119) (Y-4)</p>	176914
<p>*1151 Authorize an Intergovernmental Agreement with Portland State University for participation in the Integrated Regional Network Enterprise (Ordinance) (Y-4)</p>	176915
<p>*1152 Amend contract with CH2M Hill, Inc. to extend date and increase contract amount to assist City natural resource programs (Ordinance; amend Contract No. 33859) (Y-4)</p>	176916
<p>*1153 Authorize Compromise of Debt of WW Venture-Division LLC; WW Venture-Belmont, LLC and WW Venture I, LLC (Previous Agenda 986) (Y-4)</p>	176917
Commissioner Jim Francesconi	
<p>1154 Set hearing date for Wednesday, 9:30 a.m., October 30, 2002, for the vacation of a portion of N Bradford Street in connection with the consolidation of property owned by the Port of Portland, for the redevelopment of Terminal 4 for Toyota Motor Company (Resolution; VAC-10008) (Y-4)</p>	36095
<p>*1155 Accept a grant for a portion of funds from the Oregon Department of Transportation to create effective transportation safety programs with a particular focus on youth summer programs (Ordinance) (Y-4)</p>	176918
<p>*1156 Accept grants in the amounts of \$500,000 and \$525,000 from the National Park Service, Urban Park and Recreation Recovery Program for renovations to the University Park Community Center (Ordinance) (Y-4)</p>	176919
Commissioner Dan Saltzman	

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<p>*1157 Authorize an agreement with Columbia Steel Castings, Inc., to allow a private emergency access/egress roadway across City owned property at 10505 N. Portland Road (Ordinance) (Y-4)</p>	<p align="center">176920</p>
<p>*1158 Amend contract with Tetra Tech/KCM, Inc. for construction services for Tanner Creek Stream Diversion, Phase 4, Project No. 5407 (Ordinance; amend Contract No. 33131) (Y-4)</p>	<p align="center">176921</p>
<p>1159 Amend Code to codify responsibility for maintenance of sewer service laterals (Second Reading Agenda 1135; repeal Resolution No. 33968 and add Code Section 17.32.055) (Y-4)</p>	<p align="center">176922</p>
<p>Commissioner Erik Sten</p>	
<p>*1160 Amend contract with David M. Corey, Ph.D. to extend time and provide for additional funds to conduct psychological evaluation of Emergency Communications Trainee candidates (Ordinance; amend Contract No. 33312) (Y-4)</p>	<p align="center">176923</p>
<p>*1161 Amend agreement with Metropolitan Group to conduct additional interviews for the organizational development and cultural training needs assessment for Portland Bureau of Fire, Rescue, and Emergency Services for \$4,800 (Ordinance; amend Contract No. 34217) (Y-4)</p>	<p align="center">176924</p>
<p>*1162 Agreement with Multnomah County Department of County Human Services for \$74,652 for homeless and public safety programs and provide for payment (Ordinance) (Y-4)</p>	<p align="center">176925</p>
<p>*1163 Authorize agreement with Environmental Restoration, Inc. for \$29,950 to provide contractor training and mentoring on lead safe work practices and lead hazard reduction and provide for payment (Ordinance) (Y-4)</p>	<p align="center">176926</p>
<p>City Auditor Gary Blackmer</p>	
<p>1164 Approve Council Minutes for July 5, 2001 through December 27, 2001 (Report) (Y-4)</p>	<p align="center">APPROVED</p>
<p>1165 Authorize an increase in the petty cash funds for the Office of the City Auditor to \$400 (Second Reading Agenda 1139; amend Ordinance No. 154207) (Y-4)</p>	<p align="center">176927</p>

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<p>1166 Assess property for sidewalk repair by the Bureau of Maintenance (Second Reading Agenda 1141; Y1046) (Y-4)</p>	<p align="center">176928</p>
<p align="center">REGULAR AGENDA</p> <p align="center">Mayor Vera Katz</p>	
<p>1167 Adopt City of Portland Investment Policy (Resolution) (Y-4)</p>	<p align="center">36097</p>
<p>*1168 Authorize Confidentiality Agreement with Enron to enable commencement of negotiations regarding Portland General Electric (Ordinance) (Y-4)</p>	<p align="center">176929</p>
<p>*1169 Accept an \$80,000 grant from the Oregon Department of Justice, Crime Victims' Assistance Section, Victims of Crime Act Project (Ordinance) (Y-4)</p>	<p align="center">176930</p>
<p align="center">Commissioner Dan Saltzman</p>	
<p>1170 Accept the Management Report from the Office of Sustainable Development, Solid Waste and Recycling Division for its 2001 Activities (Report) (Y-4)</p>	<p align="center">ACCEPTED</p>
<p>*1171 Authorize a contract and Water Efficiency Program Agreement with Portland General Electric Energy Services Group for \$61,000 to promote the installation of ultra low-flow water closets at multifamily rental property (Ordinance) (Y-4)</p>	<p align="center">176932</p>
<p>*1172 Accept an Intergovernmental Agreement for \$70,000 from Metro to develop and implement a commercial recycling pilot program and a Green Tenant Improvement certification program (Ordinance) (Y-4)</p>	<p align="center">176931</p>
<p>*1173 Approve the Willamette Bluffs Erosion and Sediment Control Plan resulting from the August 20, 2002 Willamette Bluffs fire and designate the Bureau of Environmental Services the lead in the City (Ordinance) (Y-4)</p>	<p align="center">176933</p>

At 11:41 a.m., Council recessed.

SEPTEMBER 25, 2002

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **25TH DAY OF SEPTEMBER, 2002** AT 2:00 P.M.

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

Commissioner Saltzman arrived at 3:35 p.m.

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

<p>1174 TIME CERTAIN: 2:00 PM – Adopt the Portland Transportation System Plan, amend Comprehensive Plan goals, policies, and objectives and amend Titles 16, 17 and 33 (Ordinance introduced by Commissioner Francesconi; amend Titles 16, 17 and 33)</p>	<p>DISPOSITION: CONTINUED TO OCTOBER 17, 2002 AT 2:00 PM TIME CERTAIN</p>
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At 4:11 p.m., Council recessed.

SEPTEMBER 26, 2002

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 26TH DAY OF SEPTEMBER, 2002 AT 2:00 P.M.

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

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

<p>1175 TIME CERTAIN: 2:00 PM – Amend Code to increase availability of variances, again designate drug-free zones, reduce penalty of violation, conform language with 14B.30 (Ordinance introduced by Mayor Katz; amend Code Section 14B.20)</p> <p>Motion to accept amendment to change Code Section 14.100.060(3) from the fifth to the tenth business day: Moved by Commissioner Saltzman and gaveled down by Mayor Katz after no objections.</p> <p>Motion to accept the amendment that the definition for exclusion be modified to people who have been arrested at least twice or convicted once: Moved by Commissioner Sten and seconded by Commissioner Saltzman. (Y-1; N-3, Francesconi, Saltzman and Katz)</p>	<p>DISPOSITION:</p> <p>PASSED TO SECOND READING AS AMENDED OCTOBER 2, 2002 AT 2:00 PM</p>
<p>1176 Amend Code to increase availability of variances, again designate prostitution-free zones, reduce penalty of violation, conform language with 14B.20, provide for exclusions from prostitution-free zones for those attempting to commit certain types of crimes (Ordinance introduced by Mayor Katz; amend Code Section 14B.30)</p> <p>Motion to accept amendment to change Code Section 14.150.060(3) from the fifth to the tenth business day: Moved by Commissioner Saltzman and gaveled down by Mayor Katz after no objections.</p>	<p>PASSED TO SECOND READING AS AMENDED OCTOBER 2, 2002 AT 2:00 PM</p>
<p style="text-align: center;"><u>FOUR-FIFTHS AGENDA</u></p> <p>*1177 Amend City Code to extend expiration of authorization of drug free zones (Ordinance; amend Code Section 14B.20.020)</p> <p>Mayor Katz passed the gavel to President of the Council, Commissioner Saltzman and made a motion to suspend the 4/5ths rule of filing a 4/5ths item by 5:00 p.m. on Wednesday with the Council Clerk and brought forward a new Ordinance: Moved by Mayor Katz gaveled down by Commissioner Saltzman after no objections.</p> <p>(Y-4)</p>	<p style="text-align: center;">176934</p>

At 6:06 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

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Closed Caption Transcript of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

SEPTEMBER 25, 2002 9:30 AM

Katz: Council will come to order. [roll call]

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

Katz: Mayor is present is dan here? He'll be a little late. All right. This will give us an opportunity to do something that's not the schedule. We have guests here from indonesia. Two years ago, indonesia established for the first time elected local government at the equivalent state county and city government levels. At the same time, associations for cities, counties and states were also created, so very similar to the -- some of the associations that we have here. The associations have been working in partnership with our league of Oregon cities, and this delegation's visit is focused on board process, strategy planning, and advocacy. And they're going to see a little bit of advocacy this morning. Employing strategies developed during previous exchanges, the associations were successful in defeating attempts to roll back the laws granting local autonomy. Congratulations for doing that. We're honored today to have with us several mayors, executive directors of associations, you're going to have them all introduced to you by dave, who is the legislative director of the league of Oregon cities. So dave, why don't you come up and give us a little bit of background.

David: Thank you, mayor Katz, and members of the commission. I'm honored to have with me today representatives of indonesian local government, and with us, and I can introduce our lupus, who is the director of the indonesian counties association.

Katz: Have him stand up.

David: And sabagio, the mayor, sarial, a county commissioner, then we have joseph and his wife, he is a mayor, and a president of the indonesian cities association. Then we have moneer, the executive director of the indonesian cities association, and with them are staff from the international city managers association, which is working as part of a state department program to support emerging democracy. And the officials are here as part of a program where they're learning from us and we're learning from them, but especially to see what associations do and how cities, counties, and states can work together to build their communities, to build decision-making at a local level, and it's been a real exciting experience for us, and we really admire the courage and the progress that they have made in bringing local government to 220 million people. Thank you.

Katz: Let me just flag this, we've had over the last year, and I hope it continues, it may be a little longer than a year, very exciting relationship with royon in thailand, where we are teaching them about citizen involvement and citizen participation and budgets because of the formation of their new local governments. And in turn, we're learning a lot about their ways and their customs and history. So it's been a very positive relationship this -- this could turn out to be something like that in terms of city-to-city.

David: And there actually have been a number of Oregon cities that are partnering with indonesian cities. So Oregon has a major indonesian connection now, and it's really been exciting for all those who are participating.

Katz: Thank you. I've explained to the indonesian delegation the system of communications that it is an opportunity that we have devised for every wednesday to have five citizens take three minutes

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each to talk about anything that they want to talk about, and most of the time they talk to us because they're not happy with us. So you'll be hearing some of that today. All right. 1143.

Item 1143.

Moore: He will not be making it.

Katz: That's too bad, because I wanted you to hear that one as well, since it is something that we're working on, which is sustainable, urban living and development. 1144.

Item 1144.

Moore: He will also not be making it.

Katz: 1145. Sit/lie/stand.

Item 1145.

Paul J. Ballway: Paul Joseph Ballway. Welcome to our friends from Indonesia. So it seems like very little concern is based on the plight of us homeless people, et cetera. We've all hashed it before. I got just questions like, the old armory building that could have housed 300 people, it's a 24-hour fitness center, and this thing about the sidewalks, the questions remain, where are we going to go? Why stomp on us? Personally I don't care. They can tear me off the sidewalk any time they want. They got no bank account, it seems like when it comes to us, there's no regard for us. I mean, questions never get answered, I mean, when funding could be made to put us to work instead of funding trying to throw us in the river or something, I don't know what to say about it all. It just seems like, you know, there's a big lack of communication. We try to be nice, we try to do it by process, we get snowballed left and right. You know, it's pretty funny. I looked at the paper last week, geez, what a difference, mayor. That picture, you were there holding a protest sign. Times have changed, I guess. You had a heart for people on one end of the stick, but I don't know, maybe I'm wrong, it seems like you people don't have no heart to care for us. And we're citizens. Some of us fought for this country. I don't know. I notice the suit guys on the sidewalk, they're sure as heck blocking up counsel town to the point where I usually have to push my way through or say, get out of my way. I mean, you know, but when it comes to a homeless person, geez, the other day I tripped over a chair outside one of the cafes. I should have broke my knee. I'd own this city. Nah, I don't do things like that. Why should I hurt myself? But at any rate, I speak for myself and I'm sure I'm not the only one. We're not going to let this lie. Gotta come to terms with us. You people really show no regard to us. To be honest with you, I'm a little ticked off about it. So I was happy this morning that I didn't have to hear the morning prayer, because decisions like article 14 in the same sentence of the lord, that's blasphemy. My time is run out, everybody knows I'm a little ticked off, I'll just leave with a nice shiny penny, it's a cheap price to pay for the cheap decisions and the cheap show of heart that you show us homeless people. And I'm not thanking you for nothing.

Katz: Thank you. All right. 1146.

Item 1146.

Patricia Annis: Good morning, mayor and council members. I understand from the meeting that was held yesterday afternoon, mayor, by you and my colleagues and comrades from Crossroads, that all we got out of it was a lot of complicated rhetoric and no promises. After all our efforts, thinking we were coming to the point where representatives from all sides would be getting together and actually defining what the real problems are and coming up together as neighbors and friends and people who care about one another with solutions, and I don't think it's going to happen, it's obvious it's not going to happen, because apparently Portland Business Alliance has you guys in their back pocket. So, you know, people like Franklin Kimbro that weren't even born and raised here, have turned this town on its ear. And apparently what you want is just, get rid of all of the ambience that downtown developed through my lifetime, and turn it into a sheep's pen where just like a lot of sheep, people come downtown, run into stores, shops, spend a lot of money, leave. Keep the sheep going, buy, spend, buy, spend, and just leave. You know what? You have no conception of what

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the people can do. There's strength in numbers and the numbers are growing, and you haven't heard the last of us. You've only heard the beginning. Thank you.

Katz: 1147.

Item 1147.

Richard Koenig: Good morning. City of Portland, honored guests from indonesia, commissioner of police, city council. I have been able to circulate a sign-up sheet for all of you folks who wish to declare war on the public's right of use of the streets of Portland. Now, I serve that according to this document here, approximately september 4th. I offered you 14 days in which to sign it. I'm actually very optimistic that none of you did sign it, or want to now, but I have a copy here with blank lines. Would you like to circulate this, mr. Francesconi? Would you like to sign this? Police commissioner Katz? Would you? Mr. Saltzman? Would you like to sign this, sir? And mr. Sten. Would you like to commit treason today? Okay. Now, on the back of this, you all noted what the actual law is as passed by our duly elected legislature, which regulates motor vehicles. Those are all the ones that transport persons and property for compensation. And none other except by the exercise of the people's option to title their vehicles as motor vehicles and then become subject to all the provisions of the code. And as you know from my previous presentations, I didn't exercise that option, or perhaps -- yes, I did exercise that option and then I opted out. So at this point, since no one wishes to declare war on the public's right of use of the road, i'm going to take this document with your consent, and use it as my designated safe passage paper. Anybody that works for you folks, the boys and girls in blue, that want to deprive me of my right of use of the streets of Portland, i'll tell them to talk to you about it. Is that what we all understand here today? Mr. Francesconi?

Francesconi: Richard, i'm not going to respond.

Koenig: You don't understand?

Francesconi: This isn't the time to respond.

Koenig: Well, if you want to make an appointment, you've had a lot of time to make the appointment. Commissioner Katz?

Katz: This is not a conversation. This is your opportunity to talk to us.

Koenig: I assume you have no conversation to have. I'm just verifying that. Mr. Saltzman, you don't wish to converse about this either, right? Mr. Sten, you don't wish to converse about this either? You've acquiesced. I want to thank you all for assuring the people's right of use of the road in the streets of Portland.

Katz: Thank you. All right. Consent agenda. Anybody want to take any items off the consent agenda for discussion? Any council members want to take an item off? If not, roll call on the consent agenda.

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

Katz: Mayor votes aye. [gavel pounded] all right. We are at time certain, 1148.

Item 1148.

Katz: You are going to hear a very wonderful story. A story about several jurisdictions and citizens in the community who have worked together to put a concept plan that moves planning ahead in pleasant valley, and it is a collaboration between the city of Portland, the city of gresham, clackamas, Multnomah county and metro. You might recall that it was funded partially by a grant, and a lot of work went into it, and i'm going to turn it over to the presenters to talk a little bit about the vision in the plan and give time for the public to testify on the importance of it to pleasant valley.

Bob Clay, Chief Planner, Bureau of Planning: Thank you, mayor, and members of the council. In your packet you have attached a resolution that acknowledges the work recently completed as part of the pleasant valley concept plan. Pleasant valley concept plan is just that. It's a concept plan

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for later implementation and later adoption. The consent september plan marks -- concept plan marks the second phase of a four-phase project. The first phase was a governance phase that the city council was involved in with the city of gresham and Multnomah county and clackamas county that called for long-range planning to occur in the pleasant valley area. As you may recall, going back to 1998, metro expanded the urban growth boundary in the pleasant valley area, pleasant valley represents approximately 1500 acres to the east of Portland, and to the south of the city of gresham. As a result of the governance effort that was undertaken, it was decided at that point with a group of citizens living in the area as well as the two local governments that gresham would assume responsibility, governance responsibility for approximately 80% of the land area and that the city of Portland would take care of the other 20% of that area. The interest for the city of Portland is multidimensional. We have issues of storm water run-off, we have issues of flooding in the johnson creek basin, we have issues of traffic impact back into Portland, and most importantly we have the issue of wanting to cooperate closely with our regional partner, the city of gresham, who is here today to see that this area is planned in the best possible means possible. The concept plan is a broad vision to urbanize the 1500 acres in pleasant valley. I mentioned it's a former urban reserve added to the urban growth boundary in 1998. Woe formed a 24-member steering committee that adopted the final concept plan and a series of implementation strategies and we completed our work this past may. This was the culmination month on the proper process that included a 15-steering committee meetings, five community forums and a whole series of work teams that worked behind the scenes between the two jurisdictions as well as metro, our regional planning agency. What is before you today then is simply to formally accept the pleasant valley concept plan by resolution, which was a recommendation of the steering committee, and to use the concept plan as the basis for developing implementing regulations, action and funding for the future and finally, to continue working with our regional partners to coordinate the implementation of the concept plan. What i'd like to do is go through some introductions. There's a number of people here in the audience that are our regional partners that work long and hard for the project. First is jay, a city planner, with the Portland planning bureau. Jay will walk through a power point presentation in a minute. To my left is johnathan harker, a senior planner with the city of gresham. Johnathan was the team leader for the project team on this effort. Joe dills who is in the audience immediately behind me with otak consulting firm, was the lead project coordinator for the consulting team. Amy, who is behind me, with the bureau of environmental services, served on the steering advisory committee, as did rick holt, I should mention, who is not here today. He is a former planning commissioner, so the city of Portland had two representatives on that steering committee. Also here today is mary wall from the bureau of environmental services, who will want to speak to you. I don't know if john bliss has arrived here, but john was the chair of the steering committee and wanted to say a few remarks. John is here now. Also, with bureau of environmental services is staff danella brod, ali young, and lastly, ray valone from metro is also here in the audience, and metro served as the administrating body for a very significant federal grant that we received, as well as did an extensive background work with respect to transportation. Transportation modeling and green spaces.

Katz: Let me interrupt before our guests leave. David, this is a relatively small area, but it is part of how to plan a community that crosses several jurisdictions, and may be an interesting study for the guests on how we plan a community. Okay. Go ahead.

Clay: So finally what we would like to do is just have jay walk through the power point presentation that we'll give you an over -- will give you an overview, a series of images, explain a little more about the process and the partnership that we have had, and then johnathan harker would also like to address you in terms of what some of the follow-up implementation and phases will be.

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Katz: Okay.

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

Jay Sugnet, City Planner, Bureau of Planning: Jay sugnet. This is the metro 2040 growth content. You can see pleasant valley in relationship to clackamas regional center, gateway regional center and gresham, and also the smaller town centers, lents and damascus to the south. This is 1500 acres. This is the study area. It's currently home to about 225 units, traditional has been dairy farms, currently there are a number of tree nurseries out there. As you can see in the blue, there's an extensive creek systems item, over four miles of creeks. It has some of the highest quality fish habitat in the region. It provides wintering for steelhead. And as you can see by the aerial, it's not a pristine area. It has been used considerably in the past 150 years, and you can see the remnants of the forested buttes around in the corners. Here's a view looking east from hawthorne ridge. It gives you an idea what the area looks like. Bob mentioned the four phases of planning. Governance, concept planning, which i'm going to be talking about mostly, next phase, implementation, which we hope to complete by next june, and legislative adoption, which would happen the following year. Again, it was brought into the urban growth boundary in '98. This is the first time we actively engaged the community in discussions about governance and service provision. The same year gresham and Portland signed an intergovernmental agreement to do joint planning, and also adopted a five-year goal to complete a master plan for the community. In may '99 is when we received a fairly large grant, \$500,000 from the federal highways administration. Work began in october 2000 and we completed this past june. Next phase is implementation. Johnathan is going to talk a little more about that. And again, adoption in 2004. Who is involved? There are two counties, and metro steering committee, with broad-based number of stakeholders, area neighborhood association representatives, water shed councils, business interests, residents, and john bliss, long-term resident, was the chair. During these five -- 15 steering committees bob mentioned there were five community forums, and those were strategically timed to be prior to steering committee decision points, and those were very well attended by the community, and were held out in the pleasant valley elementary school. And again, an 18-month process, fairly standard process. A lot of inventory work developed alternatives, went through evaluation process, a selection of a preferred alternative, and we developed implementation strategies to help carry through the concept plan. Early on we developed goals, and these are just titles of the goals. They're -- the full text is in the handbook I just gave you. Most notably, the overriding goal was to create a complete community, and a lot of it centered around providing transportation and housing choices. And throughout the process there are two themes that emerged. That was the integration of these three elements, and an attempt to balance all three to achieve all of our project goals. So in part of our planning process, there was a five-day design plan last may, which the steering committee was staffed and the community came up with four different alternatives. There was -- each had similar elements of stream protection, same range of households and jobs, each had a town center, and a host of other assumptions. Once this was done, there was an extensive alternative analysis. Recognize that each of the concept alternatives that were developed had positive elements, so an attempt was made to utilize each of those positive elements and create a hybrid. And this is the final hybrid, after more evaluation and refinement by the steering committee. And i'm going to go through this element by element very quickly. First we started with what we're calling the green infrastructure.

Francesconi: Is that what you started with? That's good.

Sugnet: And that's one of the innovative aspects of this plan, is traditionally you start with the transportation system and then land use. But we recognized that this area here, because the fish habitat were responding to esa, and particularly residents of the community were concerned about storm water, that we needed to start and -- for concept planning purposes, identify these areas that

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have important ecological functions. This includes streams, wetlands and upland habitat. And it's a significant amount of area. It's almost one-third of the study area. The street system, continuing -

Francesconi: That's how the native americans started too.

Sugnet: We continued our theme of integration with the streets, so we're very concerned about where are the crossings, providing transportation choices, transit system. One of the notable features about this plan is that the old foster road, which goes straight through the center, is now realigned with another road, now the major north-south connections are 172nd and 190th. So considerable changes there. And also note that green streets was an effort led by metro and was going on at the same time as our concept plan, and we adopted as a principle that the streets would be green streets, so all storm water would be managed within the right of way of these streets. Next we have parks. We have one to three-acre neighborhood parks. We have a 29-acre community park in the center. We have an elementary school and a middle school. And an extensive trail system connecting neighborhoods to the schools to each other, and town center. Next element are the -- is housing and the light yellow is detached housing, and the gold color is attached. And basically there's a 50/50 split between attached and detached, emphasis on variable lot sizes to provide housing choices. You can see the circles represent quarter-mile radius, and each of these neighborhood parks are designed to have a distinct edge and center and be close to retail centers. Next element, there was a town center, 19 acres in the center. There are neighborhood, mixed-use commercial areas. There is two business parks, potentially a medical center, and over 88 acres of employment all together. And here it is all together. The way it works out, we have 5,000 homes, 5,000 jobs, 5,000 fish. [laughter] as part of the concept plan, we developed a series of implementation strategies by topical area. That will provide a little more focus on what we mean by the concept map, and there's a lot of work behind this. I'm just going to give you a couple of examples. Governance, as bob mentioned, the blue is the area anticipated to go to gresham. The green, which is south of the county line, is undecided, both gresham and happy valley have expressed interest in this area. But essentially what this -- what this implementation strategy is to determine where this line is currently, it along the creek. It's not an appropriate political boundary. Land use, we came up with a series of implementation strategies to give us a better idea of what the town center characteristics would be, what our neighborhoods would look like in terms of housing types. History was an interesting part of this, and something we heard a lot from the community was retain a lot of the cultural and natural history of the area, and some strategies to do that. Transportation, always a very popular topic, and we came up with transportation -- transit strategies, trail network, and basically street designs for all the streets. And natural resources and green development practices, esa issues, and restore fish passage, for example, and one of the concept that's came out of this was green development practices. It is very important not only what happens in the creek, but upstream, so we developed strategies for managing storm water on site for all development to the greatest extent practical. Parks and schools, strategies to integrate them with the neighborhoods. And in addition to the implementation strategies, we wanted a little more detail. What potentially a town center could look like and what a neighborhood area could look like. And here's an example of the town center, anchored by a grocery store, surrounded by mixed use. It has a transit street, attached housing, and employment along the edges. This is just one example. An example of a neighborhood. Centered by a neighborhood park, has a mixed use neighborhood center to provide local services, a variety of housing types, from town homes to different sized lots, and also shows restored tributaries to kelly creek, which was an important element. This is a concept that came out of the design. A transition area, and a way to look at the interaction between the built environment and the natural environment, and it was a way to present a friendly face to particularly the larger creeks, was certain strategies. Instead of having backyards up against the creek, we want to try to have streets, rails, more community uses, parks, storm water facilities and

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other uses such as environmental learning center. If you put all that together, you have a complete community. We have neighborhood -- walkable neighborhoods with a park in the center, we have environmentally sensitive areas, green streets to help retain the environmentally sensitive areas, we have an employment district to allow opportunities to live and work within the community, and schools and a town center to provide local services. So what does a complete community cost these days? Just over \$171 million. Transportation, of course, is the big ticket item. And something we heard quite a bit --

Katz: Bring that slide back. Where's your public safety?

Sugnet: This is infrastructure.

Katz: Okay.

Sugnet: Not services.

Katz: All right. Go ahead.

Sugnet: What we heard from the community was, how are you going to pay for all this, first of all, and second of all, concern that development, or provision of services does not lag behind development. So we developed a number of strategies for funding. As bob mentioned, there are three recommendations from the council. In addition to the --

Katz: Let me ask you a question. Is there concurrency on development, that if the infrastructure isn't there, the development doesn't occur?

Sugnet: That was one of the strategies that we're exploring.

Katz: You're still exploring that?

Sugnet: So accept the pleasant valley concept plan and implementation strategies. What I gave you was a summary of the plan, in addition to that there are implementation strategies, which is a fairly big document. There was a project evaluation done by Portland state university, which was a grant requirement. And we have a rather thick technical appendices, over 400 pages, that back up a lot of this work. Finally there's a model handbook which we may want to pass on, that provides an example for how to do concept planning for urbanizing rural areas in the region and also throughout the country. And metro has already started to use this for their other areas.

Katz: Tim, that would be -- could be useful for our guests. Go ahead.

Sugnet: Next steps. Involved jurisdictions have been doing the same thing council is doing today, accepting the plan. Gresham did it in august, Multnomah county did it last week, and metro will do it next month. Also, as we begin the next phase of implementation, metro is also -- also has a state grant to look at the larger transportation issues in the foster-powell corridor, and there will be strong coordination between those two projects. And the next phase of planning, and I think johnathan is going to talk about this, so i'll let him take over from here.

Katz: Okay. Go ahead. Identify yourself.

Jonathan Harker: Thank you. Thank you, jay. Jonathan harker, i'm a planner with the city of gresham. I'm also, though i'm here as a planner for the city of gresham, i'm also a Portland resident. Before I talk about the next steps, I just wanted to make a couple comments to you about my experience here. I wanted to let you know what a pleasure it was working with Portland staff, and not just the planning staff, but also environmental services staff, transportation staff, the office of citizen involvement, you put a lot of effort into this project, and second, and I hope you got a feel just a feel for what a high bar has been set in terms of the experience that a resident or a worker or someone just traveling through will have in this concept plan area if we implement this concept plan as envisioned. It's sort of hard to get the sense of the process that we went through and how much of this was because of the citizen involvement. We kind of mentioned the 15 meetings over an 18-month period that the citizens gave up. A lot of work there. Those community are forums, we often had 80 to 100 citizens from the valley, from the neighboring areas. Doesn't sound like a lot, except there's only 200 homes in this concept plan area, so we had a lot of participation, and

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they held us to a high standard. I just wanted to pass those on to you. The next stage we're going to be embarking on is going from this concept plan to actual city regulations, to county regulations. It's the need to have something that we can adopt in our comprehensive plan amendments. Gresham and Portland jointly applied for a state transportation growth management grant, which we received, it will help us do some of the funding. We have selected a consultant team, it's going to be otak, the same team that worked on the concept plan, and we hope to emulate a lot of the best parts of the concept plan. We are going to bring those people who worked on the steering committee over to our advisory committee to have us make sure that we're using those concept plan implementation strategies that jay is briefly talked about a few examples. Those are the basis for what we're going to do next. That's what you're endorsing today. We're going to have community forums. We had them out at the pleasant valley grade school so that the citizen who's lived there had a convenient place to go, and we'll continue to do that. We're also going to continue to work very closely with our regional partners, with Portland, with the counties, so that we make sure that all of us are using the good work that we did in the concept plan in this implementation plan. We hope to have it done, or the grant asked us to have it done by june 30th, 2003, and then start our legislative process. And I would note our original agreement between gresham and Portland was to try to be done by june 2004, so we're pretty much on target for that. I think that's all i'll talk about now. Thank you.

Katz: Let me ask a question. What do you think the barriers are going to be for you to not -- not to achieve this concept plan?

Harker: One of the things that we are doing this sort of out of the box I think for the region is this idea of green practices. And this is not something that is necessarily going to be sort of an optional thing, but this is the intention to not use a pipe system for carrying storm water. Instead we're going to use on-site infiltration processes and green streets. We don't have a lot of good examples of how you do that in such a large area. So that's one major challenge. Another is the, how do we bring land in a way that allows the -- these concepts to be implemented and matching them with the infrastructure needs and with the service needs, both on the revenue side, but also on the accumulation of land mass. There are a lot -- this is an area that's been significantly parcelized, so you have a lot of property owners with five to ten acre sites. Land use patterns, new street patterns don't necessarily recognize old five-lot, ten-lot patterns. So that's a significant challenge for us. And then as jay mentioned, the really -- how do you do the infrastructure. How do you build a new road that doesn't exist today. How do you deemphasize the existing foster road and create a new 172nd north-south link? So those are just a few of the significant challenges I think for us. Jay?

Clay: One thing I wanted to add and underscore, if you look in the believe concept plan report document itself, if you turn to the back in the appendix, under appendix b, it gives you a feel for the involvement and the level of cooperation that we've had so far. And that's another challenge I think, is to keep that going. We had tremendous cooperation from your staffs in specific bureaus, and if you look on pages b-2 and b-3, we had infrastructure work team, natural resources, water sheds work team, parks work team, public involvement work team, transportation work team, the land use work team, consultant team, and you would recognize I think the majority of the staff that participated in this, both from the Portland side as well as the gresham side, as well as metro. So I wanted to underscore that again.

Katz: Thank you. Further questions? Why don't you bring up the people that you want to bring up.

Clay: We want to have john bliss address you and also mary wall.

Katz: Okay. Mary and john, come on up. Is that it, bob? Invited testimony? Okay. Pull up a chair. Who wants to start? John, why don't you start.

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John Bliss: Glad to. John bliss. I'm a resident of the valley. Do you want my address there? I wanted to let you know how pleased I have been during this lengthy process to see how well the committee worked together and all of the work teams and the consulting and the direction that came to us has resulted in such a fine plan. It's one that you only have in print before you, but from divisions that we have, we believe it's something that can be very achievable. I think it's important that we try to remain very focused on this plan, because it does embody the views of so many people. It has been a very inclusive process, and our job at this point forward is to make sure that the views, thoughts, hopes and dreams of those people involved in the past will be realized. And that this report that you have becomes a reality. Those of you who may have visited the valley, I know commissioner Francesconi has been there, he's been visiting water shed councils and i've been to some of those meetings. So some of you have been to the valley and realized how beautiful it is, and that's why the early pioneers gave it the name "pleasant." they enjoyed it. And the people who are still there now, many years after the original pioneers, still believe that it's a fine place and they would like to see it preserved as well as possible. We think this plan has taken that into consideration. Coming as a sixth generation person from pioneers who originally came to Oregon and were original donation land claim holders, great, great, great grandfather settled in happy valley, great, great grandfather settled in damascus, and the blisses were involved in gresham and pleasant valley. So a lot of involvement there, and there's quite a pioneer spirit still there. And today our job is to continue that pioneer spirit. We are embarking on a rather unique process here, as you well see. These green street discussions, laying new streets over those old farm roads, creating a vision for the future for everyone is quite a task, and it's going to cost money, which must be wisely spent. We believe that we've had a staff that has considered that, and I think moving forward we will continue to remain focused on using that money wisely, which is our other challenge. I'd like to say that our job is your job, my job, and those of the other jurisdictions would be to remain focused on the fact that we have to be pioneers even today. Modern pioneers, laying down a new plan, a plan that could perhaps become a model for other communities in Oregon and the united states. That's our hope and our dream, and I want to reassure you that a great job has been done up to this point. Now i'll leave my comments there.

Mary Wahl, Bureau of Environmental Services: Good morning. Mary wahl from environmental services. With me is amy, who was on the steering committee. I'd like to make very brief comments about just two points. One is, b.e.s.'s support for the concept plan, and the other is about some of the storm water and natural resource issues. B.e.s. Does support this concept plan. It's a good plan, and it's important to move into the implementation phases. We've been involved throughout this and appreciate very much the collaborative way that it's evolved, and also appreciate the substantive discussion that's have already gone on about storm water, about green streets, about other green methods, and about the natural resource protections. On the storm water management and other natural resource protections, one of the critical items, as you've heard a bit about already, is how to manage the storm water in the area. An example is looking at ways to develop that don't -- downstream flooding. That will help protect fish and wildlife habitat, it will protect downstream property owners, both locally and in areas like lents where we've already done a lot of work, lots of people have done work over several years, and it will protect investments that the city and others are already making downstream for protection and restoration, pdot has a project at 102nd and -- 162nd and foster for culvert replacement, b.e.s. Is embarking on a restoration project right now at the confluence of kelly and johnson creeks. A key component of the concept so far has been identifying storm water treatment methods that capture multiple benefits, buffers along the streams, green streets, on-site treatment of storm water, which is -- will be very important as we go forward, and that's our key message, is to try to maintain this focus on the substantive storm water treatment and natural resource management. As you, mayor, have mentioned, and mr. Bliss

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mentioned, we have a rare chance here to protect from the outset rather than having to try to go back and restore or retrofit, and we urge that this go forward. Thank you.

Katz: Thank you.

Amy Chomowitz, Bureau of Environmental Services: I'm with the bureau of environmental services. I just want to take a minute to thank the staff who worked so hard to put this really extraordinary plan together. Jay and bob from the city of Portland, johnathan harker from gresham, they all did a fantastic job. Ray from metro, who you'll hear from in a minute. And then our own staff who worked on the technical teams. But I also want to single out joe dills, the lead planner from otak. He was really front and center, and at all times, and he really bore the brunt of the steering committee's endless requests for information. He really helped us go from establishing our territory to coming to consensus, and I really want to thank him for doing that. And also john bliss, who as he said, he's a resident, and he just put in countless hours of his own time to also help us in this process and lead to us this wonderful plan. So thank you to all those folks.

Katz: Thank you. Come closer to the mike.

Ray Volone, Metro Project Manager: Good morning. My name is ray, i'm with metro. I served as the metro project manager on this. I'm also here to give accolades just to the process, because it was truly extraordinary. On behalf of metro, I want to thank Portland and as well as the other jurisdictional partners. The citizenry and everyone else who worked on it for doing 90 such a cooperative way that I think this will pay benefits to the future not only for pleasant valley, but for future projects working together. It was a very good experience. I think the plan and the strategies that jay just went through is a testament to the cooperation and the staff time put into this. And I want to acknowledge b.e.s., literally over and above what they had to work with financially, and the amount of time put into it. We had a lot of value added from b.e.s. And planning on this project. It was really an honor to work on such a multijurisdictional project. And thank you for the resources.

Katz: Questions? All right. Let's open it up for public testimony. Anybody want to testify? Then thank you, everybody. We'll accept the pleasant valley concept plan. Roll call.

Francesconi: It is pioneering work. We have to grow as a region to protect the environment, but at the same time how do you not spoil special spots like pleasant valley? And so to do that you have to involve citizens, but they also need the technical support of our staff. So I really appreciated all of our staffs from the various jurisdictions. It was nice that they were recognized here for all the work they do. So leading with green infrastructure, it's pioneering too, it really is. And it's -- we're all whatever our bureaus are, we're trying to respond in that way. So I think the two ways maybe -- the two ways that come to mind that maybe I could help the most through the bureaus is through pdot and through parks in a regional effort to provide infrastructure that works for growth but also respects the environment. So the parks and open space plan and more of a regional effort through metro that jim from stoel rives -- theron -- that's an effort we need to ramp up here. And do that we can support here through our own bureau as well. But the green infrastructure, and this afternoon we're hearing the transportation plan that's being presented to the whole council, but there is a section on there in green -- on green streets. They are more expensive to maintain, so as we get into the how we pay for this, we have to be aware of that as well. But that's a direction that pdot is trying to move to. So we're not designing it from scratch, but we're trying to be responsive in our transportation system. So thank you. This is a pattern for future growth in our region and our state, and hopefully in our country. Aye.

Saltzman: This is a really good work, and I think it's not often you get almost a clean slate from which to plan a community. And it certainly, probably as you mentioned, the process and your results should serve other jurisdictions well as a model for how to do this. And I particularly appreciate in that regard the sort of fundamental emphasis on the green infrastructure first. That is a

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revolutionary consent in and of itself. The goal of no storm water leaving the property and the streets control the storm water is again pioneering, and we really appreciate that effort. If we had been able to do that as we planned the city of Portland, we probably wouldn't be spending a billion dollars now to clean up combined sewage overflows into the willamette river and the columbia slough. So this should save a lot of costs, a lot of heavy hard costs down the road in terms of pipes and things like that that won't have to be built. So there's avoided cost advantage. So this truly is a great concept and i'm pleased to accept it, and look forward to implementing this concept. Aye.

Sten: It really is terrific work. It's ahead of time, and very, very thoughtful, and I think actually it's coming from the citizens as well as the planners and multijurisdiction, and we spent a lot of time particularly when it's time to vote on the sewer bonds, talking about if we could have just done it a different way, 50, 60 years ago in Portland, so I think here's a chance to actually do it a different way in pleasant valley. I predict that 60 years from now the citizens will be very happy that they don't have to rebuild a combined system that doesn't work. So it's pretty exciting to do it the right way and to do it in a way that I think is cutting edge, and could in some ways, there's always going to be a lot of tension, but in some ways could start to tame a little bit of the argument about how -- whether growth is good and bad -- good or bad, because when growth happens you can deal with it in a good or bad fashion. And I think you've gotten us -- we're world renowned for planning, but this is kind of the next step on it. I really appreciate it. Great job. Aye.

Katz: I never realized when I attended one of the early meetings of this plan that this was going to be the outcome. I was somewhat, i'll be candidate, I was somewhat skeptical as to what the final outcome would be, and I am amazed at the incredible work that all of you have accomplished. So i'll be looking at the next steps in terms of how do you deal with the costs. I assume you'll have to be doing some rezoning as well, and how the public then participates in that discussion. Aye. [gavel pounded] all right. 1167.

Item 1167.

Katz: Since people always ask us questions about our investment policy, our reserves, constant questions every year, you might quickly want to run through that.

*******:** I'll just tell you the process. I don't actually have the action in front of me.

Katz: Identify yourself.

Tim Grewe, Chief Administrative Officer: Tim grewe, chief administrative officer. I think most of you are aware we have an investment advisory committee composed of people highly knowledgeable in the area of investments. These individuals regularly review the city's investment policy, which is a document that guides us on how we invest the city's money. We periodically review that, and bring it to you for council action, and that is what is bean done today.

Katz: Okay. Questions.

Saltzman: What's our rate of return on our portfolio?

Grewe: I haven't looked at that for a good week, but --

Saltzman: What was it last week?

Grewe: We typically run ahead of the state pool, it's probably in the 3% range.

Saltzman: I was just scanning through it, it says we do have invested in commercial paper issued by u.s. Corporations?

Grewe: Yes.

Saltzman: I didn't realize governments were allowed to do that.

Grewe: We can do it for certain types of paper on a very limited basis and very small portion of our portfolio.

Saltzman: Okay.

Katz: 3% is good.

Grewe: I hope i'm reasonably accurate on that statement.

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Katz: All right. Any further questions? Anybody else want to testify? If not, roll call.

Francesconi: It's a lot better than i'm doing on our money. Can you invest our money?

Grewe: I'm going to get back to you on that.

Francesconi: 2% is better. Aye. **Saltzman:** Aye. **Sten:** Good job. Aye.

Katz: Mayor votes aye. [gavel pounded] thank you. 1168.

Item 1168.

Katz: I want to, before we start, I want to thank the council for being patient in receiving the final copy. It was worked on until the very, very end. As you know, the issue of confidentiality was raised during the work that we went through on pge park. And we realized at that time that there is a need to be a lot more public about some of the negotiations. And we were prepared to do that in this particular case as well. Trust me, I wanted to do that very badly. But it was very clear from the beginning that if we or anyone else, it isn't just the city of Portland, anyone else that was interested in acquiring the information and beginning to carry on these discussions, that the entire council was going to have to sign, and others, confidentiality agreement, and we had to accept elements of that confidentiality agreement to start the negotiations. We worked very hard back and forth to make sure that linda and jeff as our city attorneys felt comfortable that we could sign on on this and still be prepared to accept some of the responsibilities. It was also very important for us to make it very clear that at some point after a certain time, the information will be public. That we will be going public with -- if we ever get to a term sheet, that those conversations are going to go on with the public. And the conversations with regard to the governance structure can be discussed now, and have nothing to do with this confidentiality agreement, other than that you can't be discussing the negotiations. But there are a lot of other issues, and i'm sure that commissioner Sten will jump in. A lot of other issues that need to have public discussion and public conversation right now. So we think that we can go in parallel tracks on this, have the negotiations begin, and they cannot begin until this is approved, and then go on a parallel track with public conversation on how the utility, if it becomes ours, will be governed and managed.

Tim Grewe, Chief Administrative Officer: Mayor Katz, you covered many of the points I was going to cover, but I think for the sake of emphasizing some of those points i'll still proceed with a short presentation. I'm tim grewe, chief administrative officer with the city of Portland. With me is linda meng, the attorney working with me on finalizing this confidentiality agreement. Because of concerns about the impact of enron's bankruptcy proceedings on future of future of Portland general electric and its customers, they serve the city and region, council on august 28th pass add resolution directing mayor Katz and commissioner Sten working with the ceo and office of management finance to begin discussions immediately with enron corporation and its creditors. The objective of these discussions was to explore options, including the sale of pge to the city, that would meet the city's goals of providing reliable, stable, and low-cost electric service to the citizens of the city and region. As the mayor just mentioned, as we've discussed previously with the council, it's necessary for us to enter into a confidentiality agreement with enron corporation, they've been clear about that from the time they announced the acceptance of bids. In order to gain access to their data sites and proceed with the discussions that the resolution directs, representatives of enron and the city have been working to develop a format for the confidentiality agreement to recognize that the city is a public entity and that it is subject to public information laws. The agreement has taken a significant effort to develop, but we believe we now have an agreement that does the best job possible of balancing the needs of the seller and respecting the public's process, goals of the city. Contained within that agreement is acknowledgment of the public information laws. The agreement once executed will also include the entire city council as well as other critical staff so we will be able to talk and share information openly with you. Finally, if we are able to reach agreement with enron corporation for the purchase of pge, it is important to note again as the mayor did, that the normal

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council process will be used and that the council will only make a final decision after numerous public hearings. That means that the terms of any tentative agreement will be available for public review and comment prior to that decision being made. But for now, to move forward with the discussions of enron and do on in -- so in a way that we believe ultimately protects the public's interest, we recommend to council that you approve this confidentiality agreement and pass the ordinance and allow us to move forward with discussions.

Katz: Linda, why don't you run through some --

Linda Meng, Chief Deputy City Attorney: Portland city attorney's office. The agreement basically has two elements. One has to do with the documents that enron would provide to us, which I define in here as evaluation materials. And they have these documents available in what they call data rooms. In order to get access to those, they're requiring everyone to sign confidentiality agreements. So the documents they will provide to us that are not otherwise in the public domain would be covered by this agreement. There may be documents in there because pge is a regulated utility, a lot of information about pge is already out in the public domain. There's puc filings, there's ferc filings, a lot of document that's are out there in public already. So this does not deal with those documents, but it's only document that's are not already in the public domain that would be covered. That they might provide to us as part of this process. The second part of it has to do with negotiations. And maintaining the confidentiality of the substance of the negotiations. And actually, the details about when the negotiations are taking place and are covered with that as well. So those two elements are the primary -- are the two things covered by the confidentiality agreement. And we -- as tim said, need to sign this in order to go forward. I think we've worked really hard to recognize that the public record law does exist and to try to make this agreement work in that context and balance those needs. And if you have any other questions, i'll be happy to answer them.

Katz: Questions?

Francesconi: Yeah, I have some.

Katz: Okay.

Francesconi: I want to make sure first I understand that i'm working with the right agreement. Is it september 25th?

Meng: Yes.

Francesconi: Okay. Now, procedurally, before I ask the substantive question, the resolution authorizes us to under into a confidentiality agreement. But it doesn't say that this september 25th is the confidentiality agreement. So when we vote to support this, are we also approving this specific confidentiality agreement?

Meng: Yes. The resolution can't really authorize a contract, though it may contemplate it, because contracts have to be approved by ordinance under the city charter. So in order to actually have a binding contract, you have to have an ordinance, and so in order to approve a confidentiality agreement, we had to have this ordinance. And the september 25th agreement is the one that's being approved today, if you approve the ordinance.

Francesconi: That raises -- unless you answer this next question, it creates a problem for me. There's some language in here, if i'm working from the right one, and linda, you and I have not had a chance to talk about this. Tim and I had a brief conversation. I didn't see this language until a while ago. It says -- it's section 7. Under section 6, we can keep these documents for 15 days. And we have to return them, including all copies. And I understand I guess why enron wants that. But under section 7, it says that if we rely upon these documents, we relieve -- let me read it. Neither the parent for any of its affiliates or any of its respective representatives shall have any liability to the city or its representatives relating to or rising from the use or reliance upon any evaluation material, and this is the key part, or any errors or omissions therein. How can we agree with that?

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Meng: The important part to read is the beginning part of paragraph 7. Which says, the city understands and acknowledges that -- here is what I think is key -- except to the extent of any representation and warranties contained in a definitive agreement, the information they rely is being provided without representation or warranty. And part of the job in arriving at an agreement --

Francesconi: Explain what the definitive agreement.

Meng: It would be any agreement we reach with enron for -- to acquire the assets. So part of the job in reaching that agreement is to develop the representations and warranties that they will make to us regarding the materials they provided to us, and the extent of those, the accuracy of those, the completeness of those materials. So by the time we enter into any kind of agreement with them, we would cover and deal with all of those issues about information.

Francesconi: That is a very good answer to my concern. And it answers my concern. Okay. A couple other ones. On the disclosure side. I think the strategy may be, may not be, from my perspectives -- first let me say I think the mayor and commissioner Sten will doing -- are doing an excellent job handling this at this point as we proceed. One of the strategies may be to have a partner. I think one of the preferred strategies is to either have a private partner or to have regional partners. To have partners they need to have information. This agreement forbids sharing of that information. What's the -- I don't know if that's a strategy question or if that's a legal question.

Meng: It forbids sharing information with people who haven't signed a confidentiality agreement. And if as we moved forward we determined or decided other people need to have access to be able to participate, we can bring them in and have them sign confidentiality agreements in order to participate. Now, that's not going to be open to, you know, the whole world. I'm confident enron is not going to agree to that, but if we have key people who need to have access to information, they can be brought in to that process.

Francesconi: Okay. My third and final area of concern regards the scenarios of, if we reach a deal and you address this, but I need a little more clarification on this, if we reach a deal, there has to be an explanation to the public of why we're doing this. But also what risks are involved in this for the public. Yet this agreement as I read it forbids any of that discussion for two years unless enron would agree to that. So how do we have a full discussion on the benefits and the risks if we've signed an agreement that forbids that discussion for two years?

Meng: Again, I think that would be the part -- a part of any agreement that we would reach, would have to be the materials that would be made public and we've been making it clear to them and I think they're beginning to learn this is a public body and that we have responsibilities that are different than private entities, and as far as our expectation, my expectation is any agreement that we would reach would contemplate and recognize explicitly that we have to make these kinds of disclosures to the public.

Grewe: The other thing I would add is that you as the council will be fully aware of the methods we use to derive our conclusions and the risks associated with those. So it should not be a very big step for enron to understand that since my own council is fully aware of those issues, that the next step of making those issues public would be understandable.

Meng: And we will be keeping you informed, so if we're down the road and we're getting close to an agreement and we're negotiating these things, then you'll be involved to make sure that you're comfortable with the level of disclosure that's provided for.

Francesconi: We're going to have to be able to disclose this to our citizens, or else we're not going to approve this. So I guess you understand that.

*****: We do.

Francesconi: If we get that far. And that's also true in the liability question that we just covered.

Grewe: Just one other point in that regard. Something linda referred to earlier and other people that have experience in this area that we're working with agree with. We believe once we get into

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their data rooms and have discussions with them, i'd be surprised if anything less than 75% of the information is probably already public information. So i'm not anticipating --

Francesconi: I appreciate that, but it's that other 25% i'm worried about. Okay. And the last area, and it relates to the same issue, if we don't get an agreement, if we get an agreement the issues i've raised so far you can cover in the definitive agreement. If we don't get an agreement, we have a two-year bind, and this relates to the cost question. And I wanted a report back at 200,000. The reason that's -- this becomes important is, if we spend as we're spending money, and it could be a lot more than that, before we know -- get to the point of no deal, we have a binding agreement that doesn't let us talk. At some point how do we explain to the citizens if we don't have a deal, why we spent so much money with no deal?

Meng: I think that's going to be an aspect. It's not explicitly dealt with in the agreement, you're right. If there is no deal, I think we're going to have to work with enron and develop whatever it is that we feel we have to say. And i'm satisfied that it will be in both of our interests to be able to make an explanation of this. And we'll develop what we need to do at that time. There's some ways we're going to have to make this work as we go along.

Francesconi: One way is regular check-ins to us as we're spending money at the different points, and another way is to get partners to contribute to this financially as we move forward. That's my two cents.

Grewe: Commissioner, we'll certainly know much more than we know today after we've had a sit-down with the enron officials.

Katz: Further questions? All right. Let's open it up to public testimony. I'm sure there will be questions afterwards.

Katz: Anybody else want to testify? Okay.

Bill Michtom: Mayor Katz, commissioners, thank you fore allowing me to testify. My name is bill, and i'm the coordinator of the education committee for the Oregon public power coalition. Of course a pge ratepayer. I am pleased that the city, now that it has decided to move, is moving quickly on resolving the disaster that some people call enron. I do, however, of course want to offer some suggestions. And while it is not unusual for a company to want confidentiality in discussions such as you'll be undertaking with enron and its creditors, these are unusual circumstances. Enron was less a corporation than a criminal conspiracy. That it is facing bankruptcy due to the unraveling of its credit at -- criminal at is no reason to think the corporate representatives and enron's creditors will not want to harvest every last penny they can from Oregonians. And while I trust your adjustment and your motives implicitly, i'm reminded of the gambler's motto, trust everyone, but cut the cards. The way to cut the cards is to have ratepayer representatives on the negotiating committee. While I am sure this will not -- will be low on enron's list of opt mall conditions, it is more than advisable, it is necessary, and the city has a way of focusing enron's collective attention on that necessity. Imminent doe name -- domain. The city should talk softly but carry that very big stick. Condemnation and acquisition of pge's assets is not only a viable option, but the fairest. Oregonians have paid for more than \$1.5 billion of pge's assets and there is no need to pay again. This does not even consider the millions lost in pension and other theft that enron perpetrated. I propose the negotiations happen after condemnation. The city has -- when the city has offered just compensation and no more than the depreciated book value of \$1.9 billion, and likely less, because we won't have to take trojan, the polluting and no longer used coal fire power plants, the creditors can keep those. If enron's negotiations want more than the \$1.9 billion, they can let the price be decided by a jury of Oregonians. In the meantime, of course, once the money is put up, the city or whatever government conglomerate decides to come together and do it has control, has the assets and can start running it as a municipal or however they decide. If, however, you feel you must negotiate first, may I suggest asking dan meek, a lawyer, a recognized expert on

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energy issues, and the man who back in 1997 warned the Oregon public utility commission that enron would do exactly what it proceeded to do, to serve on the negotiating committee. I note this is --

Katz: Let me get an okay from the council to allow you to proceed further. Okay. Go ahead.

Michtom: Okay. I note this is my own idea. I am not suggesting this as a representative, nor I have asked mr. Meek if he's willing to do this. I suggest him because he is exemplary of the type of person that the negotiating committee needs to ensure that it best represents not only local government, but the more than 700,000 Oregonians who have been robbed by enron. And one other quick point, and then I am done. We do not need to rush. As long as pge remains in private hands, acquisition through imminent domain is totally viable. There's no need to rush the negotiations, there's no need to worry about being finished before the bankruptcy process, the auction, we can do this any time. Thank you very much for your time. And by the way, if anybody wants a button, public power, power to the people, i'm more than happy to give you them.

Katz: Thank you. I'm sorry, jada, come on up.

Jada Mae Langloss: My name is jada mae, for usa. I would like the council, I would like to give the council five minutes to fill me in what I missed, because I was out campaigning. Would you fill me in on it and then I can give you some probably good unwanted advice. Our economy is the answer to everything, and we don't need oil for fuel.

Katz: You were campaigning for --

Langloss: Write-in as governor's candidate, because bill bradbury wrote me a letter saying I didn't qualify to be a republican. I want to be a republican like goldwater, and tom mccall, you know, one of these that had honor. Not those other guys. Anyway. Can I tell you a funny pge story?

Katz: You can tell -- you've got two minutes and 15 seconds.

Langloss: Okay. I will do it fast. My daughter was the first lady meter reader they chose -- did I tell that you story already?

Katz: You told us that, yes.

Langloss: Heavens sake, i'm repeating myself. I better write that book. If I can spare the time.

Katz: Thank you, jada. Council, any questions? If not, roll call.

Francesconi: These type of agreements are common, I think, in the private sector. They're not so common, this strict confidentiality agreement in the public sector. I'm going to vote aye for two reasons. One is, the issues of public disclosure of information so that people, the public knows what's going on, I do believe as our attorney told us, can be handled in the definitive agreement. And the second reason to do this is because our -- the prize we need to keep our eye on is lower power rates. And we still need more work done on that to see how that would translate into lower power rates for our residents and business owners. The we can attain that, and it's worth it for this interim step, we can cover the public in the agreement and we have a very legitimate purpose here, and that needs to be the prize. Aye.

Saltzman: Aye.

Sten: Briefly I think we said a while back that this community could not stand by while these assets were dispersed once again. And I think there remains all sorts of dangers, probably none as what's already been done by enron to the community, but if we don't step in and do something about this as a community, the city council I think is really acting as an agent of the bigger community, because we're vested with some of the key provision that's are necessary to get into the middle of this, and I think we've taken that step and are moving forward. It's a little hard to know what will happen next, and I really am not a big fan of confidentiality agreements. In this case I think this is a reasonable one. Our attorneys worked very hard to craft it in a way that I think we can get to the information that we need and it's clear that we're not going to get to enron's private information without a confidentiality agreement, but not take any steps without getting in a position of bringing

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the information the people need to know forward. Meanwhile, I think that there's a whole raft of debates, there could be a sense when we talk about this that suddenly there's a veil coming over this discussion, and I think it's not the case at all. We need to have a confidentiality agreement so that our financial people, negotiators can look at enron's private information. Meanwhile there's a whole series of discussion that's need to continue very publicly about if we are successful in finding a solution and acquiring the assets in one form or another, how will that new utility be governed. We've been on record, and I want to take a second, it should be a regional governance. We need to work with the suburbs. We're in conversations with the counties and we need to work with ratepayer groups and business groups to make sure that a governance structure works for all of us. Those are ongoing negotiations, and discussions, and nothing confidentiality about -- confidential about them. We need to look at the issues of public purpose, and set-up, and all of the ways this thing could work. And I think if we can do that work, at the same time that our sharp pencils are looking at the financial information, my hope is that in the next couple of weeks and months it can start to come together, and we can build a model for both governance and I didn't mention operation, how we're going to operate this. Because we don't think the city council should operate a utility, we would like to look for a partner to do that. I think we can build as a community in a very public discussion, what is the right way to run this utility that's good for Oregon and good for Portland, and the ratepayers. Meanwhile, that should come together, needs to come together with a discussion about price, and ultimately when you're discussing financial issues that are confidential, you're really ultimately talking about what are the assets worth. And I think the operations and the governance will come together with an argument that will be public once we get through it, and either we'll reach a negotiated agreement with enron that will then become public, or we will walk away for one reason or another and say this isn't something that can be done, or we will be unable to reach an agreement, in which case the other avenues that are available start to become things we need to discuss. All of that will be done publicly. So I think it's a matter of trying to get the information that we need and meanwhile keep the discussion going of what's the right way to move forward. So i'm pleased we've made it this far. It's an awfully complex situation, and as daunting as it is, what is more daunting is standing by and letting this thing happen again. So I think we're headed in the right direction and I appreciate everybody's work, and next step, we'll see how it goes.

Aye.

Katz: I said what I wanted to say at the beginning of this. My request is to the media, to please understand that there will be things we will not be able to discuss. But there will be things that we are open to discuss with you, and with the public, and we'll have public meetings and public forums to allow citizens in this community to share their thoughts and their ideas about governance and management and a lot of the issues that will be -- we'll need to face if this agreement can be accomplished. So we will not be able to respond to a lot of your questions with regard to the data, but I want to say that we'll be very open to talk about anything else that we're doing with regard to governance and operations. Aye. [gavel pounded] 1169.

Item 1169.

Katz: Anybody that wants to testify on this item? Roll call.

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

Katz: Mayor votes aye. [gavel pounded] all right. Let's read 1170 if it's all right with the council to move things out of order, 1170 and 1172.

Items 1170 and 1172.

Saltzman: Thank you, madam mayor, members of the council. Today we have two items about Portland's recycling program that show where we are and where we're going in the future. I'm very pleased to announce that Portland, a remarkable thing has happened. We've boosted our recycling rate three percentage points, to 57%. It's pretty amazing. Our goal is -- the city council's

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established goal is to reach 60% by 2005, so given we've gained three points in one year, i'm confident we'll meet our goal perhaps even next year, 2003. Or this year, 2002, perhaps. This level of recycling is truly a credit to the efforts of residents and businesses in Portland, as well as the hard work of the solid waste staff, businesses have further increased their recycling and have managed to reduce the amount of garbage going to the landfill. Households continue to have high recycling levels and have decreased the amount of garbage they throw away and haulers should also be credited for the work they're doing in setting up recycling systems and collecting increasing amounts of recyclables. As I said, we said a -- set a 60% goal by 2005, and part of our future direction includes programs that are receiving funding from metro grants. Outreach to businesses to improve recycling in selected neighborhoods, work a increasing recycling construction projects in cooperation with the offices of sustainable developments green building division. I've asked bruce and judy to briefly address these items.

Bruce Walker, Office of Sustainable Development: Thank you. I'm bruce walker from the office of sustainable development. And really the credit belongs with the citizens of Portland, businesses who've set out more recycling, who have done their job to really put the work, get it in the bins at the home or set up programs in their businesses. And the haulers to do the collection, both in the residential and commercial programs. We're submitting for your approval, acceptance, our annual management report. To start with, i'd like to emphasize a couple things in the report that's not just about the good news commissioner Saltzman spoke about in terms of the increasing recycling rate. But is what we strive in our office in terms of accountability and responsiveness to citizens on a variety of our programs. We were very -- we're very pleased of the high customer satisfaction rating in the auditor's sea survey. We're behind only the excellent work of the fire and parks bureaus, but that's an independent measure of the services that are provided. We try to work our office to follow up with the haulers on any type of concerns. We receive our office receives 19,000 calls a year. Many of them are very simple questions about what items to set out about recycling, many of them finding out who the hauler is when they've just moved into a new area of town. But clearly there's some issues. We work to resolve those. Our goal is responsiveness, and i'd like to point out the person who takes the bulk of those 19,000 calls, shirley robinson, is back in the office working, answering those calls today, and I couldn't be remiss of me to do that. As well, the management report, ann mcloughlin is in the audience, she's the principle author of this report, and it's a team effort that we bring forward. The good news. The 57% recycling. That is a big step ahead. How was this achieved? As commissioner Saltzman pointed out, it's both residents and businesses who have done their parts. Residential have continued their high level of recycling, and there's been an actual reduction in what they've thrown out that's going to the landfill. That's an important decision made at home. We're going to do more recycling, there's less going out to the landfill. Earlier -- and to fit in with this, I realize it's not in the report, but to fit in with this residential system we set up, earlier this summer you approved a new franchise agreement to continue our approach to continually work in the residential sector to get more recovery and recycling. Commercial. The business is important -- the business necessary Portland. There's been a substantial increase in the amount of recycling. While we're not ready to launch a citywide food waste collection program, some of the large generators of vegetative produce, the grocers and produce distribution houses, have responded to city council's signal that says an expanded organics recovery program is coming. And they've diverted loads to some of the compost facilities that can accept all vegetative material. We've got a ways to go for the rest of food waste program to be put in place, but the -- there's an increase there that we've seen over the course of the last year, we've also seen increased collection of the traditional recyclables, primarily paper out of offices, other buildings, businesses that have generated more recycling in Portland. And importantly, there's also been in the commercial sector, less disposal, less going to the landfill. So businesses and residents

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are doing the right thing. We've got the right message, the right directives coming out with your leadership, and we -- while we're very proud of achieving or making it to 57%, as commissioner Saltzman indicated, we've got a higher goal that you've established. And commissioner Saltzman, our bureau of director said, well, come on, what's next? How are you going to get there? That's the questions we get. And --

Francesconi: He says that? Are you kidding?

Walker: All the time. We wanted to touch on a couple of the next steps and the added benefit is the subsequent ordinance that receives some money from metro. And before I turn it over to judy crockett, I would like to recognize a former city employee who's now working with metro, lee barrett, who's done such a good job for us in the past with the commercial recycling program here in Portland. He's left to kind of give some direction to the regional efforts, but again, it's the cooperation between metro and the city that i'd like judy to take a moment to highlight a couple innovative projects.

Judy Crockett, Office of Sustainable Development: Thank you, mayor and commissioners. I'm judy crockett, with the office of sustainable development. I'm here for the second ordinance, which is to allow us to accept a grant of \$70,000 from metro for two projects. One to work on tentative -- commercial improvement, which is an area where most of the construction and demolition debris is generated in Portland. And you are receiving our green tenant improvement guide, which we produced in part with the grant from metro last year, and it includes in it an invitation to the green tour of homes from last weekend, which was enormously successful and over 700 people attended that one-day event. So there's been a lot of encouragement of green building going on, and we see this as a way of getting businesses educated on how to go through the office remodeling process and to highlight green strategies such as recycling, waste reduction, energy efficiency, less toxic materials, and better lighting. We've found that most of the people who are in charge of an office moving or redoing their space are people who are not particularly skilled or trained in this. They are assigned to it while they have other tasks too do, and this is intended for that person. For the person who is in an office, has another job, and needs to help move their office. To give them ideas of what to ask for in their contracts and where to go. However, this guidebook does not have a self-certificate if I -- certification or ranking system that allows them to say, yes, i've done these steps and therefore I have a green office. So the second part of our grant from metro is going to be designed to develop such a self-ranking system so that we can then award people green tenant improvement plaques and to design and present two one-day trainings on green tenant improvements. We decided to do this based on our survey of the construction industry last year, and they indicated a great degree of interest in something that would provide them with a competitive edge if they did green building. So we will be doing two trainings, one aimed at contractors and architects, and the second aimed at rental agents, city facilities managers, and building managers. So that they will have an idea of what to do when their prospective tenants or contractors ask them to provide green services. The second part of the metro grant is a commercial recycling improvement pilot project. We're going to be testing out several different approaches to a specific area of the city in conjunction with a residential program to increase recycling, and whatever the most successful approach turns out to be, we will then apply to other areas of the city. So we're out there testing and trying new things, and I am very hopeful that we'll be able to provide further assistance in both of these areas. Thank you.

Katz: I have a question. Look on your sheet on residential activity best estimates. You have a total residential generation for 2001 of 238,500 tons. In 2000 you had almost the same amount, but your total residential solid waste for 2001 is much higher. Did your make a mistake? Should it be 338,000?

Walker: Yes. There's a -- there's a correction that would -- are you on page 17?

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Katz: Yeah.

Walker: Okay. We should be -- you're correct. You found a typo in there. On page 15 it summarizes it so -- under the 2001 column for residential and commercial waste, so it's -- those are the correct numbers on page 15.

Katz: So your percentages --

Walker: The percentages are correct.

Katz: I thought I was going to catch you.

Saltzman: Nice try.

Walker: A sharp eye.

Katz: All right. I just wanted to make sure you weren't using wrong numbers to get a different percentage.

Walker: I'm glad you asked that, because we really looked over to make sure we got the total number right, and of course then on one of the supporting pages there was a mistake. So I apologize for that.

Katz: That's all right.

Walker: Overall numbers are correct.

Katz: I used to do some of this work in my past, somewhere deep down.

Saltzman: Maybe it comes from all these pge documents you're looking at.

Katz: Okay. Anybody else want to testify? Okay. We're going to accept -- we're going to accept the report on 1170. Roll call.

Francesconi: Terrific work. It shows what good staff work and education process, what they can do to make us a better place. Aye.

Saltzman: Great work, and it's nice to see lee hasn't forgotten us and came back to celebrate this attainment of a 57%. Onward to 60. Aye.

Sten: Terrific work. You guys are doing a great job. Aye.

Katz: Wonderful work. I'm still waiting for us to recycle our food waste at residents. Aye. [gavel pounded] all right. 1172. Roll call.

Francesconi: Aye.

Saltzman: I just want to commend the office of sustainable development, the great work they've done with this tenant improvement guide. This has been very favorably received by people in the private sector. There was a great article last week in the daily journal of commerce by women who are moving offices who used this book to really help them, and they've appreciated it. This is a best seller, or will be soon. Aye.

Sten: Aye.

Katz: Mayor votes aye. [gavel pounded] thank you. 1171.

Item 1171.

Saltzman: This agreement establishes a pilot project to replace 5,000 toilets in multifamily rental properties in Portland. We're going to save between 30 and 65 million gallons of water per year and we'll divert 187 tons of waste by recycling the replaced toilets into road fill material this is a terrific partnership between pge and the city of Portland. The economics are very strong. Typical payback in water and sewer bill savings for an apartment household of four is two years. The office of sustainable development will fill us in on the details.

Dave Tooze, Office of Sustainable Development: Good morning. I'm dave tooze with osd. The agreement that you have before you is an agreement between the energy division and subsidiary of pge called the efficiency services group. It's a pilot program to replace old water closets with top-performing low-flow bottles. It's a really good example of what osd is all about. Helping to make connections with our community and with the private sector to move toward sustainable practices that help businesses to operate more profitably. There are at least eight stakeholders in the pilot.

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First is the energy efficiency services group. They're the folks who came up with the idea originally. There are local companies that produce -- that supply the products, water closets, the seats and the wax rings --

Katz: Toilets, right?

Tooze: These are -- water closets is a nice way to describe a toilet.
> that's what we're talking about.

Francesconi: Water closets?

Tooze: East side recycling is connected with the pilot. They're the folks that have helped us to figure out what to do with the cast-off toilets. There are investors and property owners of the rental property, there are nonprofit organizations who will benefit, to lower water and sewer bills and reduce maintenance costs. Tenants get some of the benefits as well. Though get a top-performing water closet, osd helps to achieve our sustainability goals and efficient uses of natural resources, and our Portland water bureau has always been an active participant in the design of the pilot. They've helped to advise us on the structure and they have initiated a companion rebate program that targets affordable housing units. So there's a rebate component that's independent of the pge contract that we can access that targets affordable housing. There are two staff with the energy division that are due the credit for helping to put the structure together. May bell sullivan is with me this morning and cheryl bunn is back at the office working. I think mabel will take a few minutes to describe how the program works.

Babe O'Sullivan: Good morning. I'm with the office of sustainable development. Excuse me, my throat is dry from a cold. I'll try and get through this. I want to share with you some of the details of the program as dave mentioned. The program is designed to facilitate the purchase and installation of new 1.6 gallon per flush toilets. Our program goal is to replace 5,000 toilets in the Portland area by the end of this year. So it's an ambitious goal, but one we're excited about achieving. To do that we're offering a full-service program for property owners. We're trying to make it as easy as possible for them to engage in large-scale retrofits. So we're including several options for them, including free delivery of the toilets, purchase and installation options, we have a financing option available through albina community bank, and finally we're facilitating the free recycling of the old toilets that are being replaced. Within the office of sustainable development, the multifamily assistance program will serve as the marketing arm to promote the program and enroll customers. The program serves an important role first because new construction is currently required to install these 1.6 gallon per flush toilets, but older properties are not and they've not been required to retrofit. So this program is designed to upgrade toilets at these older properties. By facilitating the purchase and installation of new toilets, the city can make the investment more -- investment more attractive property owners and bring the benefits of conservation to the even ants - - tenants. The program offers benefits, water conservation being the most important, you may not know this, but your toilet at home accounts for 25% of your indoor water consumption, so it's a likely target for water conservation efforts. Replacing 5,000 older high-volume toilets will result in a savings of roughly 36 to 65 million gallons of water each year. This reduces the stress on new water supplies and on wastewater treatment facilities. The water savings translates into reduced utility bills, and this is good news for property owners. For each replaced toilet they can reap the benefits of savings on their water and sewer bills somewhere between 60 and \$106 a year. That's obviously over the life of the fixture.

Katz: That's assuming they don't have to flush twice.

O'Sullivan: That's correct. And we're assuming they're not going, to because we're offering a superior toilet through this program. As a whole, the program if we meet our goal will result in somewhere between 300 and \$500,000 in utility bill savings a year. That's good news for property owners. It's also an excellent example of our -- of applying our sustainable city principles. We're

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not only saving somewhere close to 65 million gallons of water a year, but we're also diverting almost 188 tons of toilet waste from going directly to landfills.

Francesconi: Can the council place orders now? I want two.

O'Sullivan: I'm sorry, the minimum order size is five. You'll have to make deals with your partners.

Saltzman: Great gifts. [laughter]

O'Sullivan: Finally, another important feature is that this program improves the quality, efficiency and affordability of Portland housing. It helps to reduce the pressure on rental increases because in most cases the water and sewer bills are built into the rental payments that tenants make, so it helps to reduce the pressure on increasing those. It promotes low-cost, high-return investment in -- investment in property upgrades, and as Dave mentioned, the rebate program that's being sponsored by the water bureau is specifically targeted at affordable housing units in the city. It's a rebate worth \$45 and it should fund up to 1,000 toilets being replaced through the program. The program should produce some concrete measurable achievements in water conservation work. We're excited about going ahead with it.

Katz: Let me ask a couple of questions, because -- don't ask me why I'm asking you these questions, but I'm going to ask you these questions. Many years ago you told us to put a brick in our toilet. I listened to you, put a brick in the toilet, then you told us, take the brick out of the toilet. Then there was this big controversy about these particular toilets that they don't flush very well, and in fact that people who have purchased them have to -- are spending even more money and there was a whole effort at the congressional level regarding this issue. Do you want to share a little bit of interesting information to us?

Francesconi: Why don't you share it?

Tooze: Very briefly, we're dealing with a generation of water closets, or toilets that are new. It's probably the third generation as far as the capabilities and the technology that goes into the design of the toilet. Bottom line is that the toilets that you bought ten years ago were poor performers. Today they're the cheap toilets that you buy for \$39.95 at the hardware store. These are high-performing toilets that are worth about \$120 retail because of volume purchasing, the price to property owners when they install a toilet is about \$90.

Katz: So the folks who are complaining in the second generation were actually right.

Tooze: They were poor performing water closets. That's right.

Katz: And the brick?

Tooze: The brick thing, the brick works. It displaces the water in the tank so you use less water. Today the water bureau uses little plastic bags that you fill up with water that hang along the side of the tank that -- they call them toilet tummies. It displaces volume of water. The reason they went away from the brick, over time the water-logged brick began flaking off bits of the brick and they were worried about clogging and problems associated with that.

Katz: I see. Thank you very much.

Tooze: The brick did work for a while. There's just a new product that does the job better.

Saltzman: We'll get you one of those bags.

Katz: I think I tried them but they sweat. All right. Thank you very much. Anybody else want to testify? Thank you. Roll call.

Francesconi: Water closets? Get rid of that term for what it's worth. I'm serious. I don't think you can buy in the public. It sounds like something government would come up with. I don't know who came up with that. But I think the whole idea is to get buy-in from our public, and doing -- introducing us with water closets isn't the way to do it. Other than that, this is terrific. And I actually have to learn how to get some. Aye.

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Saltzman: That's just the word we use in front of city council. But we commonly refer to them otherwise as toilets. Great work. Aye.

Sten: Aye.

Katz: Thank you for the information. Aye. [gavel pounded] all right. 1173.

Item 1173.

Saltzman: As many of you were aware, on August 20th of this year there was another fire on the Willamette bluffs in North Portland. While this fire was not as damaging as the one in 2001, it has created numerous violations of the city's Title 10 erosion and sediment control requirements. Of the affected properties, there was a multiple ownership including Bureau of Environmental Services, the Parks Bureau, and six individual property owners. The Bureau of Environmental Services revegetation program has developed a plan to provide the appropriate treatments to -- and identify the cost of the individual sites within the burn area. This plan was developed in coordination with the Bureau of Maintenance, Fire Bureau, Office of Planning and Development Review and Parks. The work done on the private properties will be on a voluntary compliance basis, using individual sponsorship agreements which are included in your packets as Exhibit B. The estimated cost of this revegetation project is \$15,000. To be provided temporarily through the sewer operating fund until reimbursement from responsible parties occurs. If no or insufficient funds are recovered for costs associated with this project, on or before the spring bump of 2003, the general fund would reimburse the sewer operating fund. I've asked Scott, the manager of the revegetation program, to give you a brief update on this -- where we are, and we have talked to each one of your offices about this \$15,000 cost, and reimbursement arrangement.

Scott Clement, Bureau of Environmental Services: Thank you. Good morning. During the past year we've had incredible success with the erosion and sediment control project installed on the Willamette bluffs last fall. Specifically in terms of erosion control, there has been no erosion or sediment moving off the site. With regards to fire management, I didn't ever think we would have another fire at the same location almost a year to the date from the last one, but we did. And although it wasn't a success, the fire did validate the success of the native vegetation on the slopes and its effect on the flame height. Resulting in a more controllable wildfire situation than the one we experienced in August 2001. The reintroduction of native species on the project was a great success. Invasive species have been held at bay and they are no longer the dominant species within the project area. This project, as I mentioned, the Fire Bureau, OPDR, Parks, Bureau of Maintenance, Transportation, and B.E.S. Came together and worked on a coordinated, timely, cost-effective city response to the problem. Through this project, the city's gained experience with some of the ideas that we might see in Phase Two of the city's urban wildfire hazard zone policy, and finally, success in terms of public service, this is yet another positive illustration of the city working with our citizens involving them in all the decisions and delivering a project for everyone's mutual benefit. I'd like to share a few slides with you of the project, and this will -- we'll start with this one. This is a slide of the project before the fire of 2001. To orientate you, we're looking south. This is Van Houten Road, and here's the bluffs. As you can see, it appears it a lush green carpet of vegetation from the head of the slope to the bottom. But if you were to inspect it a little closer, you'd find this lush carpet actually is full of thorns, thorns attached to blackberry, a terrible invasive weed that is prevalent throughout Portland. Same location, same viewpoint after the August 2001 fire. You can see the slopes are totally denuded. There's no vegetation on them at all. These slopes are steep. I like to make the comparison to a stepladder. Without us doing anything on the slopes, which of course we did do a project, we would have had severe erosion on these slopes. In that first fire, 43 acres burned. We ended up treating 29 of those. Another shot of the project, just looking north, before the fire of 2001, and again you can see the invasives, totally covering the slope from the head down to the toe, and this is primarily again the Himalayan blackberry and the Scotch

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broom. Same advantage point after the august 2001 fire. You can see the extent of the damage. All the vegetation is gone. The slopes are totally exposed. Now, last year we came to you and got approval for the project and we moved forward. Some of the first steps we had to do before we could install erosion control tools was to take care of the remnant invasive vegetations. And we did that through two techniques. The first was cutting. We sent work crews comprised of eight to 20 workers across the slopes, cutting remnant invasive vegetation. The next step of the process is that we would go through with a highly targeted use of herbicide on those same invasives to make sure two months down the road they wouldn't resprout and come back and dominate the project area again.

Katz: Let me interrupt. Of the evasive plants, are they good for erosion control or not?

Clement: No, they are not much the blackberry and scotch bloom don't have -- broom don't have well-developed root systems and it's the root systems of the plant that help bind the soils together. Here this photograph you can see a worker working his way across the site, applying the herbicide in a very targeted manner, just to the invasive plants we're trying to control. Now, the first tool we installed as part of the erosion control project were these items, and these are called straw wattles. We installed them in rows of three and we installed them at the toe of the slopes. So their purpose was to capture any sediment sort of a last stop gap measure before any sediment could leave the site. The installation of these, a shallow trench was dug and these were stake order a regular basis. For installation of these and the other erosion control devices, question hired a hub contracting firm to do the work. On the project, we installed over 4200 lineal feet of these central wattles, and here you can see them along the bottom of the bluffs. Another tool, we used on the project were the erosion control blankets. These were applied in areas where there was evidence of concentrated flow. In other words, anywhere there was a depression or gully. These helped help -- they are an added measure to prevent erosion from starting. On the project we installed over 900 square yards of this particular tool. Another item and an item you commonly see throughout Portland on construction sites is sill fence. We also use this as a tool, as also a last stop gap measure for -- to stop soil from leaving the site. We installed over 1500 feet on the project of last year. And the tool that really did the lion's share of the erosion control prevention had to have been the soil binder. This photograph illustrates the soil binder being applied on the slope. It applied from a water truck, and it's applied as a slurry. The soil binder has six components in it -- water, the need of -- native seed we add to it to make sure we have vegetation that will help displace and keep out invasives, it also has a soil activators, mulch, and tracers. The soil binder itself is a nontoxic biodegradable permeable membrane that forms across the upper layer of the soil. It helps retain moisture for the seed, for germ nation, and it adds to the stability of the soil by mechanically binding the soil particles together.

Katz: Is it like a glue?

Clement: Yes. An environmentally safe glue.

Katz: Water closets or toilets, binders or glue.

Clement: Got it. Here's another photograph illustrating the soil binder having been applied on the lower two-thirds of the slope. You'll notice it's not applied at the top third. For us to access the top of these slopes, we had to gain access from over 20 different private property owners. In fact they were partners throughout this project from the very beginning. We touched base with them, we worked with them, we partnered with them. We defined their roles in this project. And we had great success. Everyone appreciated our efforts, and was more than willing to grant us and our contractor access for installing the erosion control project. Now, a also later, this is june of this year, before the most recent fire. You can see again the slopes are -- appear to be a lush carpeted green. Big difference this time. It's not covered with invasives. Those are all native willamette valley grasses, herbs. Looking south, different location, same exact situation. Beautiful green

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carpet, no invasives. All willamette native grasses and herbs. Close-up shot of some of the grasses. This is actually later in the summer. This is probably just a week or two prior to the august 20th fire. You can see the grasses are mature, they're very -- they vary in height from two to four feet. One thing you'll notice, you won't see any invasives in this picture. Or bare patches of soil. The grasses, the seed we put out there did an incredible job in many ways. The particular species, this is a bromus, and there's some fescues mixed in. Another shot of one of the flowering herbs. Now, on to the most recent fire, the fire of august 20th of '02. Here we are looking north. You can see the extent of the damage. We have totally denuded slopes from the top of the slope to the toe. Highly prone subject to erosion. If we look south, we have the exact same condition. Now, after the fire we won't out there and took a close look at the site, and with found there was a great deal of seed on the site. This is native seed resulting from the seeding we did last year. We anticipate much of the seed to be viable, and it will germinate, which will add to the stability of the soil on the slope and reduce the cost of the project in front of you today. You might ask why is it important for us to go back out at this time? I've got a couple of very good reasons, I think, to do so. First and foremost is erosion control. If you look back at this photograph, you'll note that we have no vegetative cover from the top of the slope down to the toe. This will erode. If we do nothing, the native seed currently on site will not be sufficient to protect the slope from erosion or soil movement. Whereas if we go back, apply soil binder, add some additional seed to that, the result will be soil that will be held in place until the seed is germinated and the root systems have developed. If we do nothing, the denuded slopes will experience erosion and invasives will come back as the dominant species. Invasives are a poor soil stabilizer. They don't have the root systems found in the native willamette valley grasses that add to the soil stability. From a perspective of fire management, as we all saw through the media coverage of the two fires on the bluffs, the flame heights from the august 2001 fire with the blackberry and the scotch broom as the fuel source, led to flame heights of ten to 15 feet or higher. The flame heights from the more recent fire of august 20th of '02 where the fuel source were the native grasses and herbs, flame heights were generally less than five feet. So in comparison, the fire of '01, we came to you and asked for \$288,000, which was approved. We ended up spending \$183,303. On the current fire, we're asking for \$15,000. Which breaks down to about \$2500 per acre. The first fire, the breakdown was about 6300 per acre. Big differences in the cost per acre is that the fire of '02 didn't burn areas where we had silt fence. It didn't damage the straw wattles. It didn't damage the erosion control blanket. We're also realizing savings in the application rate of the seed, since we have a viable seed bed out there, we don't need to add as much to the current project. And we're also realizing cost savings in the seed as result of the revegetation program's efforts in developing a market for native species. In other words, we're experiencing some economies of scale. Thank you.

Katz: Thank you. Did you see me go like this? No? Okay. Good. Actually it was very interesting. You did a very comprehensive job. I appreciate it. Questions? Anybody want to -- I don't think the press wants to ask any questions. All right. Roll call.

Francesconi: This is very good work. Also, the bureau did very good work before this fire in the whole reseeded. And it's really appropriate that b.e.s. Take the lead. We had this debate between urban forestry and b.e.s. about how we were going to reseed this. I'm glad -- i'm hopeful those days are over. So -- and then we had the question as to whether the fire -- what was the role of the fire bureau detective. Yes hopeful we could recover some of our fire expenses for -- from that earlier bluff fire, but we weren't able to do that legally. So -- but we were able to recover as commissioner Saltzman said we would be able to, our full costs for this from them. So hopefully we'll be able to do it quicker this time. So it's very appropriate that we spend this amount of money and that you be in the lead. There's a deeper question that may be -- maybe commissioner Sten will have more success than I did as fire commissioner. I was just beginning this. Apparently the railroad has a

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policy that they would rather pay for these fires than fix the problem. Because if it's -- it's happened twice in this period of time. The likelihood is it's going to occur again. And in addition to the natural environment damage, there's homes and businesses, and all along this track here. So there's a deeper issue here. We need to talk about that, maybe we need the help of our congressional delegation. Aye.

Saltzman: This is really great work. It's really impressive to see native vegetation, stuff that was lost a long time ago in the willamette valley coming back, and the importance it contributes to fire suppression and erosion control. So it's great work. Aye.

Sten: It's terrific work. It looks better, too. I think this year's fire was easier to contain, I think in part because of the work last year, actually big part. I think it's working. I hope we don't have a fire every year to keep testing this, and I wouldn't necessarily predict any better luck with the railroad, but we're going to keep trying. Aye.

Katz: Good work. Aye. [gavel pounded] thank you, everybody. And we're adjourned until 2 o'clock.

At 11:41 a.m., Council recessed.

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Katz: Karla, please call the role.

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

Katz: Mayor is present. Commissioner Saltzman is at the doctor's. He'll be back shortly. All right, item 1174.

Item 1174.

Katz: Commissioner Francesconi.

Francesconi: Because of the actually the graciousness of the mayor in appointing me pdot commissioner, i'm very pleased, actually honor will and humbled to bring the city's first transportation plan to the city for adoption. We have terrific staff at pdot, who i'm just getting to know how talented they are. And with the help of the public -- and there was an extensive public involvement process that lasted -- I think maybe this took seven years -- the transportation plan --

Katz: Seven?

Francesconi: Yeah. -- provides a comprehensive approach to planning the city's transportation system. So we heard a lot of things during this process. Some of the changes which we would expect to hear -- things about the need for transit improvements, the need for pedestrian amenities and pedestrian safety. The issue -- but over that time, from the beginning, and -- the concern about speed and transportation infrastructure in our neighborhoods has become even more intense and more acute. So this process highlights several things, things that many of you know better than even I do, how essential transportation and land use to defining how we are at as a city and as a region. It also talks -- highlights the importance of regional partnerships in implementing a vision for the kind of community we actually want our kids to grow up in. It also highlights the importance of the link between the basic building blocks of our city's livability, which is our neighborhoods. That link to economic development and then the link to the 2440 plan, which is all tied together through a transportation infrastructure, this plan and the implementation of this plan acutely has made me aware that I have two terrific bureaus with not adequate resources to maintain the infrastructure that was built for us. We have a significant issue here, folks, that commissioner Hales certainly understood, and now I do, about how we're going to maintain our neighborhood streets at the same time as we continue to -- to develop one of the most -- best multi-modal transportation systems. It's a crisis here. Two other issues -- there is a tremendous opportunity to advance sustainability designs -- green streets and others -- as we move to make this a more sustainable environment. So the combination of not only pdot and parks, but also working with bes, sustainable industries, we have a great opportunity to do even more to protect our environment. Given especially these economic times, finally the issue of freight mobility and transportation of freight may have been the one area that maybe we haven't spent quite enough time on in terms of transportation. And these are some things that this plan has all culled together. So the real stars are not only the staff at pdot, but it's the dedicated citizens. I'm just getting to discover how dedicated these citizens are in transportation issues. I've seen them in many other issues. And they've been the guiding force -- and they've been patient -- behind the design, content and presentation of the transportation management plan during this period of time. So before we get the presentation to council, if I could -- i'm sorry? Oh, the mayor rightly point out that i've neglected the planning commission, which I should have recognized. So before I -- we proceed to the presentations, I would like it -- could the citizens advisory committee -- and we wish you could

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all testify, but maybe some of you can, but could the citizens advisory committee stand up and be recognized. Thank you very much for all your work for many years. [applause]

Katz: It's all right to clap.

Francesconi: With that introduction, I would like to introduce brant williams, who I can see why commissioner Hales appointed him the interim director and i'm glad I appointed him the permanent director for pdot.

Brant Williams, Director, Office of Transportation: Thank you. Brant williams, director of the office of transportation. I'd like to make a few brief introductory remarks and turn it over to john Gillam and jean harrison who have put in hours and hours of time and have made this project successful. So to start off with, this is the -- as commissioner Francesconi indicated, this is the first true comprehensive transportation plan for the city of Portland. This is extremely important, not only to the city, but particularly the office of transportation, because it provides the policy framework for almost everything we do from filling potholes to making decisions regarding development to our funding strategies. Every program, project, operations that we get involved with, we refer back to the transportation system plan, our comprehensive plan to make those kinds of decisions and take actions. It does really provide a basis for every decision that we make throughout the day. The tsp has many, many things going for it. Commissioner Francesconi highlighted a few of them. I also wanted to point out some of the key areas that are important to the office of transportation. It gives us clear policy direction for providing sustainable transportation systems. Over the years we've done a lot to do much greener practices, looking at not only how well our system works from an operational level, but also looking at the infrastructure that we put in and making sure that those practices are sustainable and done in the most appropriate way. The tsp, what it does is provides the -- finally -- the policy direction for those practices that we've been doing over the years. It also emphasizes the importance of the stewardship of the system. The day and daycare of our system, which the council has indicated this is one of the top priorities, the concern about the deteriorating infrastructure that we have, not only for transportation, but also for our water systems and sewer systems. The it provides the closest tie for land use and comprehensive transportation planning that we've seen to date. It's critical in directing the development of -- to our regional and town centers, as well as protecting our neighborhoods and our industrial areas. The plan incorporates for the first time a 20-year capital improvement program. Our previous plans just dealt with policy, but for the first time we actually have a 20-year capital improvement program as part of our plan. This is a major accomplishment with this plan. It also includes financing strategies. Again, commissioner Francesconi talked about our lack of funds and that's highlighted very much so in the transportation plan, and is something that we'll need to work on heavily in the near term, as well as the long term to make sure that we stay up with the needs. The plan also calls for specific use of benchmarks and indicators to measure the long-term performance of the system. Our maintenance bureau has been doing this for some time and this solidifies the work they've been doing, but also emphasizes it for the rest of the bureau, that we need to do a better job of benchmarking and using indicators to measure the performance of our system. The plan is built around our partnerships. We don't live in a vacuum. The transportation system that we put into place, it needs to be consistent and as compatible as possible with our surrendering neighbors, and that's why we've worked closely with metro to make sure that it is consistent with the regional transportation plan. We've also worked closely with the Oregon department of transportation to make sure that it's consistent with the Oregon state transportation plan. Also, our partners, tri-met, port of Portland, pdc, and planning bureau have been instrumental in making this plan successful, and are going to -- have been -- we've worked

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very close with them to make sure that we've been incorporated the -- the appropriate policies and projects that work for their organizations as well as the office of transportation. One last point that I need to make regarding today's proceedings, the transportation system plan is primarily built around policies, projects, studies and funding. However, there's a number of code amendments that need to occur with this plan. We've been going through the regulatory review process and as part of that process we need to do an impact analysis for these code amendments. We have been working with both the mayor's office and commissioner Francesconi's office to come up with a strategy for dealing with this as part of the transportation system plan, and our recommendation would be that we conduct the hearing today on the entire plan and that we close the hearing on all elements of the plan and refer the code amendments to a future time when action would be taken on the entire plan. And we'd recommend that it be postponed for three to four weeks and we can get a time later to determine what would work best for the council as well as making sure that we go through this regulatory review process. And with that I would like to turn it over to John Gillam for our presentation.

Katz: Before you do, let me ask a question. We're going to eventually adopt this plan. How much flexibility is in it? This is a 20-year plan, right? Do we look at it with -- within a certain period of time or make changes? Because there are things in there that I think everybody could find that they may not agree with or may want to change.

Williams: We plan to come to the council every five years. At a minimum.

*******:** But more often as needed.

Katz: Okay. I just wanted to --

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

Katz: Okay.

John Gillam, Project Manager, Office of Transportation: Hello. I'm John Gillam, project manager of the transportation system plan. I'm pleased to bring Portland's first transportation plan to the city council for consideration. I'd like to also introduce staff, including Jean Harrison, who will be making part of the presentation today, and Deana Platman, as well as, and Steve Gerber, who may also be here to respond to some of the questions that may come up. Also, we're going to ask for Donna Tallman, a member of our citizens advisory committee to make a brief statement as well, essentially as part of staff. What is a tsp? The tsp consists of transportation policies, 20-year plan for transportation system improvements, public facility plan for transportation, and implements the state's transportation planning rule. The policies citywide and district transportation policies are part of the comprehensive plan and they create a framework for decision-making and assuring coordination with other city bureaus. It's a 20-year plan. The comprehensive guide of the transportation planning for the city of Portland, in addition to policy, the plans include a needs assessment and identifies actions to meet those needs through capital improvements, programs, and regulatory code revisions. This is the public facility plan. State law requires cities to develop plans that describe the various facilities needed to support urban development, the tsp serves as the city's public facility plan for transportation and meets all those requirements. The tsp is guided by various state and regional requirements. The state transportation planning rule lays out specific elements and objectives for the tsp. Likewise the regional transportation plan is metro's transportation system and also provides requirements that Portland's tsp must meet, but in addition to the requirements of the state and regional law, the tsp also overlays a Portland story upon it and addresses needs beyond requirements. In building the plan we heavily relied on citizen involvement and outreach. The tsp reflects the invaluable contribution of our citizens in developing the tsp. The citizens -- public involvement in crafting the plan has come from various

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workshops, focus groups, staff presentation, citizen committees, open houses, and public hearings. We also -- the tsp also relies on previous and concurrent planning efforts. It becomes sort of the big umbrella for a lot of subarea studies that the council has seen or will see in gateway, lents, hollywood, north macadam and other places. It also relies on a great deal of coordination with other agencies, particularly metro, tri-met, port of Portland, odot. They were very integral to developing our plan. The tsp consists of several themes and these are basically the overall principles throughout the plan. Way to think about it is what are the five things to remember about tsp. First is transportation choices for everyone with the keyword being "choices." the emphasis is on providing a variety of convenient and accessible transportation options. Stewardship of Portland's transportation system, city of Portland has for the most part an aging infrastructure and protecting Portland's investment in that infrastructure is critical and so any decisions we make about long-term planning must also consider infrastructure maintenance as well. 2040 growth concept for shaping communities. The transportation system plan supports the development of mixed-use areas. Also containing sprawl and protecting open space as part of the 2040 concept. Environmental sustainability is another theme of the tsp. We believe that being environmentally responsible in transportation planning and improvements is an essential part of our plan. Also, a comprehensive and unifying approach to guide actions. Basically the tsp is meant to provide the whole picture of transportation planning and to create a living document that is used and updated frequently and over time. The basic plan highlights or contents of the plan include transportation policies, modal and transportation management plans, a 20-year list of major transportation improvements, a financial plan to support the 20-year list of improvements, refinement plans and studies, performance measures and benchmarks, and implementing strategies to assure that the plan is undertaken successfully. And at this point i'm going to turn it over to jean who will go through some of these points in more detail.

Jeanne Harrison, Office of Transportation: Thank you. Good afternoon. The transportation policies are at least in some people's view might be the most important part of the plan. It's the basis and its foundation. Goal 6 transportation and goal 11-b, public rights-of-way, along with the central city transportation management plan comprise the transportation policies for the city. The tsp updates goal 6 and goal 11-b to meet state and regional mandates and new transportation strategies. Goal 6 describes what the city's transportation system should look like and how it should operate. Goal 11-b describes how the city builds the transportation system and measures its performance. Citywide policies have been revived and a new policy added to address transportation system management. District policies put more emphasis on transportation changes needed to preserve neighborhood livability and implement region 2040. Street classifications, policies and maps have been updated and now include two new classifications -- street design and emergency response. In goal 11-b, street connectivity policies have been expanded and master street plans have been added to address regional requirement. Selection criteria now have policy status and a set of environmental sustainability policies and performance measures, including level of service, have been added. The cctmp has been integrated into the tsp for one unified document, but the policies have not been revived. That's an upcoming task, except to be consistent with the rtp. The modal and management plans listed here are required elements of the tsp. They capture many aspects of each mode, including policy framework, existing deficiencies, and projects, programs and strategies to address the deficiencies. The bicycle and pedestrian modal plans are derived in large part from the bicycle and pedestrian master plans that you adopted in 1996 and 1998 respectively. And they've been updated for the tsp. The tdm and parking plan includes strategies to address travel demand, undertaken or supported by the city, including transportation

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management associations, education efforts, and expanding things like fareless square. The transportation system management plan addresses managing the system in an efficient manner through efforts such as access management, transit preferential signalization and traffic calming. Transportation improvements and funding are also a key part of the plan. The tsp, as John noted, includes a 20-year list of major transportation improvements that along with the policies in goal 11-b update the city's public facility plan for transportation. The projects come from a number of sources, including eight tsp district workshops and the outcomes of other planning efforts, such as the Hollywood and Sandy plan. The projects have been evaluated based on our tsp, CAC's vision and values. The projects are into three bands, one three five years, six through ten years and 11 through 20. The banding assures a balanced transportation system will be developed over the life of the plan. Smaller projects, not considered significant for tsp purposes, are also included. They've been compiled into a set of what we're calling reference lists. These projects fall into program areas such as livability, maintenance and safety. The financial plan that supports these projects is based on the RTP financing plan, with local resources added in. As you've heard, funding is scarce, but we looked at three funding scenarios because of that. One with no new revenue. One with some new local revenues and one with full funding with new resources adequate to support the entire list. The financing plan also recognizes and accounts for ongoing maintenance needs and funding for reference list projects. The plan includes refinement plans and studies. Refinement plans resolve a regional or local need left unresolved in the tsp process or in the RTP process. The tsp includes a number of RTP refinement plans, including major corridor study such as at I-5 Barbur corridor. The tsp also identifies several refinement plans at the local level. We have a number of studies as well. These address transportation issues, which are not necessarily unmet needs, but have been identified by the community or others as important to look at. Examples of these include the Interstate 5, I-405 study and the Southeast Street Land Use study. The tsp contains performance measures and benchmarks, and these are also required to be part of the tsp, but we've gone well beyond what the requirements are. The performance measures and benchmarks help to measure progress in implementing the plan. They help the community and city determine if transportation monies are being spent wisely in the CIP decision-making process. Benchmarks are included for key performance measures, including vehicle miles traveled per capita, and these will be reviewed at five-year intervals in conjunction with the updates of the tsp. Finally the implementation strategy is referred to. The tsp includes a number of implementation strategies, amendments to Title 16, 17 and 33, implement the policies that are in the plan, on things such as connectivity and site design, and do things that we think will help make the transportation system work better, such as reducing parking requirements near transit lines and streamlining major land use reviews by eliminating the requirement for transportation policy analysis. The tsp incorporates the city's street standards as required by the RTP and recent Land Division Code rewrite. Project development guidelines, used by PDOT for several years, have also been updated. Both the street standards and project development guidelines, as well as policy language in the tsp, have been added to address Metro's recently adopted Green Streets Handbook. And finally, the implementation section includes strategies identified through interbureau efforts to address the city's sustainable infrastructure policy goals. For PDOT these strategies include many innovative maintenance efforts, as well as efforts to reduce travel demand. Back to John.

Gillam: As an outcome of the planning commission discussion/recommendations, certain issues became apparent that needed to be carried forward and require special attention. And the planning commission letter to the council is in your packet, but to briefly summarize some of the key issues that we found were that there is a funding shortfall to meet the transportation system needs,

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particularly a funding shortfall as relates to local discretionary sources. There are a lot of funding packages available, for instance at the state/federal level, but in order to meet very localized needs there are very limited resources. Safe routes to schools became a major issue. The tsp recognized this, and it was augmented by planning commission action. This is a need of the community quite plainly expressed and so the planning commission recommendations include ways to enhance that issue. Freight access was another issue that came out of the planning commission discussion as commissioner Francesconi had indicated already, that access for freight and goods deliver throughout the city is vital for not only it as an industry but also in support of industrial and mixed-use areas. Green streets simply stated is that the more that we can integrate transportation planning and environmental principles, the better off the entire system and city will be, and so there's been also some augmentation in terms of policies to respond to that. And then finally tsp implementation. There is some upcoming work in order to implement the tsp, some of which is in the way of additional studies to address issues that are still out there. And also updates in the future as the mayor has noted. Next steps for post adoption is that tsp needs to be approved by metro and the Oregon department of land conservation and development. Following that, under the city council direction we may begin refinement plans and studies as indicated in the transportation system plan, and then also as a result of our transportation system plan we will have a series of recommended amendments for the regional transportation plan to assure that there is still ongoing compatibility between the two. At this point I would like to introduce donna tallman.

Katz: John, before you do that, is there -- let me back up. I think there are discrepancies between our plan and rtp. Yes? No?

Gillam: Very few.

Katz: But there are some on the east side.

Gillam: A few, yes.

Katz: Could you -- in an e-mail or something -- identify those for the council?

Gillam: Yeah. We can articulate those. For the most part the rtp and the tsp match up very cleanly, because we were actively involved in the -- in the construction of the rtp as well.

Katz: Well, but there are some. Make sure that we all understand the differences.

*******:** Certainly.

Katz: Okay.

*******:** Mayor Katz --

Katz: Grab a mic.

*******:** Whoops. Better? All right. Mayor Katz, commissioners. What I wish to address --

Katz: Identify yourself for the record.

Donna Tallman, Member, Citizen Advisory Committee: Donna tallman.

Katz: Thank you.

Tallman: All right. I'm going to give background on the amount of community outreach, starting with the tspac, the committee that worked with the bureau. Over six years and 60 meetings we had 32 people on that committee from varying sections of our city and varying interests within the city. People, who always used a bus, people who never used a bus. Bicyclists that hardly used anything else and people that had wheelchair issues that needed to be addressed and accessibility issues to transportation. We went way out of our way to try to be sure we're not dealing with pendulum on this plan. We needed a balanced multi-modal plan that isn't going to swing way over here for pedestrians and slight freight or way over here for some other interest. We're trying, over the six years, to balance all the needs. We had input from neighborhoods, from outreach to business associations, to meetings that were placed at various community centers, where efforts

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were made to bring the neighbors into that -- not just neighborhood associations, but people who aren't involved with their association, but we still wanted those people in. There was a group for the pedestrian plan, citizens. There was a group for the bicycle plan, emergency vehicle plans, freight plan, connectivity, trails. So you can access the parks. I said bicycle. Traffic calming. We went through quite a reclaiming our neighborhood of which I was part a few years back, and traffic calming is still an issue and a concern that it's important our neighborhoods are safe. Tri-met, public transportation. The freight going back to that includes not just truck, but we'd also discussed airports and connectivity between here and hillsboro -- there's many, many levels of this that were brought in over the six years. And there are other committees working on the -- many of those areas. I believe the entire list of projects that arose from all the governmental and from all the citizen involvement was somewhere in the range of 2,000. Many of them overlapped, of course. There was quite a bit of time spent, first combining the ones that clearly were addressing the same issue, and then prioritizing so that we did create that 1-5, and so forth, a list that's workable of the there's no way to get the entire list. We've gone through such an effort for citizen input, we don't want to lose that list. I think I just wish to close this, this was really was a ground-up effort, not an agency-down. And thank you.

Katz: Donna, were you with this project for seven years?

Tallman: I came in about 5 years ago, and I believe the committee was meeting for six years. It was 60 meetings. I may have been to all -- not all of 60. I think 54 or so.

Katz: Bless your heart.

Tallman: It was an 18-month commitment.

Katz: Thank you.

Gillam: Thank you, donna. At this point jean would like to make a statement for records being available.

Harrison: I just need to say that the public record for the tsp is available and in the room and it consists of citizen advisory committee agenda, minutes, handouts, technical advisory, same thing, noticing for planning commission and council, dlcd, notices for open houses, our mailing list for planning commission and council, all the written testimony received to date, copies of the document that went to planning commission, as well as the documents you have to today, and several memos from staff to planning commission and city council, as well as our draft street classification changes, maps, and system improvement maps, one of which is on the board here to my right, and miscellaneous items for the filing packet. Thank you.

Francesconi: At this point we're going to open it up, if council has any questions, then we're going to have testimony.

Katz: Okay. Any questions? Let's open it up to testimony. And don't go away, because there'll probably be questions and issues coming up during the testimony. Thank you. Did you --

Francesconi: Do you want to deal with the amendments?

Katz: There's technical amendments. Is that what you're waiting for?

Gillam: No. I was going to indicate that we had several agency representatives that were also going to make statements.

Francesconi: Did you give me an outline of what I was supposed to do?

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

Francesconi: I looked at you and I realized -- hang on here.

Gillam: Which will be brief.

Francesconi: Go ahead, john. Do you know who's first?

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Gillam: Yes. We would like to call Andrew Cotugno of Metro, Dave Williams of ODOT and David Wilhelm of the Port of Portland.

Francesconi: I apologize. I've got it. Sorry, folks.

Katz: All right. We'll start from Andy.

*****: I defer to my big --

Katz: I know. I figured you would say that. Big boss, ODOT.

*****: Thank you. And good afternoon.

Katz: Good afternoon.

*****: ODOT's been an active --

Katz: Identify yourself.

David Williams, Planning & Development Manager, Region One, Oregon Department of Transportation: David Williams. I'm the planning and development manager at Region One for the Oregon Department of Transportation. We've been an active partner in the development of the Portland TSP through your technical advisory committee. Let me start by saying what a pleasure it's been to work with your hard-working and very professional staff. We thought they did a very fine job. For the record, we believe that the Portland TSP complies with the requirements of the state transportation planning rule and supports the policies and guidelines of the Oregon transportation plan and the Oregon highway plan. Further, we believe the Portland TSP complies with the requirements of the regional transportation plan and is consistent with policies and objectives relevant to ODOT facilities and appropriate use of these facilities. Third, we'll continue to work with the city to identify specific improvements on the state highways through refinement planning and project development and will continue to refine the modal classifications of state highways through participation in our RTP and TSP updates. We also wanted to compliment the TSP's recognition of the need for accommodating regional freight access and mobility. This is an issue that we're paying particular attention to to find ways to -- to enhance economic efficiency without doing harm to our land use and environmental objectives is a big challenge for all of us. Second-to-last is that the Portland TSP has -- has used ODOT transportation growth management grants in the development, in its development, particularly for identifying transportation needs and solutions in Gateway, Lents, Hollywood, Interstate MAX station areas, the bicycle and pedestrian elements of the TSP and master street plans for the southwest and far southwest districts of the city. We thought these were totally appropriate and good uses of those funds. And then lastly, for the record, ODOT supports adoption of this transportation system plan. Thank you.

Katz: Thank you.

Andy Cotugno, Metro Planning Director: Madame Mayor, members of the Council, I'm Andy Cotugno, Metro Planning Director. I too would like to support your adoption of this transportation system plan. For us this represents the culmination of a journey where we set out to define an overall framework for the region called the 2040 framework plan. You clearly had the most difficult challenge of incorporating its direction into your plans. You clearly had the most complex part of the region, whether it's the pedestrian functions of your neighborhoods to the major freight, railroad and airport and marine terminal functions for international and national commerce. We think that you've done a good job of addressing our concerns, articulated in our plans, and done it in a way that has maintained your local interest and identity as well. We say that 2040 is not one size fits all, it's got to meet your local community needs as well, and we think you've done a good job of meeting our needs and maintaining your needs as well. When we adopt our framework plans and ask local government plans to incorporate that direction, we also anticipate things coming back to us for changes, and we've acknowledged some of the changes, Madame Mayor, that you pointed

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out that we expect will need to be incorporated into our plans next time around. We will be taking up our next update in fiscal year '03-04 that would allow us to consider those.

Katz: Good.

Cotugno: We've provided these comments to dlcd for when you submit your plan to them for acknowledgment and have asked them to acknowledge it, because we believe that it also meets their transportation planning requirements, not just ours. Thank you.

Katz: Yeah, thanks, andy, because I recall conversations with different people about aspects of the arp that doesn't match what I know the council would like to do, which is now probably all reflected in this plan. Let me ask you a technical question. Washington county has the same thing, do they not?

Cotugno: I'm not familiar with specific instances, but I wouldn't be surprised.

Katz: They're not required to have a transportation system plan?

Cotugno: Oh. Yes, they are.

Katz: Okay. And when an element of the plan is no longer -- is not included in that and it becomes an issue with the county commissioners, how do we respond to that? The west side bypass, for example.

Cotugno: Well, for example, if they were to have adopted their system plan, actually they're going through their hearings process right now as well, if they were to adopt a transportation system plan with that kind of conflict, we would likely appeal that. Whether or not we appeal it clearly is a decision of my council, counsel, but that's than an instance where there's such a conflict we would appeal it. If there's a inconsistency that our plan needs to change in order to fix that inconsistency, we'll have to follow up and make a change to later.

Katz: And they're working on their system plan now?

Cotugno: Correct.

Katz: All right. Thanks. Thanks for clarification. All right.

Davide Lohman, Director of Strategic Planning, Port of Portland: Madame mayor, commissioners, my name is david lohman. I'm the director of strategic planning for the port of Portland. I sent you a letter yesterday. I suspect you have it. So I can be very brief today. Let me just highlight that we do support the transportation system plan as recommended by the planning commission. We appreciate the staff's efforts to include the port in the development of this plan. We appreciate the fact that it does implicitly recognize the economic importance of efficiently moving freight in a region that is one of the west coast's top distribution centers. We do want to emphasize a little bit our agreement with the planning commission that the truck access and circulation study could be elevated here in this plan, and urge you to take a look at the planning commission's recommendations on that. With that, thank you for the opportunity to appear.

Katz: Does that mean, david, that that's beyond what the i-5 transportation -- i-5 corridor transportation task force looked at?

Lohman: Yes. It's not confined to that geographic area. It's throughout the city.

Katz: Throughout the city?

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

Katz: Okay, thanks. Questions?

Francesconi: One comment. I don't think you were here, but staff and I both recommend that that happen, so we're going to talk about that at the end when it comes to the next steps in terms of the circulation study. On a side note, i've been in two meetings in the past week, one in which your environmental management plan was touted and the minority business plan were touted. So at least other parts of the port are doing their job, so we appreciate it.

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Lohman: Thank you so much.

Katz: I think that was a compliment. I'm not sure.

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

Katz: Thank you of the all right. Anybody else? John?

Gillam: Yes. We would also like -- phil sellinger of tri-met, marty harris of Portland commission and --

Katz: Okay. Come on up. I didn't see marty. Oh, there she is. Okay.

Francesconi: I don't think that was on my script. Yes, it was.

Katz: Okay, go ahead. Why don't you start.

Phil Sellinger, Tri-Met Project Planning Director: All right. My name is phil sellinger, tri-met project planning director. Thank you, honorable mayor and commissioners for the opportunity to speak this afternoon on behalf of tri-met. The city and tri-met have been committed to working together to promote transportation choices for the citizens of this region. Post recently we've done this by installing systems and road improvements that move buses through traffic congestion, providing for safe and convenient pedestrian access to bus stops and encouraging new development to respect and connect with the public transit investment. These and other efforts help make transit competitive and the automobile -- with the automobile and convenient for those who depend on this important public service. The Portland transportation systems plan is comp hence in addressing the multi-modal features and interdependencies of our transportation system. Tri-met will continue to work with the city staff to integrate the tsp with tri-met's recently adopted five-year transit investment plan. That plan calls for continued development of frequent and convenient bus service and good access to bus stops and transit facilities that are clean, safe, and convenient. Together we are building an exemplary transportation system that complements this region's commitment to livable. Tri-met recommends your adoption of the Portland transportation systems plan. Thank you.

Katz: Thank you.

Marty Harris, Economic Development Director, Portland Development Director: Good afternoon, mayor and commissioners. I'm marty harris. I'm economic development director for the Portland development commission. I'm here to express the pdc's strong support for this plan. It's so strong in fact that we've even supplied you with a few points for some additional amendments that would address some additional needs in the lents and interstate urban renewal districts.

Francesconi: So that means it comes with money, too, to implement it?

Harris: Actually it came with a price list on there. I noticed that. I won't go through those, and I won't read the letter from don maziotti that i've delivered on his behalf. I'd just like to reiterate the importance of this comprehensive transportation plan because of a few key points. It strongly recognizes the links between the different transportation modes. It recognizes the regional nature of responsible transportation planning. And it brings up to date the need for emphasis on freight transportation. There's been a great deal of talk about economic development and the need for a clear economic development strategy for Portland and the region. We have a critical land issue in the city, and we face a problem with businesses that are facing hard questions about whether or not they want to stay in older sites in the city. A key element of attracting and retaining businesses in the city is good service transportation for them to get their freight and their customers in and out easily. I would like to thank pdot for including us in their consideration as they develop this plan and we look forward to continuing to work with pdot in implementing elements of their plan and elements of the city's economic development strategy. Also, as you know, working through Portland state, pdc and several of our regional partners are having an analysis done of all of the

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individual economic development strategies that have been or are in the process of being completed in the region. The tsp will be a critical information piece for helping us to pull together those individual plans into a comprehensive action plan. For the region. Thank you very much.

Katz: Okay. Thank you. Let me ask a couple of questions. I hadn't seen this, and I don't think commissioner Francesconi had seen this, so I think this needs a review for -- from the staff. John? Have you seen these amendments? Come on up.

Gillam: Yes. We have worked with pdc on these amendments. They fit within the plan. Both in terms of supporting the goals of the plan and fit within the -- generally within the financial framework.

Katz: Do we need to incorporate them into the plan?

*****: Yes.

Katz: Okay.

*****: And we would support that.

Katz: All right. We'll need to come back, double-back on that, brant, and figure out during this three or four-week period, if you can incorporate it, it probably will require some extension of time, but let's talk about that at the very end. Thank you, marty.

*****: Thank you.

Graham Clark, Bureau of Planning: Good afternoon, mayor, city council members. I'm graham clark, bureau of planning. The bureau of planning strongly supports the transportation system plan and we described that support to the planning commission in hearings early this spring. The planning commission in return strongly recommends and actually voted unanimously to move this plan to the city council. I'd like to describe some of the reasons that the bureau of planning supports the plan and emphasize some of the planning commission's recommendations. And then i'll finish by describing three ongoing bureau of planning projects that because of the timing relative to the tsp you may see refinement pieces or requested refinements to tsp that you see today. First of all, six reasons that the bureau of planning supports the tsp. First of all, it's a thorough and inclusive process. You've heard about the citizen participation process. I also had the privilege of serving on the project technical advisory committee since 1999. Secondly, the tsp makes the needed link between transportation and land use planning. It does so by creating a framework for transportation decisions that implement metro's region 2040 functional plan and 2040 concepts. Third it completes the city's reponse to the state transportation planning rule, back in 1996 the bureau of planning brought several amendments to the zoning code to implement part of the transportation planning rule. This completes those efforts. Fourth it introduces the master street plan as a tool to tailor the connectivity patterns for specific areas. It's expected to result in more walkable future development patterns. Fifth, the majority of the zoning code changes that are proposed today are clarifications in streamlinings of existing zoning code language. And then sixth, it adds several new street designations largely along main streets and in town centers to match transportation improvements to desired land use patterns. So just to sort of switch horses here, the planning commission, in its letter, that you'll have in your packet, it listed I think five different priorities. I'd just like to go through them briefly. John already had them on a power point slide earlier. First off, the planning commission is very interested in funding the system. The projects and funding sources show inadequate resources over the next 20 years. And today's transportation funding system strongly favors projects on facilities of regional importance. This leaves a gap, and the gap is local surface street improvements funded through local improvement districts. These latter services have very limited and discretionary opportunities for project funding. The planning commission grappled with that issue and especially in reponse to testimony.

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Secondly, and related to this is the safe routes to schools issue. Among the types of improvements with very limited funding are neighborhood collectors that serve as primary routes to schools. The planning commission heard extensive testimony regarding children's safety along these facilities. The 2001 Oregon legislature recognized the issue with its safe routes to school program, but provided no capital funds to address the problem. The planning commission encourages you to consider new funding sources and reallocation of existing funding to address these neighborhood safety issues. Third, there are several future plans and studies identified in chapter 4. The planning commission believes these plans and studies are critically important to Portland's future and they strongly recommend funding each of them. The tsp refinement plans include the completion of master street plans and the update of the central city transportation management plan. Further, there's a study of truck access and circulation that I know has been mentioned. That received strong support in testimony to the planning commission. Also one that came up frequently was a division street corridor study. Fourth is the green streets issue. Metro's council amended its rtp after the tsp was at planning commission. The planning commission specifically asked pdot staff to incorporate green streets amendments into the recommended package you see before you today. Fifth, there's the coordination issue with ongoing planning projects. Several ongoing planning projects are intertwined with the tsp as I mentioned. Because of their timing they may need coordinated work programs. The central city transportation management update plan, update of policies, objectives, district strategies and street classifications. That's also related to the proposed i-5 and i-405 freeway loop study under development. Both of these studies will be considering associated land use impacts. Finally the public facilities plan update. Over the next several years the bureau of planning will be coordinating with all the other city infrastructure bureaus to update the public facilities plans. You'll be seeing those as early as 2005, but the tsp makes a very clear and useful first step towards those updates. So just to again switch here. The three bureau of planning projects that you may see refinements requested to the tsp include the north macadam plan. The north macadam plan will be proposing a new street plan, so what you see in the tsp package was adopted with the framework plan several years ago. The planning commission's recommendation will look to update what you have on page 2-111.

Katz: And we automatically amend this plan?

Clark: That's my understanding. The other two projects that are sort of midstream are the northwest area plan and the st. Johns-lombard plan where the project staff and through city -- or public testimony you may look and see refinement requests to tsp maps. Finally i'm just going to read a brief summary here from the planning commission's letter. The tsp is the culmination of many years of work and results in the first comprehensive transportation plan if the city. It responds to regional and state mandates at the same time it addresses local concerns. The tsp provides a range of transportation choices that allows Portland to meet its goals for livability, economic vitality and sustainability over the next 20 years. The tsp is an historic achievement for the city. The planning commission strongly urges you to adopt the transportation system plan.

Katz: Thank you. Did the planning commission recommend any local funding fixes?

Clark: The planning commission grappled and decided to ask the city council.

Katz: Punt.

Francesconi: I guess I was going to do this later, but for the people who are going to testify, we've talked about -- you know, that freight transportation -- and we're going to work on that, but we also, pdot, with our citizens, we do need to update the central city transportation management plan, so we know we need to do that, and that needs to begin, but the other we haven't waited because of the urgency. So the safe routes to school, which the southwest neighborhoods began, but citywide,

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that group is already meeting and we're already working on that one. So those three, one is moving already. The pedestrian safety and the safe routes to schools. And they know we know we need to do these other two, and they're in the work plan. So there may be others, we need to hear from you, but I wanted to get that out there.

Katz: Okay. So we will -- we'll have to come back for third reading, but we will have the staff review pdc amendments and incorporate that. I don't want to adopt them now until you review them. Then you can come back and tell us that they'll all be included and then we'll vote on it the following week. Okay? We waited seven years. We can wait another week. All right. Open it up to hearings now.

Moore: Come up three at a time.

Katz: Okay, why don't you start.

Terry Parker: Doesn't matter to me. My name is terry parker. I'm a resident of northeast Portland, a homeowner and taxpayer. I'm probably going to be one of the odd man out on this particular issue. The tsp is more about social engineering than traffic engineering. It's a road map to congestion. Buzzwords like slowing traffic down and street modernization are sneaky catch phrases to disguise the politics of adding traffic congestion. One only needs to look at northeast 33rd and Broadway where tsp modifications exist on area streets. The intersection carries an f-rating. The traffic congestion this plan creates makes city street design a heavy contributor to bad air alert days. The main culprits are the curb extensions where buses stop and block traffic. Portlanders have no reason to change any of their activities on such days until the city cooperates by no longer building these bus stops extensions and takes a jackhammers to the existing ones. The tsp takes Portland from progressive transportation planning that occurred when the original light rail was designed sharing cost with the Banfield upgrade, to regressive transportation planning where every new proposal takes away or destroys some component of transportation infrastructure. It costs taxpayers millions of dollars with no net gain. Pedestrian friendly and other catch phrases is great for creating minimum salary jobs. However most businesses rely on automobile traffic for survival, and with the additional congestion created by this plan Portland is going to see even a large number of good-paying jobs exiting to the suburbs. Following will be families who want homes with yards. Combined auto industry jobs alone create Oregon's second largest employer. Other than a few freight improvements the tsp is another anti-business component of the political status quo. The authors of the tsp fail to see a realistic future. The 80% residents who commute by motor vehicle, as with most city transportation advisory committees, were not directly represented. The gas paying-stakeholders paying 100% of the costs for streets and roads have no voice in the way their money is being spent and only negative impacts from city-planned projects. This is taxation without representation. Bridges are crumbling, yet the office of transportation spends money on new furniture, even though the house has a leaky roof. Don't expect any new gas tax revenue for this kind of wasteful spending. For every motor vehicle lane removed there needs to be a corresponding reduction in the gas tax. The bike lanes are totally subsidized courtesy of the automobile. It's time to look at transit riders and bicyclists to make it pay as you go. I hope you take my comments into consideration and amend the tsp so that buses can pull over and so that bicycles and transit riders contribute to the road fund. Thank you.

Katz: Thank you.

Patti McCoy, Columbia Corridor Association: Good afternoon Mayor and councilors. I'm patty mccoey with the Columbia Corridor Association. CCA appreciates the opportunities we've had to review and comment on the tsp. Staff and the planning commission have worked very hard on behalf of the users of the Portland transportation system and we appreciate the sharing of ideas.

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Cca recommends your support for adoption of the tsp substantially as has been recommended by the planning commission. Their commitment was evidenced by recognition of concerns that we shared back in may regarding policy language for the provision of the truck freight component of the transportation system. And a better understanding of the truck freight road system through the truck access and circulation study. Regarding policy 6.29 and 6.30, we are encouraged at the improvement in the language provided by the planning commission recommendation. As you've already heard today, the planning commission also gave specific attention to the truck access and circulation study, and I think mayor Katz you had asked for earlier some clarification. And I think my comments do that. So i'll share them. This study provides an opportunity to assess and analyze the truck freight system citywide to identify system needs and deficiencies citywide and to elevate the knowledge of that mode system to a level on par with that with which might be considered presently by many enjoyed by many other modes of transportation. That's its intent. I'm here today to request that city council include the study in the existing budget. I think there's a tremendous encouragement about the support that the study is getting. I would like to point out that our understanding is that this is a study and not a refinement plan. In the hierarchy of how these issues are addressed, a study would get a lesser recognition than a refinement plan. That's why we specifically request that it be included in the budget. It is presently relegated, as I said, to study status. When considering the economic consequences for a city heavily dependent on its ability to distribute goods, the assessment of the needs of truck access and circulation should be considered paramount. I thank you for your time this afternoon.

Katz: Thank you. There is one item for study that has a budget, so I don't understand the refinement issue that you just raised.

McCoy: I must profess --

Katz: You don't under---

McCoy: I've read the definitions, but it's not even clear to me. I just see a hierarchy. Perhaps staff could clarify it all for us later.

Katz: Thank you. Ken?

Ken Turner, Alliance of Portland Neighborhood Business Associations (APNBA): Mayor Katz, city commissioners, i'm ken turner, here representing the alliance of Portland neighborhood and business associations. Before I get into my comments, I would personally like to thank don donna tallman and the cdc and all the work they've put into this. If donna tallman says it's fine, it's okay.

Katz: Whoa. Nice.

Francesconi: Donna, can we use you on other issues that we have to deal with ken on?

Katz: Only if she's ready to commit 5« years.

Turner: That's true. As you know, the alliance of Portland neighborhood business associations works primarily with small independent and family-owned businesses located throughout the city by working with the business associations. Overall apnba recommends your support and adoption of the tsp substantially as recommended by the planning commission. We feel it is important for the city council to reaffirm the commitment to a participatory process leading to a balanced transportation system. Recently we surveyed our constituents to learn what our issues -- what issues are of concern. These issues are detailed in the action too Portland business, vision 2002-2003, better known as the fry report. I'm sure it is no surprise that transportation was identified as critical. Those issues range from potholes to parking. Traffic speeds to signage. In total, over 70 transportation specific issues were identified throughout the city. We are pleased that of that list, 60-plus have already been incorporated into the tsp. We applaud the work of staff, of pdot staff,

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notably John and Steve, in moving the TSP through the city's review process and producing an important document. A concern is that most business district representatives had no idea their projects were being looked at and/or added to the plan. We know feedback costs money, but it is truly appreciated by those who think -- would be appreciated by those who think their request had fallen on deaf ears. As a council -- as the council considers transportation from the policy level, however we need to convey on behalf of our constituents, that most businesses the view is not from 40,000 feet up, but from street level. What is important to those we represent are the access elements of a strong business district, controlled speed, parking, signage, access for pedestrians, bikes, buses, and convenient loading zones for suppliers and customers. These elements create the kind of neighborhood center that encourages patronage from nearby residents and visitors from outside. These are the elements necessary to achieve the commercial district aspired in our 2040 goals. Because so many of these business districts are located along arterial streets it is important to find the balance with access in, around and through. It is a question that APNBA would like to further explore with the city council and bureaus to codify and explore what creative thriving neighborhood business cluster. The problem, of course, is exacerbated a bit by money. Urban renewal fund dollars focus on specific neighborhoods for a reason, because of the primary -- primarily because of that neighborhood and indirectly take money from the general fund. Fledgling business centers, those areas that are functioning adequately are left outside the money channel, and because they are outside the money channel, they're often out of sight. The city needs to be vigilant so that districts that are having a maintenance crisis are noticed now and not when they get into position that they have to qualify for urban renewal funds.

Katz: Ken, your time is up. Do you want to just --

Turner: Thank you. We urge adoption.

Katz: Thank you. All right.

Rob Mowson, Chair, APNBA Urban Development Planning Committee : Good morning -- or good afternoon. Rob Lawson, 123 Northwest Second Avenue, Suite 200.

Katz: What are you doing now?

Mowson: I'm working with Heritage Consulting Group.

Katz: Okay.

Mowson: I'm here as chair of APNBA's Urban Development Planning Committee. There are two messages I wish to convey. The first is our support of the transportation systems plan that is before you. It is an important cog in our citywide effort towards economic development and livability. PDOT staff and city staff has done a wonderful job in identifying policy issues, work elements in reaching out for community input. The second point, Commissioner Francesconi talked about. It is the linkage between transportation and land use in achieving our 2040 goals, particularly as we attempt to understand our community economics. To my knowledge, whether for transportation projects like MAX expansion or in district planning, led by PDOT, but also involving PDOT and PDC, we've not attempted to understand the economic systems that exist in the locations of our planning effort. A couple years back, Joe Cartwright did work with cluster analysis. This has helped the city understand the -- economic development. It is time the city conducted similar analyses. The issue is particularly important for neighborhood business district. Each neighborhood business district represents an ecosystem if you will. Symbiotic among businesses, employees and others. It is important in making policy decisions that we understand that ecosystem and how it works. Especially critical as it relates to transportation planning. Business districts typically have grown up along arterials, particularly intersecting arterials. We face the conflicting goals in building these neighborhood business districts. We need to keep the transportation impacts to an acceptable level.

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We need to maintain neighborhood access. We need to enhance access to the district. And we immediate to enhance access through the district. It's a lot to ask. The key to successful balancing of these conflicting values is more subtly understood once the economic and social systems in these districts are understood and the pressures on them are also understood. I understand that pdc small business advocate has been exploring potential for developing a model project along these lines. We also have had conversations with pdot to explore these similar types of analyses on their projects. We wholeheartedly support these initiatives and believe it is critical to taking Portland's success to the next level. At the end of the day I would submit to you that one of the reasons that Portland has been so successful is we've been concerned with the quality of place in our community. One block, one intersection, one neighborhood at a time. There are no silver bullets. Only silver buck shot and different districts require different solutions, but we need to understand better the system dynamics of each district. When we do that we'll be able to make the thoughtful yet critical decisions. We're more than ready to join the city staff to help move this process along. I thank you for your attention. Thank you very much.

Katz: Thank you. I've never thought of translating the economic cluster analysis to transportation. That's interesting.

Mowson: Well, it is. It's where the customers come from.

Katz: Yes. All right.

Keith Liden, Chair Portland Bike Advisory Committee (BAC): Good afternoon. My name is keith liden. I'm the chair of the Portland bike advisory committee. Also one of the survivors of the tsp cac. I think as I explained to the planning commission, I think we were deceived a little bit at the beginning. We were told about the 18-month committee, but weren't told it was 18 months worth of meetings over 6-7 years. We stuck it out, so we're a tenacious lot. I'm here representing the bac today. We support the proposed tsp. We feel that it provides a complete policy framework to make wise transportation choices in the future. The pdot we feel has done a great job. They've been working with everybody very closely. They've incorporated many of the bac recommendations you see in the draft here, and we're grateful for the support of the staff and also the planning commission. I just have three general comments i'd like to make. First is that we hope that with the do tsp it will strengthen the city's resolve to reach its transportation planning objectives discussed by the staff earlier. Second, that the city will continue to work hard to achieve a true multi-modal balance that's espoused in the plan. With few exceptions, transportation corridors, as you know, will never have enough room to provide the ideal facility for every mode. And that difficult tradeoffs typically have to be made. We think that a success story to point to is capitol highway going through hillsboro and Multnomah village done a number of years ago, certainly an example where there wasn't enough room to go around, and we think the city staff, working with the neighbors and businesses, came up with a good solution so that every mode, pedestrian, bicyclist, transit and cars are all accommodated, at least reasonably well through that area, even though none -- I shouldn't say none -- but most of the facilities don't meet the ideal standard. The bicycle master plan implementation that the plan, of course, as you know, has been adopted for a number of years, has been generally positive, although we think the implementation has been uneven. One example right now that is currently in the works is the opportunity of the gateway plan, where in spite of the transportation planning role, metro's policies, the identification of 102nd as a bike route also in the bicycle master plan, the planning as it's gone so far does not feature a bicycle facility on 102nd, a very critical north-south link in that area. But in any event right now, it doesn't have that. Number three is vehicle parking. I think this is probably the only place where the bac is a little bit apprehensive about the policy direction in the tsp. On-street

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parking is promoted. Offstreet parking is proposed for possible reduction. We feel this increased dependence on on-street parking could cause problems for providing facilities for other modes such as bicycling. So I guess i'm out of time. Thank you.

Katz: Did you have anything else? Any other important point like you just made?

Liden: The only thing I would like to acknowledge is that we understand the on-street parking is a very difficult issue to deal with. This aren't any magic answers. Certainly a lot of pros and cons to that. We just feel, that streets, although a lot of other things are important, streets are here primarily for transportation and they should be viewed as such. So that we feel that in some cases on-street parking is played as the trump card and bike lanes don't go there.

Katz: Okay.

Francesconi: And I do appreciate the flexibility you showed. I don't know if you did personally, but the bicycle folks on interstate. I mean, you showed amazing flexibility.

Liden: And I think that's what needed. You know, you need to give to have that give-and-take. Because we'll have a lot of difficult tradeoffs to make, there isn't enough room to provide everything in a perfect fashion for every mode.

Francesconi: Can we model that last statement and pass it out to everybody?

Katz: Thank you. Go ahead.

Kasandra Griffin, Executive Director, Bicycle Transportation Allianct (BTA): Hello. I'm Kasandra griffin. I'm the interim executive director of the bicycle transportation alliance. I think you all know katherine. She's out of the office for a few months on maternity leave, so don't ask me any hard questions. I'm just filling in for her. On behalf of the bicycle transportation alliance, thank you for the opportunity to comment. We're a nonprofit organization, making bicycling safe, convenient and accessible. Many of our 3,000 members reside and/or bicycle in the Portland metro area and we produce the beautiful one less car t-shirts. In general, the pta supports the proposed transportation system plan. The policies articulate multi-modal guiding principles, which if applied will result in the development of a comprehensive system of bikeways throughout the city. While the transportation system plan contains strong multi-modal policies and objectives we're concerned about the on the ground implementation. Over the past few years we've seen numerous instances where despite policy language suggesting otherwise, planned bicycle facilities have been displaced by improvements for other modes. When conflict between bicycle improvements and sidewalks or parking arise, plans and approximate are being implemented with compromised or nonexistent bicycle accommodations. We appreciate the need to be flexible, but we sometimes resent when the bicycling is the odd man out at the end of the negotiations. Also right now at the same time the city is short-term bicycle parking code is not being enforced to ensure that new development always includes convenient short-term bike parking. That's one instance of the code not always being enforced, even when it's written are. Because bicycle facilities unlike other -- unlike facilities for other modes are often subject to approval on a local project-by-project basis, the tsp policies supporting a truly functional bikeway system can be undermined. The fragmented system that will inevitably result from this approach cannot provide the safe, convenient access encouraging new riders to consider using a bicycle for daily transportation needs. The city's bicycle advisory committee had proposed wording changes that would help alleviate the situation. I hope that I didn't get old information on this. I have attached those changes and i'm hoping that you will accept them as written. They're shorter and easier than the ones from the pdc, so i'm hope you'll summarily accept them too.

Katz: No, we're not going to summarily accept them. We'll present them to the same body that brought us the report.

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Griffin: I also encourage the council to try to ensure that the office of transportation has adequate resources dedicated to improving cycling in Portland. In conclusion, we are pleased to see the transportation plan that articulates multi-modal transportation and we support it and we hope you can look at those changes.

Katz: Okay. We'll add those to the list as well and you'll come back -- i'm looking at brant, but I ought to be looking at john, I think. We'll come back with your recommendations open some of these more than subtle changes. Okay. Thank you.

*****: Thank you.

Katz: Okay. Somebody start.

Jason A. Seivers, Montavilla Neighborhood Association: Good afternoon, mayor, commissioners. My name is jason seivers. I'm here representing the montavilla neighborhood association. I'd like to good evening been by thanking for your work on the transportation system plan and thank you for the opportunity to comment on the plan. The montavilla neighborhood association would like you to consider the following -- glisan street, between northeast 67th and northeast 82th here after referred to as glisan street, has been designated a main street in the city's transportation plan. This section of street runs through the northern half of the montavilla neighborhood. The montavilla neighborhood association believes that glisan street has the potential to support a thriving commercial district that will serve the adjacent neighborhood in the same way that, for example, beaumont street between northeast 28th and northeast 39th serves its adjacent neighborhood. Furthermore, glisan street has the potential to serve as a safe and enjoyable mode of pedestrian and bicycle travel, there by enriching our neighborhood's sense of community, helping to reduce crime and supporting the environment by reducing pollution from motorized vehicles. However, there are a number of barriers. Than of these can be reduced by transportation improvements. Barriers include no bike lanes, heavy automobile use as an alternative to i-84 during peak freeway traffic hours, no permanent on-street parking, which is particularly challenging for storefront commercial success, dangerous pedestrian crossings do to street width and high vehicle speeds, poor sidewalks, including pedestrian unfriendly driveways and sparse streets. Glisan street sits squarely in the two light rail stations at northeast 60th and 82nd. It sits on the geographic periphery of the gateway urban renewal area. Once gateway's fully redeveloped, it may further increase traffic on glisan street. Furthermore by taking steps to help the commercial district in this area to flourish, the council will be helping to fill a commercial hole in Portland's east side. This hole is due to the fact that there is very little pedestrian oriented commercial activity within walking distance to glisan street. It means neighbors must go outside the neighborhood to meet their personal and social needs. Therefore, the montavilla neighborhood association respectfully requests that the council amend the draft transportation system plan to include a study of glisan street which has the goal of improving transportation in the area in a way that gives strong consideration to commercial, pedestrian, bicycle, safety and neighborhood livability issues. Including a glisan street transportation and streetscape improvement study in the transportation plan will strongly support the council's proven successful goals of enhancing sustainability and livability in Portland. Thank you too your consideration.

Katz: We'll put that on the list as well. John is going to have to figure out to sort through some of them. I mean, it's easy, sometimes, to say yes, and then it's easy sometimes to say no. You're going to have to do that and come back, just like we do with planning. Yeah, we looked at it, we want to amend it, or we'll include it, but it not immediate. You know how to handle that. But it's on the list. Thank you. I know you didn't want to do it. I just had a word with commissioner

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Francesconi, but, you know, you opened this up after seven years to the public, the public deserves to be heard on this.

Glenn Bridger, SW Neighborhoods Inc. (SWNI): Good morning, mayor and council. My name is glen bridger. I'm representing the southwest neighborhoods incorporated, your coalition of neighborhoods in southwest Portland. Let me say that nationally transportation planning does not excite citizen committees. I think this speaks words about the efforts that your own staff has done in order to keep people involved in this process. So that's a real big to-do for your staff here. Let me share with you a story about a success, and why to me transportation planning is very important. A decade ago one of our communities in southwest Portland, hillsdale, that's not hillsdale, not hillsboro, we had an a vision of an expanded pedestrian district, and through your efforts, city council, the it was expanded during the process at that time. That expanded pedestrian district helped us bring forward an improvement project for sidewalks and the street in the middle of the hillsdale commercial area. That made the businesses in that area stronger and more vibrant and we really had a cap on that this summer, because that district brought us a new hillsdale farmers market every sunday, and that is a real joy to be standing in the hillsdale farmers market and seeing your neighbors coming in out of the hillside walking into downtown hillsdale. So that is success. That is what we're looking for, is not concrete, that is a tool, but community to our economics and to a vibrant place to live. Now southwest neighborhoods appreciates really the effort that your staff put into this process. And we really want to issue compliments to the staff because they did an outstanding job. We had good dialogue. But let me, in my recommendation, that you please adopt this plan because it is a great plan, let me focus on three areas. First money you know it's a problem. We know it's a problem. Our part of the city is the most infrastructured deficient part of the city. We're way behind, as far as sidewalks an streets improvements, as well as other areas. We need that funding for our very important sidewalks, our access to schools, for our community as a whole. We need be brought up to snuff with the rest of the city. The second area is environment. We have to rely upon a very good network of sidewalks, paths, and other trails to try and make connectivity with our community. At times there's a sense that environmental rules act as an impediment to the improvement of our trails especially. And we need to be careful that when we have a volunteer group that's willing to enhance those trails that already exist in a professional manner, that that doesn't get thwarted by environmental requirements, because there are trails there already, and we're replacing well-engineered trails -- very important area. The third item i'd like to point out, too, is economy. We have a real opportunity zone in southwest Portland. That's the barbur-i-5 corridor. This is an area that during the southwest planning process we pulled out this area and said this needed to be planned as an area. I'd like to see the combined transportation and land use plan for this area placed high on the priority list so that we can move that opportunity area forward with the city.

Katz: Thank you. It is included in the plan.

Bridger: I want it higher up.

Katz: I know that. We're not going to totally rewrite it. I just want to make sure that items that sort may have missed the advisory group or was included, but now has some interest, that you take a look at it again. Thank you.

Carl Roberts, Sisters of the Road Cafe: Madame mayor, city council members, my name is carl roberts. I'm with the sisters of road cafe and i'm also on crossroads, which is connected to that. But I want to speak as a citizen of Portland on the transportation and budget that is going to cost to do so. I can't emphasize more than being impressed by commissioner Francesconi's project. It's very impressive. But the money that is --

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Francesconi: It's not my project. It's all of our projects here.

Roberts: Well, it is my concern that instead of ineffective cosmetics that are going to be done in the process of this long period of time, streamlining of our transportation system, needs to be looked at. Full disclosure needs to be, not only brought from the public to the commission, but special groups and commissioners themselves. So everybody is aware of what's going on. As madame mayor knows that a person can be contradicted, no matter who they are. An example is the anti-terrorist task force. Look very carefully at what is going to be done, how much it's going to cost, and who is it going to affect. Thank you very much.

Katz: Thank you. I was hoping that that wouldn't come up today in the transportation, but you figured a way of getting it in the conversation. Thank you. All right. Let's have the next three.

*******:** I will say that jeremy grand sends his regrets. He had to go to a doctor' appointment. Shall I proceed? Yes?

*******:** Go ahead and start.

Adam Grimshaw, Advocate for Jackson Middle and Stevenson Schools: My name is adam grimshaw, a neighborhood advocate for jackson middle and stevenson schools. I commend the authors of the tsp. They've done a fine job. I'm particularly pleased with the proposed amendments made by the planning commission's request that increase the priority of safe routes to schools projects within the tsp. The planning commission recommends and I urge you to enact the creation of a new project within the tsp, project number 90075 with a 1-5 year timetable for completion. This new project will create a walkway between stevenson elementary and jackson middle schools.

President this project stands out because it is unsafe and the only route to school for many children living in the area. A pdot engineer reviewing the route stated in a report that he, quote, can't comfortably recommend that anyone walk that stretch, particularly elementary school children, end quote. We all have a profound responsibility to protect our children from harm. We fail at that responsibility by putting a low priority on safe routes to schools projects. We have far too many routes that are unsafe for adults on which our children walk and ride their bikes to school throughout southwest Portland and elsewhere in the city. Children have not fully developed the awareness and caution which helps adults to survive in dangerous situations. There are far too many accidents waiting to happen. We need to make more progress towards reducing the chances of a tragedy. Last december we had a near tragedy when a fifth grade girl was hit on her way to stephenson elementary. The car was traveling only ten miles per hour, when she was hit, which was miraculous, considering she was hit on a long straight section where the speed limit is 35 and cars often go faster. I think of that accident as a warning for us which we cannot ignore. When I was a boy growing up in my hometown, the 7-year-old daughter of a close family friend was struck by a car and killed in a similar situation while walking home from will school. My motivation is strong to do everything in my power to make these improvements happen. Our community has been united by the near tragedy last december, and i'd like to ask everybody in our community here to stand, who is come from our southwest community, to support this action.

Katz: Thank you.

Grimshaw: I'm almost done.

Katz: Okay.

Grimshaw: We will work with the city to make this happen and we will not go away until this project is completed. Thank you for your help in creating safer routes to schools for our children.

Katz: Thank you. You've done an incredible lobbying job. You ought to be commended.

Grimshaw: Thank you.

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Katz: I've noted safe streets higher up as well as the i-5-barbur area study higher up on the list. You guys can come back and make a recommendation whether you would approve that or not.

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

Katz: You're welcome. Go ahead.

John Danielson, Principal, Jackson Middle School: Good afternoon. My name is john danielson, the principal at jackson middle school located at 10625 --

Katz: Are you related to the john danielson?

Danielson: Well, I am john danielson.

Katz: Oh. [laughter] that's a good reponse. You know who I mean.

Danielson: I know who you mean. No, i'm not related.

Katz: Okay. Go ahead. [laughter] why don't we start all over again.

Danielson: I have testified before the council today to support the planning commission's recommendations to increase the safe routes to schools projects within the transportation system plan. As principal at jackson the safety of my students and staff is a priority. Each morning I meet my students as they arrive at school and I see them off at the end of the day each day. These daily tasks, while very important for other reasons, bring much anxiety and concern to my day. I ask you to listen to these concerns and respond in a way that will assist in creating a safe environment for my students at all times. I have many students that walk to and from jackson from their homes. These students are walking on the shoulders of streets and darting across streets in between cars. I ask students to use sidewalks, but unfortunately there are none on most of the streets in which they must walk. I ask them to cross at appropriate places, but there is no place that is truly safe for them to cross on most of the streets. These are accidents waiting to happen. We need to make more progress towards reducing the chances of a tragedy. We have tried many things at jackson to work with our students regarding these concerns. We will do more. But without sidewalks, my students are at jeopardy each day. If you observe the situation existing on southwest 35th avenue now, I have no doubt that each of you would understand my concern. As the days shorten and my students are walking to school and back home in the dark, that concern turns to anxiety. Many parents are able to make other provisions for transporting their students to and from school. Many are not. This needs to -- this need to transport students because of the safety conditions has created another difficult situation, a situation in which my time before and after school looks a lot like being a traffic cop. This is not to say that the Portland police have not been reponsive. They regularly stop in front of jackson and respond to the situation that exists. In light of the tragic events of last fall, in which a west sylvan middle school student was struck and died after getting off a school bus on st. Helens road, in light of the student from stephenson hit by a car last year, I urge you to help us to avoid a repeat. Please continue to lead -- please continue to lead the way in being proactive for the safety of our students. Thanks for your attention to my concern and thanks for your help in creating safer routes to school for my students at jackson.

Katz: Thank you. Thank you for caring.

Ellen Meltzer: I'm ellen meltzer. I'm going to be addressing the safer routes to school. Every morning children leave their homes and walk, bike or catch the bus to go to school. Part of the ritual of receiving an education, they and their parents have a basic expectation that they will arrive safely. Unfortunately, this is not always the case. My daughter, chloe was hit by a car for lack of a safe corridor to steven elementary school from our house. We're lucky she's alive today, but never again will I be able to tell her, "it's safe, walk to school." I believe every parent wants to believe that her child is safe when she leaves the door and begins her journey to school. A thousand things can go wrong, en route, of course, and we place these things out of our mind routinely as part of

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raising a children, but the Portland department of transportation is not making our task as parents simple. We cannot reassure our children and ourselves that they're safe when there are no sidewalks for them to walk on and no alternate means of transportation for them. The morning that my daughter was struck, she left for school without much ado you. Still a little dark outside, but there hadn't been any problems before then. They walked down our street to stephenson, the thoroughfare which the school is on, and turned the corner on to a gravel path. About a block and a half later, the path ended and she attempted to cross the road to a sidewalk about 50 feet up the road on the other side. While in the middle of the road she was struck by an oncoming car. 250 feet away on the same side of the road as our home there are crossing guards helping other children to school, but unfortunately there is no safe way for her to get to those crossing guards. And herein lies the problem. Today there is a bus stop at the bottom of the street, but we're not the only ones with inadequate safe access. According to pdot we are least ten years -- now I understand a little bit closer -- from seeing any sidewalks construction along stephenson or 35th avenue, a route of similar pedestrian inadequacy where our local middle school is located. I believe that the priorities set by the department are playing with fire. How many pedestrians will be struck in this corridor with no sidewalks and narrow shoulders before someone is killed? How many pedestrians struck will it take before it will be another child? So many of the commercial areas slated for sidewalk improvement have already -- already have them. Have adequate sidewalks, lighting, safety corridors, bicycle lanes. Our roads lack even a shoulder for our children to walk along. I ask the committee how can I ask my daughter to walk to school when I cannot offer her even a few feet of space between her and a car? I urge you, please, reevaluate your priorities to protect the pedestrians most in need of exactly that -- protection.

Katz: Thank you.

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

Katz: All right. That's part of the pdc amendments, right? So we'll incorporate that for everybody to review.

Louise Rowntree: Good afternoon. My name is louise rowntree. I'm the parent of a sixth grader and a member of the jackson middle school p.t.a. My family lives only a half mile from jackson and as much as we'd like our daughter to walk to school we participate in a carpool with six other children who live within a block of us. We don't allow our kids to walk the half mile to school because of the significant traffic safety issue en route to the school. I gave you these handouts. On page one of the handout in front of you, which comes from the Portland transportation plan, i've highlighted the route our children are supposed to use to walk to school. As you can see, southwest 35th and southwest stephenson are classified as community transit streets. The area in front of our school and along southwest 35th is a heavy traffic area. The speed designation is 35 miles per hour, but the reality is cars drive faster than that. On page two it shows you that southwest 35th and southwest stephenson are classified by the city as city walkways for pedestrians. I use these two points as illustrations to point out the irony of these designations. There's no sidewalk on the majority of the stretch of southwest 35th between jackson middle school and southwest stephenson. No sidewalks on stretches of road heavy with traffic and designated as city walkways. The last page of your handout, which is the colorful sheet, is a piece of paper that measures 16 inches wide. That's the width of a walkable pavement on a three-block stretch of that walkway. There's no sidewalk on one side is the painted line that divides a pedestrian from the cars, and on this side of it is a ditch. And an embankment, so you can't even jump to get out of the way. My child and many others would have to walk on that 16 inches of space to get to jackson middle school. The other detail i'd like to point out is that there is no crosswalk, anywhere, at jackson middle school. I was

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shocked. I'm a new parent there. All of a sudden realized that hundreds of children are dropped off and picked up on southwest 35th at curbside on both sides of the street. Children dart across the street with no safe means of designation for pedestrian safety -- safety because there is no crosswalk. That was the anxiety that Mr. Danielson was referring to as principal. The lack of sidewalks and crosswalks in this area illustrates the extreme need for changes to be made for pedestrian safety. I think like we all sound like we're in agreement for that. The school sidewalk should have been put this long ago and parents at the school are not understanding why there is a lack of priority on this crosswalk area. In addition it seems obvious to include sidewalks in the areas that the city is designating as pedestrian walkways. I realize my points highlight safety in my own neighborhood, but I see this as a citywide issue. Portland prides itself on livability and making these changes to the transportation system plan should be a citywide priority. Sidewalks and crosswalks in designated school zones are a basic need. The bottom line is that the funding for these safe routes should take priority. Thank you.

Katz: Thank you. Go ahead and then I'm going to ask some of you favor, if you're going to be repeating something already on the list, please make it in less than three minutes. I do need to be at an impact meeting which deals with industrial lands and job supply for the next 20 years, which is as important as what we're doing here, and I need to represent the city of Portland. So we've got your issue on than the list. Okay, go ahead.

*****: Okay. Actually I am going to talk about that same thing.

Katz: Okay identify yourself for the record.

Nancy Hand, President, Arnold Creek Neighborhood Association: I'm Nancy Hand, president of Arnold Creek Neighborhood Association, and along with West Portland Park Association we have been working toward safe routes to Will School. I brought along 21 letters that the fifth graders at Stephenson Elementary wrote. One of the little girls writes "you can pay for sidewalks but not for lives. If someone got hit and dies you can't get them back." I think the kids realize, and I hope the city does too, I think the message that we are sending to kids in our neighborhoods and our city is very sad. They spend their whole school career facing new budget cuts. They also risk their lives just walking to and from school. I can't help but think they are getting the wrong message. They are my top priority and they should be the city's, the state's and the school board's top priority also. And I thank you.

Katz: Thank you.

Katz: Okay, Mike, go ahead.

*****: Thank you, Mayor. Mayor Katz, members of the council, I'll try to be brief.

Katz: Identify yourself for the record.

Mike Salsgiver, Portland Business Alliance: This is Mike Salsgiver with the Portland Business Alliance. On behalf of the business alliance's 2000-plus members we want to thank you for this opportunity to provide our comments on the Portland transportation system plan. As you may be aware the alliance's predecessor organization is the Portland Chamber of Commerce and Association for Portland Progress. We're actively involved in tracking and providing input to the city regarding transportation issues and you have our assurance that the alliance will continue to be an active participant as we begin our new life in this alliance. Generally we support the adoption of the TSP as recommended by the Planning Commission. In particular, we're pleased with the improvements made in the areas of the plan addressing freight mobility, but we do believe there's more to do, and we want to note our support for the recommendations made in the Columbia Corridor Association's comments with respect to elevating the status of freight mobility in the plan and in its subsequent implementation. We also support the strong multi-modal elements of the plan. However, our

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primary concern going forward will be to support implementation actions that recognize the role of our key transportation arterials in the central city and their critical relationships to Portland's future economic health. We strongly encourage the council to recognize and protect the vehicular capacity of these portals when making decisions about lane configuration, alternative transportation modes and the like. We want to commend the city and the staff for the strong work done on the tsp to date and look forward to continuing our work with you going forward. Thank you.

Katz: Thank you.

David Gens, President, West Portland Park Neighborhood Association: Good afternoon, mayor. David Gens, president of West Portland neighborhood association, 10644 Southwest 42nd. Mayor and commissioners, I'm advocating for pedestrian safety through prudent transportation planning, in particular the sidewalks that you've heard about on Southwest 35th between Jackson Middle School and Stephenson Middle School. The West Portland Park Neighborhood Association presented testimony to the June Portland Planning Commission hearing, citing the state goals and rules, which I'll omit here. Today I want to reinforce the civic concern about our children's safety. We don't have to wait for a fatality or maiming to provide sidewalks on exposed school routes. The PDOT engineer who examined this location put it 35th between Stephenson and Pomona is too narrow for pedestrians. This project is needed now. In a five-year time frame, it needs adoption today. We build and maintain fine schools and don't provide sidewalks for the students to safely walk to them. Please help correct this shortcoming. Thank you and please support the Portland Planning Commission's findings, and I apologize for repetition of these concerns.

Katz: Thank you.

Martin Slapikas, Transportation Chair, Corbett Terwilliger Lair Hill Neighborhood Association: Greetings, Mayor Katz, commissioners. My name is Marty Slapikas, the transportation chair of the Corbett Lair Hill Neighborhood Association. We submitted comments for eventual inclusion into the transportation system plan. First of all, most of the comments that are in this five pages would appear to be north macadam oriented. While the north macadam is a major concern of the neighborhood, don't take those comments as being mainly CTLH oriented. We're concerned with in accordance with going along with land use development. And as a result of that we endorse that approach as did Sweeney. So it pleases me to see more and more attention being given to that kind of an approach in the tsp. I'd like to go through a few of the comments -- a few of the points in the submissions. One, in the north macadam strategy -- this could be in anything, and the reason I'm addressing it because it is addressed in the transportation system plan, although not in such a detailed fashion as may be later on. I think a map should be included with the north macadam district for regional attraction, mainly because it's such a large development. Any large development should have a map showing how a development like that is going to impact regional transportation area president other sidelight to that is evaluate the transportation impacts on adjacent neighborhoods when considering development of north macadam district and include neighborhood traffic mitigation measures. I was pleased to see in the amendment transportation impact study that's going to be newly-added as an amendment from the planning commission to the tsp, that that's going to be included in there. That really pleases me, because while the Portland Development Commission's responsibility for the urban renewal district, the north macadam district, it has been obscured to me who is responsibility for the ancillary impacts outside of such a development. And we in CTLH are certainly impacted by those types of concerns. The other thing is I think it's certainly update grade the macadam highway 43 minor refinement plan to match the fast tracking of the north macadam district development. I also think it's time to consider public hearings on the transportation findings of the southwest transportation alliance. It would seem that

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it's already being used to make policy marquam hill, north macadam district, the city of Portland. I think it's time to put that out to the public and let them see what's available, because it does address also freight issues in that plan. The other thing is I would urge that you support the installation of an i-5 freeway sound barrier for the portion of i-5 traversing the ctlh neighborhood and maybe even other neighborhoods. Recently we received a letter as a result of the i-5 landslide stabilization study that indicated how much traffic passes right above that area and in addition how much -- they admit, odot admits it's a noise problem. Finally I would like to commend the people that put that study together. Somebody said that transportation isn't that exciting. I looked at that study, I read it, I read all four volumes of it, and I found it fascinating. I know maybe that's a reflection of my life, I don't know, but -- [laughter] the point is I looked upon that and said this is now the future going --

Katz: Sign him up for another seven years.

Salpikas: That's weird, but thank you very much.

Katz: Thank you, marty. Okay.

Katz: Okay. Why don't you go ahead and start.

Jean Baker, Division Kenton Business Association: I'm Jean Baker. I am the president of the division Kenton business association. And we strongly support adoption of the plan. Well, partially because of the southeast division street land use and transportation plan, which we would really like to see, since we didn't get a southeast plan from the planning commission. But also because when you do the southeast division land use and transportation study you're going to have to do safe routes for schools, two of them, with public transportation we have tri-met, with on and offstreet parking we have a commercial district, with green streets, we have division vision, which is very strong for that sort of thing, and for great because we're right above a railroad. So the whole plan like a wonderful idea and we're much in favor of it. Thank you.

Katz: Thank you. You can do it in less than two minutes. That was excellent.

Kay Durtschi, Citizen Advisory Committee: I'll do my best. Kay Durtschi. I was on the tsp. Yes, we put in 6 plus years, but I started out before that doing street classification in southwest, and I've now moved on to chair of the transportation subcommittee for our citizen involvement at metro. So I haven't given up yet. But I continue to be very much into the transportation picture, but the main thing I want to emphasize today is that this committee was one of the only committees that I think I've ever really worked on where we had a true consensus attitude. Things were brought to us, maybe we disagreed and we all did our best to represent our district. Of course I come from southwest, where you just heard a long string of people, and I worked on that issue for probably 15 years. And it's still not resolved, but we did make some changes and did gain some ground, so it was not without effort and without concentrated consideration of a balanced approach, because we had to look, not only at southwest, but east and north and -- and west. So that's what I'm coming to you with today. I just want to leave you with that to let you know that these people who were on that committee really came together to do the very best for the city as a whole. And I want to go back to your charter thing here. I somehow picked up -- I don't know where I picked it up, because I was just asked, but it's a 1998 charter copy of the Portland office of transportation, and in your vision for the future, I want to point out that you said you will many times in this vision, but the one is that the community as a whole will have an attitude of stewardship. You know, as a committee, we couldn't do it. You can't do it. The office of transportation can't do it. We all have to do it. And I want to leave you with that, just to say that the transportation system provides access and mobility across the region.

Katz: Thank you, Kaye. Thank you for your service.

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Katz: Okay. Gentlemen, who wants to start?

*****: Rick.

Katz: Go ahead.

Rick Browning: Good afternoon. My name is Rick Browning. I live in northwest Portland. I'm here to talk with you today about short-term bike parking in relationship to the tsp. As part of the tsp process staff recommended an amendment to short-term bike parking code language, that would have cleaned up a problem many of us see with current application and enforcement.

Unfortunately the amendment was rejected by planning commission. So I'm here to ask you to please restore original amendment language from staff. Now the amendment was to disallow short-term bike parking in parking garages. It's currently allowed there. To abbreviate my testimony, they say a picture is worth a thousand words. I've brought two pictures actually. So excuse me for being so wordy, but here's one picture, which is a new building in the Pearl, Lovejoy station. It has very good bike parking. It's a positive example. It's exactly what we imagined when the ordinance was drafted in the early '90s. You can see a small niche is there for the bikes.

They're on private property. They're easily accessible as the code requires. The flip side is a new apartment building. I have it right side up? Yeah. Thurman House, which isn't too far from where the mayor lives in northwest Portland. You don't see any bike parking in this picture. That's because there isn't any. It is required by code and perhaps the building was permitted with a bike parking in the garage. That's that graded thing you see down there. The garage is locked 24 hours a day. If staff's amendment could be put back, it would disallow the parking in garages and clear this problem up. As it stands now it remains a problem. So please put the amendment back. Or if you can't do that, I'd suggest taking this issue out of the tsp process and trying to deal with it maybe more holistically through some other means.

Francesconi: One option would be to put it back in. And the other is to include it in the mayor's top ten items for regulatory review.

Katz: That's the problem. There's no guarantee of that. And then it probably would have to go through the same planning commission that made the recommendation. So I don't know where you would be off -- we could do either one, but let's have a conversation on that during this period of thinking through these issues.

Browning: The top ten list for right or wrong perhaps is little bit of a reputation as a chopping block right now, but we'd welcome the chance to have a little more dialogue on it, however it happens.

Katz: Yeah. I'm just thinking -- we ought not to try to use another mechanism, if you can deal with it in the contents of where it is today. So I want staff to take a look at how we deal with this issue and how the council wants to deal with this issue. All right, thank you.

Wayne Kingsley, President, Eastside Industrial Council: I'm Wayne Kingsley, president of the central eastside industrial council. The mayor, commissioners, the council is happy to report that it supports the tsp. You'll notice in the tsp that there is -- it provides for the removal of the water avenue ramp from the RTP. This was done as a result of the dues process, which you recently approved. And also a conversation smooth talking John Gillam, who suggested that perhaps we remove the water avenue ramp and in place of it substitute a series of projects of equivalent value which would enhance access to the district from I-5 south across the Ross Island bridge. Those projects are included in the tsp. The reason I'm here today is I'm asking your support for removing those projects from the RTP constrained list, or the otherwise known as the never-build list, and move them to the strategic list and incorporate -- and that they be incorporated in the fourth coming

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stip, state improvement transportation plan and metropolitan transportation improvement plan. That's all I have to say. If there are no questions, peter promises not to speak. [laughter]

Katz: John, I need to also understand how that fits in with i-5 loop study before we do anything on this issue immediately. So if it fits in, we need to look at it. Okay. Peter?

*****: I'm not going to speak.

Katz: Oh, good. All right. Thank you, peter. Thank you.

Katz: By the way, I do appreciate you finally dealing with the issue over these years. I asked peter to take care of it and he did. Thank you.

Don Baack: Mayor Katz, commissioners, i'm don baack, hillsdale. Thank you for making possible the southwest walking map. It's fantastic. If you haven't bought a copy, go to sweeney, it's five bucks, \$6 by mail. Sales pitch in the middle of testimony. Isn't that great? It's really a great map. First of all, I want to talk about the job done in the tsp. This is an excellent job. They've done a great job of putting this together. Jeannie and john particularly and they've been very responsive to the issues. There are a couple three things that they didn't respond the way we wanted it done so that's what we're talking about. First is southwest trails in urban -- in the comp plan. When we talked with people outside this county, and ask them to look at connecting their trails to the ones we've put together, they say, well, is it in a comp plan? If it's not, they don't want to talk about. Right now it's in the append dick. It needs to be moved to the comp plan. We ask you to do that. I'd like to move to safe routes to school, but not to talk about a specific project, but the general problem around the city. I've also been involved in a safe routes to school committee at robert gray. I'd like to change -- see the policy 11.9 changed from providing and improved access to and within the activity centers, and, quote, support the safe development of safe routes to school, to bring it to the same level as providing access and to activity centers. We need to elevate this whole thing so it's not one project a year, because there's a great deal of lobbying, but we really look at this across the city as an issue that's really important. Third, i'd like to talk about -- there's a recently adopted by the metro council a proposed pedestrian trail from hillsdale town center to southwest Portland to downtown lake oswego with a connection to the willamette river greenway trail. This project should be on the tsp. It's approved by resolution in concept by the lake oswego city council and it was nominated by our southwest trails and the parks department to metro. They did pass it and we'd like to see that included in the tsp. There's a project specifically -- we have four or five right-of-way projects. I won't go into details on them, but they should be in the tsp as well. That's part of the urban trails plan. We need rights-of-way issues sorted out in four or five places. We need work to be able to do it, and we need to have that on the list to do that. We're moving ahead with all energy we can put in, and we've put in five, six years, thousands of citizens hours putting together the trails plan and implementing them. We want to do this. We have a petition attached to the handouts that i'll give the clerk, signed by 60 or 70 people requesting a bridge at capitol highway and nevada court much that's mainly just people that have walked with me looking at it. One other project we can delete is a \$90,000 project that we've already build for \$400. And there's a number of other issues. I'm serious here, because we can do things simply and easily if given the opportunity, but we need the right-of-way.

Katz: Your time is up, but i'd be interested in knowing what you did for 400 --

*****: Come and see it, mayor. Great to show you.

Katz: Okay.

Ross Kevlin: Ross kevlin, a resident of north Portland. I'm here to speak in support of the proposed plan and particularly a very tiny part therein. You've heard from representatives all the way from the port of Portland to small business associations who have said that the city's success at

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business development and retention depends largely on the ability of customers to access business sites. Also said that maintaining multi-modal access to businesses is critical. When it comes to cultivating businesses the city's x zones are a tremendous land use tool. One of the most important aspects of these zones is their flexibility. When it comes to allowing drive-thru facilities, however, the zones are maybe a little bit too flexible. Drive-thrus have tremendously disproportionate impacts on con and safety. These negatively impact economic development, not to mention neighborhood livability and the x zones are peppered throughout neighborhoods. These significant costs and conflicts come with very small benefits in terms of business development, talking about drive-thru facilities as drive-thrus come with some of the lowest paying jobs around. I did notice in the amendment packet a proposed deletion of drive-thru facilities within cx zones. If that does not also include elimination of those as allowed uses in ex zones, i'd help that would be included as well.

Katz: John, did you get that? Okay. Go ahead.

Charles Kingsley: Good afternoon, mayor, commissioners. My name is Charles Kingsley. I'm from the Richmond neighborhood association of the part of the Division Vision Coalition. And I'm going to be brief. We're really supportive of the transportation plan. It's great to see the Division Street Corridor included. The Division Vision Coalition is a group of neighborhood associations, the Division-Clinton Business Association, residents, property owners, renters, who have come together over the past year to try to bring together lots of efforts through the past years that have kind of fallen through the cracks if I can put my tongue in the cheek around Division Street. And to try and bring together the notion of a green street and a main street. And we had Neeko down with Charlie Hales down at Seven Corners last year that got a good start going in one piece. There's a number of efforts that the business association and neighborhood associations, and what not, have been up to. We're excited about it. And one nice piece that may be a little bit different than some of the other voices is we're hoping we can help mitigate some of the funding requirements by some of the work we're already doing in the neighborhood association. We've already started to look at zoning mismatches dating back to the Mt. Hood freeway and lots of other coalition building efforts between schools, churches, and various residences up and down Division. I'd like to think we could help mitigate funding requirements rather than ask for more.

Katz: How fresh.

*******:** We strongly support the transportation plan.

Katz: Thank you very much. Thank you. Karla?

Moore: That's all.

Katz: John, let me -- let me -- come on up. This is how we do it in planning, and the only reason I'm saying it is -- John, who are you looking at? The boss? All right. I'm only saying it because I don't recall us having -- this is kind of the first plan from transportation. What we usually do is identify all the issues that have been raised and then through a process that you and the commissioner and your advisory committee, but however you want to structure it, come back with an analysis -- you know, briefly review that and then make some decisions on whether you want to change some wording or not, whether you want to include it or not, and why, and then what we'll do is we'll go -- quickly go over it next time we meet with you and the council will make some decisions. We'll either take your recommendation or not take your recommendation.

Gillam: That is fine. I would also like to mention that a lot of people who testified today were courteous enough to let us know ahead of time what their issues were and what they'd be testifying on. I know we're pressed for time today, but we could respond to most of them already. I don't know if you want to take the time to do that or if you prefer --

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Katz: I really do need to be at the impact meeting.

Francesconi: I also want to make sure that we have this citizen committee input on these recommendations, so I hate to call you back again, but I think important to run these by the citizens as well.

Katz: Yeah. That's a decision for you and the commissioner to decide. But come back with your recommendations and then we'll go over it and we'll go yea, nay, approve, disapprove and then move on. Okay?

Harrison: We'd like to have a certain date so we don't need to renotify, if that's possible. We did check with karla this morning, and october 17th is available with a time certain.

Moore: It's a thursday at 2:00 and it's all open.

*******:** It's all open, if that works for you and the rest of the commission.

Moore: its october 17th.

Katz: Are we here? And you'll have enough time to do it?

*******:** I believe so, yes.

Katz: Fine. Let's set it then for october 17th, 2:00.

Francesconi: Before we leave, folks, two other things I want to say. We're working to develop a strategic plan for transportation now that will involve implementing, and our role in implementing this. We may consider, for example, a transportation boarding. So donna, maybe you're going to be around for 20 more years to see that this is implemented. And there's some very exciting things happening in transportation. And we're even -- we're considering a work session to kind of advise council and get folks up to speed, but the main point I want to make here, folks, is -- and i've said it at the beginning -- you know, there's very powerful system about why we should have the crosswalks on 35th and a bridge and other issues. We have got to figure out how we're going to pay for this. So my highest priority is some funding. We need a new funding stream in order to help make this thing happen. We'll be talking with you more. It's important to have freight transportation. That means we need some help from the business community, too, on hour we're going to maintain the freight access roads for example. So these discussions are important discussions that we also need to have or else this is going to sit on a shelf. We're moving in that direction.

Katz: Okay. Thank you, everybody. We stand adjourned. [gavel pounding]

At 4:11 p.m., Council recessed.

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THURSDAY, SEPTEMBER 26, 2002 2:00 PM

Katz: Good afternoon, everybody. The council will come to order. [roll call]

Katz: Let's read item 1175 and 1176 together.

Items 1175 and 1176.

Katz: Let me make some opening remarks. I'm going to make my opening remarks with regard to the drug-free zones, but I can substitute prostitution-free zones as well. If you recall -- actually, none of us recall this, february 1992, the city council approved the first drug-free zone, and in august 1995, some of us were here when we approved the first prostitution-free zone. The idea of creating zones was born out of frustrations from our citizens who were being victimized in their own neighborhood. On their own block, by open-air drug markets and street-level prostitution. In this community, we talk a lot about community policing, we even argue sometimes what it really means and whether we're practicing it. But this is one of the best examples of what community policing truly means. The quality of our life and the life of citizens was so compromised that people complained, and I was witness to those complaints, that they were afraid to leave their homes, afraid to get on a bus. Because with the crimes of open-air drug markets and prostitution came other crimes, such as shots fired, homicides, theft, and burglaries. I was asked over the years by many citizens in our community to do something about the flagrant behavior of individuals who were willing to conduct their illegal activity in a manner that was frightening, intimidating and severely impacting the quality of life for those who simply wanted to go about the business of living their lives in their neighborhoods and feeling free to commute and to shop and recreate. It was because of our commitment to community policing that citizens, police, the deputy district attorney, the prosecutors, and local government came together to do something about this problem.

And I must say that it has been a success, and you'll hear a little bit about the data that's been collected. Our zones have been nationally recognized, tested by the courts, but nationally recognized, and as you all know, many citizens have contacted mr. Hayden, who is the brain trust of the zoning language that's before you and has been before the council in years previously. Over the past several years, the zones have with stood various court challenges, it just with stood a last one that maybe jim will share with us. And citizens impacted are grateful that we have a tool to offer them for some immediate relief. It's not the complete solution, but it does provide immediate relief and a better quality of life than having to put up with various acts of crimes or violence in their neighborhood. But we've also continued to respond to citizens and groups such as the aclu and the metropolitan public defenders and better people in the Oregon law center, and even our committee, the chiefs committee on overrepresentation of minorities in the criminal justice system.

Who have been very dedicated in representing to us the needs of their clients and the other views of citizens in the community who feel that there is overrepresentation, especially of minorities in the criminal justice system because of the drug-free zones. Because of their work, we've incorporated changes to the ordinance which I think make for a better ordinance. And I think it's fair to say that we listened to the citizens during all the weeks we had the overrepresentation meetings. For example, we have changed the variance process to make it easier for people to enter the zone for legitimate reason. That was one voice that we heard over and over again at hearings, that this was very difficult for some people, and we made that easier. We also grant immediate variances at the exact time that a person is excluded from the zones, so they don't need to go somewhere to get that exclusion. We've also changed the exclusion variance form to make it easier to read and understand, and I want to thank everybody, including some of the councils who have

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also made a change on the number of days, slight change on the number of days of appeal for all the councils' recommendations. So we have a very brief formal presentation to this, and then we'll open it up to the audience for public testimony. We have several officers and a sergeant -- two sergeants -- one sergeant, and an officer, and a commander and an assistant chief, former assistant chief, two commanders -- three commanders, who have dealt with this issue, but i'm more interested at some point if all of you are, to hear from the officers who deal with this on a daily basis. And ask them what would happen if under the current program, which if we didn't pass anything, what do they see on the street and what would happen if we continued in the present form. And what have they been seeing on the streets. That's going to be up to the council to ask those kinds of questions, but we have them here. All right. Chief kroeker, jim hayden. Jim hayden is a north and northeast neighborhood d.a., and he will have a power point presentation. Dave woboril is here to deal with q & a. We'll have question and answer from the council members, or if you want to wait until we hear testimony, and then we'll open it up for three in support, three in opposition, until we're finished. Chief?

Mark Kroeker, Chief of Police: Thank you, mayor Katz, and fellow commissioners of the i'm mark kroeker, chief of police of Portland police bureau. As we begin this discussion today, I reflect on the drug-free zones and the prostitution-free zones, of course, developed in a way that precede mud slide arrival here in Portland, but I can reflect upon their use across time historically, and now I can conclude that now more than ever we need this very, very important community and police partnership tool. When I reflect as your chief of police that crime this year is up, and it's not up in small numbers, these numbers are substantial, our budget has been reduced along with other city agencies and the budgetary cut is the thing that we are working with to react to, when I reflect on the increase that -- of the workload that has come our way in terms of terrorist threat and disaster planning and preparedness, there's no question that our resources are tight as an organization. And so we look for every possible edge that can come to our effort to make every neighborhood safer. And so as we look for this tool to continue to apply it, to continue to work with it, to continue to respect the opinions of neighbors, community groups who have surfaced this and brought this in fact to us and continued to tell us that this is needed more now than ever, is to do the right thing. There is no question that it represents classic community policing in terms of the partnership that we have worked for, it represents an opportunity for us to listen to our neighbors, it represents a clear focus on the neighborhood, it represents problem-solving. That's classic community and police partnership. In my opinion, and certainly I think everyone -- every one of all of your members of the Portland police bureau, we believe that every neighborhood has a right to be free from drug dealing and prostitution. And when the drug dealing and the prostitution is allowed to occur, there's no question that the causal connection between these lower-level crimes and other more serious crimes such as robbery and aggravated assault can be shown. We see that. And so to have this tool at the disposal of the community and the police at this particular time, is absolutely essential. The budgetary effect of removing the tool in my opinion, is inestimatable. We don't know what that would represent in terms of a budgetary cut to the police and community alliance we have here, but I can tell you it would be enormous, as we would have to then go to other tools and strategies, other approaches for dealing with the neighborhood blight that takes place in drug dealing and prostitution. So I would urge you, mayor, members of the commission, as a Portlander and as your chief of police, that we endorse, continue this very essential community and police partnership. Thank you.

Katz: Thank you, chief. Okay. Jim, why don't you get closer to the mike.

*****: I need to --

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Katz: It's rolling.

Jim Hayden, Neighborhood DA, North and Northeast Portland: Good afternoon. My name is jim hayden, i'm the neighborhood d.a. for north and northeast Portland.

Katz: Every once in a while this happens. Sometimes we cure it by doing this. [laughter]

Katz: Why don't you go ahead and start. I know you've got slides.

*******:** Do you want me to turn my laptop around so you can see my screen?

Katz: Do you have a hard copy for us?

*******:** I have it on a disk. [laughter]

Katz: Why don't you go ahead and start. We'll listen carefully to you. Oh, we got it. I told you. Knock it around a couple of times.

Hayden: Let me know if you lose it. First of all, why do we need these zones? You already touched on a lot of these reasons, and i'll be reiterating some of these. This is an idea that was generated from community complaints. It began in 1992 --

Katz: Did you identify yourself?

Hayden: I did, but i'll do it again. Jim hayden, the neighborhood d.a. from north and northeast Portland.

Katz: Okay.

Hayden: Neighborhoods there at that time were overrun by drug dealing. What was happening then were that drug dealers were back on the street often times before officers could finish writing their reports. Unfortunately something that is happening again with the jail overcrowding that we're experiencing now. At that time, 14,223 people signed their names on a petition in support of the drug-free zones, a brand-new concept. In 1997, in northeast Portland, again, neighborhoods that were overrun by drug dealing and violence who had gotten to the point of wanting to call the national guard for help, wondered why if there were drug-free zones on the west side of town, they couldn't have the same resources in northeast Portland to help them. And that was how this came about in 1997. What are they? They're authorized by city council, first of all, and every three years we've come back because the ordinance sunsets. That's why we're here now. They are areas where drug and prostitution arrests are significantly higher for a 12-month period when compared to other areas of the city. Persons arrested for drug and prostitution offenses may be excluded from the zones. What are the exclusions? First of all, if arrested by a police officer, the person may be excluded for 90 days. There are one-year exclusion that's occur at the time of conviction, and they're automatic if convicted of the drug offense. Variances are given out for legitimate needs, and i'll touch more on that later. All exclusions can be appealed to the city hearings officer, and then to the circuit court. First of all, state versus collins was a court of appeals case that came out early this year, and it -- the court of appeals reinterpreted the criminal trespass statute, and it said trespass arrests require a police order to leave an area followed by a refusal. This is any premises open to the public or public area, so it applies equally in the drug-free zones and prostitution-free zones as it does at fred meyer and lloyd center. In other words, now for someone to be guilty of -- commit the crime of criminal trespass, they have to be told to leave and refuse to leave. If they leave and come back, that's not criminal trespass. There's been a proposed legislative correction to the trespass statute, and collins was appealed. Unfortunately, since the collins decision came out, the drug-free zones have frankly been broken. You can ask the questions of the police officers and the people that live in those areas as to the effect collins has had, but it's been very dramatic. Almost following immediately on the heels of the collins decision, a rise in drug dealing back in the zones was very prevalent. The appellant update continues with a case that came out last week. This has been a case that's been up to the Oregon supreme court on a peel for about three years. --

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appeal for about three years. The supreme court is a neutral body, they have no stake in the drug or prostitution-free zones whatsoever. And in a unanimous decision, ruled the drug and prostitution-free zones do not constitute double jeopardy. This is a quote from the Oregon supreme court, a neutral body in this. In the opinion they say, we have considered the exclusion ordinance. We have found nothing in the course of that analysis that conflict with the Portland city council's clear intent to create a civil remedial sanction, consequence consequently, exclusion under the dfc or pfc ordinance does not constitute former jeopardy under article 1, section 12 of the Oregon constitution. I added the emphasis in the bold. They also say that exclusion under the ordinance is neither criminal punishment nor jeopardy for purposes of the double jeopardy clause of the fifth amendment to the united states constitution. Thus that question has been finally and fully answered by the Oregon supreme court. They continue to say that the dfc and pfc ordinance are similar to domestic restraining orders and similar to stalking protective orders. Another quote from the case, the pfc and dfc exclusions are more like certain restraining orders and injunctions, which are imposed to maintain order within a designated geographical area, or to protect specific persons from harassment or physical harm, and that is precisely what the zones tend to do. Protect people that live in these areas. We've made changes to the ordinance that the -- you have already alluded to. First of all, variances. Variances now will be immediate. They'll be automatic. When a person is excluded from the drug or prostitution-free zones now, on the exclusion form itself they will be given certain variances. The right to come back to that zone immediately if they work there, if they live there. If they go to school there. If they need social services or any other essential need there.

Additionally, if they have a plausible need to come back they can get a variance for any reason whatsoever if they simply present to a police officer and commit to it writing, the officer commits their to writing, they can come back. Be that to help their mother who needs help filling out her checkbook because she's ailing, be it because they want to visit somebody if they have a legitimate plausible need to be in the zone they can get a variance to come back in. And these variances will be accessible. I reiterate they'll be on the exclusion form itself. Those certain automatic variances, and if they have a plausible need to come back into the zones, those will be accessible at the police precinct or any police substation during regular hours. We've changed from excluding in the ordinance a person who was arrested in one zone used to be excluded from all of the zones. We will now exclude only from the zone of arrest. A new crime has been created in the city ordinance called violation of variance. It's a city code violation. Now if a person comes back to the drug-free zone because the trespass statute is no longer a tool the police may use in the drug-free zones, when the person receives the variance, they now come back into the zone and don't follow the terms in the variance, then it's within the discretion of the police officer to arrest them for violating that variance.

Katz: That's the solution.

Hayden: That's the solution to the trespass problem. That's correct. Finally, new boundaries for the zones. Before I get the new boundaries, which will be the crux of the basis for the new zones, I want to talk about a little bit about the history of the zones and the success the mayor alluded to that they've had in Portland. First of all, what you're looking at is the west side drug-free zone. This analysis was only done for drug-free zones. We have a longer history here. Beginning in 1990, to your left, and going through to 2001, which is your right, what you're looking at, the blue graphs demonstrate delivery of controlled substance arrests, the red graph represents possession of a controlled substance arrest. And they are by year. To the far left are the number of arrests per year. These are totals. Understanding that if a possession case was -- if someone was arrested for dealing they'll also generally be arrested for possession. Those are not double counted.

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Nevertheless, in 1990 before there were drug-free zones in the west side, you can see the number of delivery and possession arrests. In 1991, again, you can see the number of delivery and possession arrests. In 1992, as things really began to get bad and the 14,223 people signed their names in support of the petition, the first drug-free zone was enacted in february of this year. The next year, 1993, as the police began to use this new tool, the arrests stayed fairly high, and suddenly, after they had a good amount of time to use the tool, the arrests absolutely plummet.

Francesconi: Did anything else change during that time by way of law enforcement, more law enforcement focused in the area or anything like that? Besides the drug-free zone adoption?

Hayden: Besides the drug-free zone adoption, i'm not aware of it. That may be a better question to ask one of our police commanders. I do know when you look at 1996, there was a heavy saturation of law enforcement, federal and local in the -- in northstar, so as you look at 1994 and the sharp drop, and you see that every year there's an arrow because boundaries changed, so even though boundaries changed, this bar graph should be constant because we're looking at arrests per square mile. So even though the boundaries have gotten larger, we're looking at arrests per square mile. Should it should remain constant. If we didn't do it that way, once we expand our boundaries, you would see the number of arrests increase, because we're arresting probably more people. At any rate, I think the graph otherwise speaks for itself. The west side drug-free zone has been very successful in arrests as soon as the police got a handle on this new tool, arrests have continued to decline. The rest of these graphs are the same but for different areas. This is Washington park. You may remember Washington park had a horrendous marijuana dealing problem, and at the same time, the old town drug-free zone went into effect, so did Washington park. You can see what happened once the drug-free zone ordinance was enacted there.

Sten: A question on the statistics. What happens when you add the trespass arrests?

Hayden: When you add them?

Sten: Yeah, because I think a lot of the arrests, after you excluded for possession or dealing, they're for trespass. Are those on the chart?

Hayden: No, this is only delivery and possession.

Sten: So -- but if there were arrests for trespass, that wasn't a crime before that, when that -- wouldn't that be a better indication of what the activity looks like, if you had the trespass --

Hayden: It would be a better indication of trespass activity. It wouldn't be a better indication of drug activity.

Sten: I guess maybe I should spell it out. The theory i'm wondering with the -- what the extra result is, I hear it's hard to catch people with drugs, but it's easy to arrest somebody on a trespass if they've been excluded. So it's possible that the trespass arrests are also indicating drug activity before the date where the arrests were high, you couldn't arrest for trespass because you didn't have a drug-free zone. I'm trying to get a sense of how many people a year you arrest for trespass as well as how many you're arresting for --

Hayden: I would say it this way -- you would expect in a drug-free zone that after an area becomes a drug-free zone the arrests for drugs would increase. To me they shouldn't increase, they should decrease. Now you have this tool. When you see someone back in the zone who is excluded, a police officer may contact that person and ascertain whether they're excluded. If in fact they are excluded and they're violating their exclusion, they can be arrested for trespass. Often times police find when they search that person as an incident to that arrest or prior to transporting them to jail they find more drugs. So we should see, the theory, we should see arrests have gone up in the drug-free zones. Instead, they've gone down.

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Sten: I guess -- I don't know. It's an honest question, I just -- my conversations lead me to believe that people do a lot more arresting for trespass once it's a drug-free zone, so I -- for me to understand the activity, I'd have to know also how many people are getting arrested for trespass. I don't think it's necessarily true that when somebody's trespassing you're always going to find drugs. I would think you need don't to find the drugs to get them out of there. That's the whole point of the drug-free zone. You would know better than I do.

Hayden: I'm giving an honest answer. Would I assume the trespass arrests are much higher than they were before. I don't think all people that would be arrested in the zone would have drugs on them, no, but I think many, many would, in my experience, have drugs on them. Because it's one of the reasons they're going back into the drug-free zones, is to buy drugs.

Sten: Thanks.

Hayden: Does that answer your question?

Sten: I think so.

Hayden: I think what we're seeing here is, even if you see trespass activity increases, we're reducing the serious crime. That's the point. The serious crime, the drug activity, is reducing. If we increase the number of trespass arrests, but reduce the number of drug arrests, we've been successful. That's the way I would view it.

Francesconi: Are any other crimes decreasing besides these? Or are you coming to that?

Hayden: We looked at particularly looked at robbery, aggravated assault and car prowls. Now, I can only -- I looked at them specifically in the year before and after an area became a drug-free zone. And there was -- there is an extraordinarily sharp decline. Not in all cases, but in most cases compared to citywide of those particular crimes which are more drug-related than a lot of others. There was a shopper decline in arrests for those other crimes the year after an area became a drug-free zone. Then -- than there were citywide. Sometimes significantly so.

Katz: Go ahead.

Hayden: So we looked at Washington park already. We haven't seen marijuana dealings surface again in the city of Portland as a street level problem, the way it was in Washington park. It's not to say marijuana dealing isn't out there. I'm sure it is. But not like it was in any means. This is the east side. Again, 1992 becomes a drug-free zone and generally what you see again is a slow decline. Although there's an increase in the year 2001, no question about it. In analyzing these graphs, and if you look at the east side from 1997 to 2001, I would call that almost a slight steady increase. If you look back at the west side zone, you've got a steady decrease. It's almost as though there's been this burnside bridge migration, if you will, between the east side and the west side to some extent. Which probably is -- it's one of the reasons we're -- we want to make that one zone, the central city zone. Because we do tend to see this migration. The increase in 2001, again, I think the migration was occurring and the police responded. That's why you see that there. Alberta, again, beginning in 1990 through 1996, very high drug arrests. In 1997 the drug-free zone goes into effect and arrests drop substantially. Slight increase in 1999 to 2000, but even then, far below what it was before the area was a drug-free zone. Woodlawn area, and this is an area where the drug-free zones have been very successful. You can see the effect they've had on drug arrests there. 1998, the year before the zone went into effect, dealing arrest were pretty high, particularly possession arrests. Since the zone has gone into effect there's been a steady decline. I can tell you the folks that live there that I went to -- in the meeting that I went to up there, they recognize the success of the zones and are frustrated with the fact they're going to lose a portion of their neighborhood because of that. So it's been a bitter sweet success for them. The beech drug-free

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zone. If you look at 1990 to 1996, you've got a fairly steady increase in drug arrests. In 1997 when the drug-free zones go into effect, you begin and continue with a steady decline.

Katz: Refresh my memory, when was the rico prosecution?

Hayden: 1994. And it continued for some time, but approximately '94-95. This is citywide, and just so you are aware that there hasn't been the same steady decline citywide at the same time. So city wide what you see, and you've got arrows when all the drug-free zones went into effect, there's been -- I wouldn't call it a general upswing or down swing, there's been up and downs, and probably since the early '90s, more ups than downs. Now, these are the graphs that the planning and support division prepared regarding the new zone boundaries. Looking on this map of the city, you can see the old boundaries are those in black, the new boundaries are those -- the proposed boundaries are those in red. Overlay. And there are the drug dealing arrests and possession arrests in the city of Portland for the year -- not the year 2001, it's from april 1st of 2001 until march 31st of 2002, because we have to captured a 12-month period in an 18-month period preceding coming to city council. And these are the most recent statistics available from planning and support division and records division.

Francesconi: While you've got that map, this is maybe not relevant, but other than the central city there and northeast, is drug activity growing in the -- in other parts of town? And if so, where?

Hayden: What you'll hear is that out in the lower right hand piece of the map, everybody knows where the lents area is, there's been an increase in that area of drug activity. And when we looked at this chart, there's certainly been an increase in the st. Johns -- i'm calling it all of north Portland, west of the cut, basically, st. Johns. I think in having looked at these myself for years, we're seeing an upswing in those areas. Not a dramatic upswing, but nevertheless, an upswing. And we've kept our eyes on them. I know some folks from those areas inquired about whether they qualified for drug-free zones. My view is not yet, and I think when we get -- we'll get to what I call a cookie cutter analysis, you'll see the number of arrests in that area.

Saltzman: Do we know about arrests in these other areas of whether these people have been excluded? Do we have any information on that?

Hayden: I don't have -- regarding individuals, no. I don't know. I know that early on when the drug-free zones were first enacted, the bureau tracked people that were excluded, and it was interesting to find that -- and I don't know -- I can't say this is true now, most of the people didn't -- weren't coming back that were excluded. Not sure why. When they first were created it was only dealers we were talking about. They were going away that weren't coming back.

Saltzman: To the zones.

Hayden: To the zone. That was just the one zone, mostly a couple of smaller zones at the time.

Saltzman: I'm trying to figure out if those people are going elsewhere, to lents or north Portland, if that's at all attributable --

Hayden: I don't know. I know this. I can show you slides we did after the beech and alberta zones were created. We analyzed the area. Not as far as lents or st. Johns, but we analyzed the areas immediately surrounding those zones -- to try to answer the question, a rests went down in alberta. What happened in the areas surrounding them? Didn't you displace arrests there? What we found is in the area immediately surrounding those combined areas, arrests decreased by about a third. So we have seen -- we haven't -- whether some of those people have gone to st. Johns and lents and -- I can't answer. I'm sure some might have.

Katz: Isn't this also a reflection that some of the gang activity has moved back into north and out into southeast -- out in the northeast related to drug activity?

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Hayden: I think so, and I think you're seeing a lot more movement around the city than we used to see. Certainly we saw that over in Holladay Park when Fareless Square opened, Holladay Park got hit hard, because they can get a free ticket now. But it meant something to them, so they hopped on Max and did their dealing there.

Francesconi: It's the mayor's fault.

Hayden: Didn't mean that bring that up. [laughter]

Katz: Thanks, Jim. [laughter]

Hayden: Here's a closer-up view of what I just showed you. Again, in black are the old zones. In red are the two new zones. And those are, again, blue is dealing, red is our -- are possession arrests. Just a little closer-up view of what's happening in the close-in city. This is rather the crux of the -- as the ordinance is written, meaning again, an area has to have a substantially higher number of drug arrests than other areas of the same size. So what we do is we take the area we're looking at, in this case in the upper middle of the map, the Woodlawn zone, and tabulate the number of drug arrests in that zone and stamp it just like a cookie cutter, over other areas of the city of the same size. I don't know how washed out that is for the rest of you, but I'm fairly close to it and I can tell you the Woodlawn zone had a total of 31 drug arrests. Down in the Lents area, you've got one area with 51, an area with 49, another area with 51. Certainly higher than Woodlawn. And in St. Johns you've got an area with 64, an area with 53. So Woodlawn is certainly on its own, isn't significantly higher than the other areas. In fact it's somewhat lower, partly due to the success of the zones there. Alberta, 48 total arrests, and again, we've looked at the same areas. They're slightly different size, and 40 in one area down here, 32, 38, here's one that's 60, and up in St. Johns, one with 46. Alberta on its own does not qualify as a drug-free zone. This is the proposed Beech zone that I showed you earlier. When compared with other areas of the city of the same size, its total number of arrests I'm adding up here are 482, and other areas of the same size tend to be a couple areas that -- a few areas are just over a hundred, and so it easily looks like about four times as high as any other area in the city except the central city zone. So in my view it qualifies as a drug-free zone. In the middle of your screen you see the -- in gray the central city zone, which far exceeds any area in drug arrests, and it looks like they have 210, if I add it up correctly, and nothing is remotely close. So it easily in my view qualifies statistically as drug-free zone. Prostitution-free zones, I'm switching a little bit on you now, we're looking at arrests and exclusions per square mile.

Katz: That's what happens when you build roads, Jim. [laughter]

Francesconi: That's fair.

Hayden: If you build it, they will come. We're looking at four zones here. The upper one is Martin Luther King area, to the left is the West Burnside, running up diagonally is Sandy, and then obviously 82nd running along the bottom from Sandy as an odd-shaped "t." We don't do a cookie cutter analysis here because it's fairly obvious all of the prostitution arrests in the city, I won't say all, I have to guess 98% of them are concentrated in these areas. So obviously these are the correct areas for prostitution-free zones. Having said that, I'll show you a slightly closer-up view. It's obvious that the area along Martin Luther King no longer qualifies. Again, to the chagrin of some folks out there, the arrests have simply dropped way down. So that zone has been successful.

Saltzman: I want to ask you the same question about the drug-free zones. Are we seeing prostitution arrests in other areas of people that have been excluded from these zones?

Hayden: What -- I think what you tend to see in the prostitution arrests are, there certainly is more movement along these corridors. These folks tend to move around. But they tend to confine it to

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these corridors. Why they haven't moved right back to the martin luther king area, I can't tell you for sure. I don't know for sure why that is.

Saltzman: We don't have any real information that says people have been arrested on other streets that have been excluded from these areas?

Hayden: I don't have that for you.

Saltzman: Okay.

Hayden: This is a closer-up view of the martin luther king area. This is a closer-up view of the sandy boulevard area. That's as close up as we can get of the 82nd area because it's so long. I'm going too fast, please let me know. And then here's a closer-up view of the current west side zone.

This is a zone that we're proposing the boundaries change due to those arrests you see north of the zone. And now if I show you this next slide, what you see is again, there's the current zone, and that blue and purple, that blue line to the north is the proposed new boundary for the west side zone. That's the only prostitution-free zone boundary that we changed.

Katz: I can't read the cross streets on the new ones. It goes up to where?

Hayden: 23rd.

Katz: And west and east?

Hayden: Irving and that's simply a line running a certain distance from burnside. There's no particular street. I believe it's just a line --

Katz: It originally had only been up to couch?

Hayden: Correct.

Katz: You know, most of all the other activities on everett and -- it's moved.

Hayden: Yes, it -- obviously it's moved north of that line. And this statistic shows that.

Katz: To 18th, 19th.

Hayden: Yeah. It's moved farther up, farther north, and farther west as well, and this proposed boundary hopefully will take that in. And accommodate that movement. Finally, support. You're going to hear from people here, so I won't belabor this too much. I spent a lot of time in the neighborhoods talking to neighborhood associations months and months and months. We've been out in the neighborhoods talking to them. And these are neighborhood associations that are in support of the drug-free zones. I want to clarify we didn't go to a neighborhood association that weren't we felt directly impacted. Right on the periphery or in the zone. Arbor lodge, I have certain asterisks, they wanted the zone larger than what we have. Hopefully we have accommodated their request. The boise neighborhood does support the zone, although they conceptually wanted the council to strongly consider some of the recommendations made by better people. And I think council has done that, but that was --

Katz: On the variances?

Hayden: On the appeal process that's before you, and all of those provisions that were presented to you, they wanted council to strongly consider those provisions. So I didn't want to let you know boise just supported it without that caveat. Again, going down the list, brentwood-darlington, downtown, elliott, humboldt, kerns, lents, lloyd, old town, pearl, piedmont, portsmouth, woodlawn, they want their entire area to be a drug-free zone. They're not happy at all. But I think statistically we have to and i've told them that. They nevertheless support the ordinance. Continued business security associations, others Black united front, central eastside industrial district, downtown security network, lloyd district business improvement district, lloyd district public safety and security association, the north public safety action committee, the northeast committee for safety and livability, the Portland business alliance, Portland community college, Portland patrol incorporated and Portland state university. I believe you have letters from most if not all of the

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folks I have listed in support. And that's the end of my presentation. I can stay up here if you'd like or have a seat.

Katz: All right. Questions of jim or we've got your colleagues as well if you want to bring them up, or if they want to come up and respond to questions, assuming there are questions.

Saltzman: I have some questions, yes.

Katz: Go ahead and we'll see. David, come on up. Wayne and Laurie.

Laurie Abraham, Westside Neighborhood DA: You asked a question whether the bureau had looked into whether people who had been excluded had shown up somewhere else and engaged in drug dealing or usage. Initially when the drug-free zone on the west side came into existence in 1992, the concern had been that it would displace drug dealers from downtown particularly to old town, chinatown area into northwest. So what they did is the very -- for the year period it was in existence, we then took all the names of the people that were excluded and checked those names in the Portland police bureau data system to see if they had been arrested somewhere else for drug activity. And we could not find any of the people that had been excluded, you know, that next year had been arrested anywhere else. So that was only done in the beginning. The bureau hasn't done that since, but we wanted to see whether those people went up into northwest and we could show they did not. Or to anywhere else in the city, actually.

Saltzman: That was just for drug-free zone?

Abraham: Yes.

Saltzman: I guess a question I'm glad the legal people are up here, it was my understanding an exclusion must be accompanied by an arrest. I submitted a list of questions to chief kroeker a couple days ago asking that very question, because it's my understanding that this policy may not have been followed. I guess what really got me curious, in the response, understanding what an arrest is. I always thought an arrest is something, a formal thing you get read your rights and all that, and you could have an exclusion issued. But according to this memo, an arrest is a much less formal thing. I guess simply an officer simply stopping a suspect counts as an arrest. If that's the case, isn't the code's requirement that exclusions only occur after an arrest? Isn't that a meaningless protection?

Katz: David, grab the mike and introduce yourself.

David Woboril, City Attorney's Office: David Woboril with the city attorney's office the initial idea in '92 was the city had the authority as a civil matter to exclude someone when there was probable cause to believe that they had committed an offense, a drug offense in one of these suspected areas. That's the same standard we expect officers to use during the arrests. An arrest is any restraint of the person's freedom to move. And that should be supported by probable cause to believe that a person has broken the law. So we see those two things as congruent, and then in fact when an officer has the ability to do the arrest, even though not as formal as you may have imagined it, the city has the authority as a civil matter to exclude the person. Is that helpful?

Saltzman: It's helpful. It totally is contrary to my understanding of what an arrest is, I guess. If I'm pulled over to the side of the road for a speeding violation or a possible speeding violation, I'm under arrest?

Woboril: Yes. If you're not free to leave at that time, which is typically the case, the officer has the authority to hold you there in order to complete the paperwork, make sure you're properly identified, and do those processing tasks.

Saltzman: Or if I'm walking down the sidewalk and stopped and asked questions about something, I'm under arrest?

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Woboril: Could well be if you're not free to go. Of course it's a question of the courts and the lawyers debate for hours. There's a lot of fine lines drawn, of course. But typically, yes, if the officer's exercising authority and you don't feel free to go, typically in that situation you've been arrested. Most people consider arrests to be the more -- what often is called a custodial arrest, when a person is taken into custody, placed in handcuffs, and taken to jail for eventual presentation to a magistrate for -- to be charged in court. That clearly people consider to be an arrest. But in terms of search and seizure law, the courts have extended the concept of arrest way out into the street to any contact with an officer where the person by exercise of the officer's authority, is held at that place.

Saltzman: So miranda rights are not the indispensable elements of arrest?

Woboril: That has largely to do with the validity of statements obtained by the police after the arrest has occurred. The supreme court required officers to give those warnings in order to help make sure. It's difficult to make sure, but to increase the probability that the person's constitutional rights weren't violated by the overwhelming presence of the police authority. So miranda has to do with statements and isn't necessary to validate the custody of the person. The person could in fact be taken into custody, taken into court and charged, never be 55en -- given miranda rights and be validly arrested. It would affect really only the validity of the statements made by the person after they're arrested.

Saltzman: This is an issue I think I want to explore more between now and the second reading. My -- I just received the answers today, and I was pretty astounded by at least my understanding of what an arrest is and what the generally construed understanding is.

Katz: Let me follow up. Is there a definition in Oregon statute on what arrest is?

*******:** There is.

Woboril: I believe there is. There's a definition in the proposed ordinance.

Katz: Okay. You'll have a chance then to take a look at it. Does any of the other attorneys want to jump in on this? I think david gave a good explanation. You wanted some time, you'll take a look at it. All right. Go ahead.

Sten: I guess I have a related question. This relates to whether or not I support this particular version. Let me just take -- not take a lot of time, a minute to give a little background to where i'm coming from on this question. I think -- this could be an emotional issue in the neighborhoods, and correctly so, because these are real serious problems. I think the concept of a drug-free zone makes perfect sense on the basic premise that we have a failure of the justice system to adequately punish people caught dealing drugs. We all know you're probably not going to spend a lot of time in jail until it's developed into a lot of things. If you've got somebody you've arrested, they're back out on the corner sometimes that day certainly very soon, excluding them from the corner makes sense. So I think this idea makes sense to me. And I have supported the prostitution-free zone and some versions of the drugs when they're -- drug-free zones when they're narrow, because it's -- fits limited to a about you I street it makes sense. When i've had concerned, for the same reason, the same good rationale, we exclude people from large chunks of residential neighborhoods, and what i've wanted but hasn't been able to get there, the council has gone other places, that's fine, is that it seems to me that it's not quite enough for me to say, now specially this information that's commissioner Saltzman has pushed forward, that if a police officer stops you in a residential neighborhood, which many of these are, detains you for some amount of time, they can then write an exclusion and you're excluded from the neighborhood the first time that happens. I struggle because I think although i'm told it doesn't happen that often, it's hard for me to figure out how you're a chronic problem if this -- if you've been arrested potentially not charged, and so I have

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been wanting and would have proposed that the standard be something like, and i'm not locked in stone, that you have some criminal record, that you've been convicted of one of these crimes before, or you've been stopped twice. I'm trying to protect from the point of view that somebody for the very first time gets stopped on a charge and then they're excluded from the neighborhood. That seems to give a lot of room for people who not -- to not feel comfortable about the interaction, but it doesn't actually, if you gave more protection to the person who is not a proven problem, it doesn't seem you would be lessening any impact the real point of this ordinance, to get chronic problems. Soy proposed a different point of view, have not been able to find something that's comfortable, so legally, why wouldn't you make it somebody who's been proven to be more of a problem and exclude that person -- exclude from the exclusion, if you will, the person who's been stopped the first time and never convicted? What's wrong with that strategy and how is arresting -- how is excluding that person getting at the problem of chronic drug dealers, one, and two, I guess I still am struggling to understand why this doesn't work if you tighten up a little bit who's subject to it. And I have put all this in writing, so I think you understand the question, but i'm trying to give the audience a little background.

Woboril: Perhaps I can start by talking about the civil side and what's minimally necessary for the city to defend the ordinance. The deputy district attorneys can enforce the larger policy questions. The courts have acknowledged a municipality like Portland has a compelling interest in preventing drug crime in its neighborhoods. Because of the crime itself and the attendant problems and ripple effects of that crime in the neighborhood. The Oregon supreme court last week in discussing the double jeopardy issue, said in fact that it is a legitimate purpose for Portland to prevent crime. And the statistics that we've seen have allowed the city attorney's office certainly to say that exclusion of a person who has been in the zone, even if only once, to engage in that drug activity, taken collectively with all the other cases, does in fact prevent crime. The statistics indicate that there is an impact on the rate of criminal activity in the zone. So legally we feel on firm ground arguing that given our compelling interest, excluding people on the first contact does in fact serve the purpose of reducing and preventing crime in the zones. Now, if you do more, of course, it's perhaps more easily defensible.

Sten: I guess -- help me again. I'm really trying to understand this. It's legally more defensible to exclude somebody from a neighborhood who's been stopped once and potentially not even charged than it is to exclude people who have a track record on that.

Woboril: I'm sorry, I didn't mean to say it was more defensible. I'm saying it is defensible at that level.

Sten: Is your argument if you took the approach i'm proposing and didn't exclude that first-time person it would not be defensible?

Woboril: No, sir. No, I -- the narrower your net is, the more defensible probably the ordinance is.

Sten: My proposal would be more defensible.

Woboril: Yes. Have you a trade-off. That's why I defer to other people to talk about the practical consequences in the community. You have a trade-off with that, certainly.

Hayden: Have you a criminal law problem, which we just overcame in lasalle. We've been waiting for five years for the court to rule on this. This does not constitute double jeopardy. In my view, and this is not a civil question, criminal question, if we now -- if the city council determines only to exclude people convicted people or people with criminal track records, we are now intertwining the criminal process with the civil process.

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Sten: That's not what I proposed. What I've said is, either somebody that's been arrested twice -- I'm looking for some evidence this person is a continual problem. And I'm real open to other ideas, and I guess the testimony is there aren't any other ideas on how you could get at this. Maybe the rest of the council isn't interested, if that's the case we'll stop. The question -- I'm not saying that I have the answer, I'm saying I think it's a concern that in a residential neighborhood a person who's been stopped potentially not even charged, gets excluded. I don't see any solid reason from a policy standpoint that we have to cast the net that widely to achieve our objectives. I would be curious to note statistically speaking how many people that you've excluded fit this description. It may be a lot, it may be a little. I just don't know. But I'm not saying we have to limit it to get my support, and there may be three other votes, to just people with a criminal record. I think the net is too wide. There are other ways to get that -- at that concern, in your opinion?

Hayden: Regardless whether you limit prior arrests, my concern is the same. I don't have the answer -- I don't --

Sten: Is your concern one of practicality, or that you think that somehow it's more double jeopardy dangerous?

Hayden: More double jeopardy dangerous.

Sten: Why?

Hayden: Why? Because now you're saying they're only going to exclude people. We've -- people we've had contact with, arrested, or convicted. Is that solely now a civil remedial sanction to alleviate quality of life problems, or is that more punitive, because we're treating differently different people in the zones?

Sten: I'm not a lawyer, but it seems civil sanction is a civil sanction. And the bar that you put for attaching a civil sanction is a separate issue. Tell me how did something become a criminal sanction if it's a criminal sanction to be trespassed out, it's a criminal sanction whether you get trespassed out under immediately or later. If it's a civil sanction -- help me how you figure legally - it's a civil sanction that becomes criminal if you apply it to less people.

Hayden: I don't pretend to have the answer, but I know this. We know right know the ordinance based on unanimous decision from the Oregon supreme court, a neutral body, I think we all would agree, says that your intent clearly is to create a civil remedial sanction. And they say that right now your intent is to do that and you've carried that out. If we change that process to exclude only people we've either had again, prior contacts, arrests, or convictions, I cannot guarantee obviously that they will again say that this is now solely a civil remedial sanction, because now that would -- the ordinance would be very different. A defense attorney could easily challenge it again on double jeopardy grounds and go back to the courts to rule whether this change makes this civil exclusion more now like punishment. I don't have the answer. I don't know.

Sten: I'd like to --

Hayden: That doesn't make sense to me to test that when we know right now it's a lawful and constitutional ordinance as it is.

Sten: Do you understand my question on when a civil sanction becomes a criminal sanction based on how you apply it? And do you share mr. Hayden's analysis?

Woboril: The two things get intertwined. I can't predict what a court will do. What you would have is a predicate before you could apply this civil remedial tool. And that would be some involvement at least in the criminal process, and perhaps conviction or previous punishment. So you would end up with exclusions as part of the -- an individual person's contact with the criminal justice system. And the exclusion wouldn't be able to occur until there have been predicate convictions or sentences or contacts or something. The court -- the supreme court recently in the

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case last week talked about four factors in determining whether or not a civil remedial tool like this is in fact punishment, and therefore triggers jeopardy protection. One of those is its similarity to criminal processes. Certainly the argument would be raised, and I can't say whether it would be successful, that in fact you are now -- this is part of the criminal -- the criminal justice system, and that it shares similarities. In fact it's a component of the criminal justice system. Would it cause us to be insert for probably several years whether or not we could defend successfully in court against double jeopardy challenges. And the thing that -- the way it ends up badly for everyone is if three years from now we get a ruling that it is jeopardy, and the exclusions and the convictions that maybe associated with this ordinance are thrown out.

Katz: Do you want to continue?

Sten: I'm trying to understand -- I -- there's no policy involved in this. You have no policy objection to not excluding people their first time they've come in contact with the system.

Woboril: I can't speak to policy.

Katz: Jim?

Hayden: I don't like the idea from a policy point of view. I suppose I could live with it, but it's hard for me to -- from a policy point of view, I still think that when you exclude only person with prior records, what you encourage some of them to do, as i've said before, is bring younger people in to do their dealing for them. They stay in the house, they send the people who would have no prior police contact who happen to be younger --

Sten: Come on. If you can get -- so the second time that kid comes out, they're done. I'm just trying to -- nobody's arguing that they're not going to try to find ways to get around it. I don't think you can make a credible case if you have to on have contact with an officer twice -- we've now defined an arrest as talking to a person. If they have to talk to them twice --

Hayden: Arrest is not talking to someone. I want to make sure that's clear. It's not stopping. The law is very clear on this. Arrest is very clear. So those things are not an arrest. Arrest has to be based on probable cause, which means the person is either in actual or constructive restraint. When you get pulled over for a traffic ticket, it's not technically an arrest. You're stopped, that's not an arrest. It's a higher threshold. So I want to make sure we're clear. It's not just stopping to chat with somebody. That's not an arrest. It's a very different standard. I do have that concern. I won't back away from that concern. I've seen it. I've seen what drug dealers do. They get kids to deal drugs for them.

Katz: I've seen that as well.

Sten: And I appreciate that, so I know it's an emotional issue. About you I think -- but I think the idea -- I think your strategy is good, and to be blunt, mr. Hayden, I think trying to say figuring out where the right line is for civil rights protections on these issues, i'm not proposing a particularly draconian one, and then turning the conversation to, well, if we don't exclude people the first time an officer has contact with them we're putting more kids at harm is a little I think misleading. They're going to send people in to try -- try to get people around this in a variety of fashion. I'm trying to stick to what is -- do you guys have statistics for me on how many people are single offenders of this? We don't have any idea if it's even an issue.

Hayden: We don't know.

Francesconi: Can I follow up on this line?

Katz: Go ahead.

Francesconi: Commissioner Sten, although you're not a lawyer, you've been -- you would have been a very good lawyer. I was trying to admit whether to tell people I am a lawyer, then I was trying to figure out if I should tell people I actually read the supreme court case. Following up on

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this line here a minute, on your second amendment commissioner Sten, the issue of terminating exclusion on dismissal of the charges, or acquittal, that had enormous appeal to me when it was first presented. I believe, and I wouldn't rely on my own legal opinion, that that is double jeopardy.

And I was advised by our counsel on that score. On this one, I think it is a much closer question. The questions I have, I don't want to get back into this legal debate, but I am -- the issue of how many we arrest under the definition of arrest, which is not stop and not taking people into custody, either, the legal definition, I need to know how many times we arrest somebody and then exclude them and don't go on to prosecution versus arrest, going on to prosecution. Does anybody know what that is? Do most of the time we prosecute?

Abraham: I can say the majority of times the cases are prosecuted. I can't give you exact numbers because I don't know them. It's something we could determine by looking back on the statistics of the police bureau keeps on how many people have been excluded and checking to see whether or not those people had been prosecuted for that same incident behavior. But the majority of times I can say just in looking at those statistics regularly on a monthly basis, I would say the majority of them are prosecuted.

Francesconi: What I'm getting at, if officers are stopping and then just instead of going through the hassle just automatically excluding, that's one thing, and I need to know that. If they get dismissed for different reasons, legitimate reasons, but the general practice is to go on to prosecution, I need to know that. I'm not asking you to go through every file, but I need to know what the practice is --

Abraham: The general practice is to prosecute. The officers that arrest on probable cause and give out an exclusion to and do not process that arrest, that number is small compared to the actual also giving of a citation or taking the person into custody and booking them for those charges for that felony charge or misdemeanor charge. I can tell you I'm fairly confident the majority of -- the majority of prosecuted.

Francesconi: If you could fairly confident, the majority could be 51%, if you could check that out and get me more information, I'd appreciate it.

Abraham: Sure.

Francesconi: The other is, do we -- this is not related now to this line of questioning -- if you concentrate enforcement in certain areas, as opposed to others, because it was that earlier question about maps and where you concentrate. Are we doing any of that, where we're driving up -- for good reason, but it's based on enforcement practices where we drive up the arrests? Because of our personnel practices about how we deploy?

Hayden: I think when you look back at the stats, when you saw that upsurge on the west side in 1996, that was from northstar.

Katz: The answer to that question is yes. You have missions and -- in certain areas. When the situation gets critical enough, we get the calls, the calls are then back to the commander, the commander then makes a decision, goes out, takes a look herself, or himself, and then says, yes, let's put additional resources in this area for a couple much days for a week, and -- a couple of days for a week --

Francesconi: Without those missions would we have the same zones?

Hayden: My experience in looking at these statistics is, I'm aware of multiple missions run after the drug-free zones were enacted because police wanted to exclude people that were -- got caught dealing. And in fact that was the beech zone. We had numerous missions, and the arrests still went down. I was surprised by that. I thought the arrests were going to go up.

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Francesconi: My last question, it's back on the issue we were just discussing about twice arrested or convicted and excluding. Leaving legal argument, which I think we'll hear more about from others before this hearing is over, the issue -- I don't think I need to hear it anymore from you, because I think you've addressed it, but from the police I do need to hear the practicality and what effect this would have from a public safety standpoint if you have to have somebody previously arrested or previously convicted. I need to know what that does as a law enforcement tool --

Katz: Is that what you wanted to respond to? [inaudible] i'm sorry, I didn't hear you. [inaudible] are you signed up? No. All right. Thank you. You have more questions? All right. Hold on.

Sten: Did anybody bring statistics on how many people are excluded?

*******:** On how many --

Sten: Excluded from these zones.

Hayden: Mine are just arrests we have a running list right now. I think it's easy to get, but I didn't bring it.

Sten: 200, 20,000?

Abraham: No, no. It's rather large. We could look into that and get that statistic for you. I can't tell you what is it off the top of my head. It's -- for a 90-day period, the names accumulate and of course with one-year convictions as well, you can -- it can run up to a thousand people on the list at one time.

Hayden: You have to filter out potentially the judges who impose these exclusions not based on the ordinance. Those are also on the list.

Sten: I'm trying to get a sense. I'm not trying to pin you down. Do you have statistics on how many times --

Abraham: The police bureau keeps them on a monthly basis, how many new exclusions are given out on a monthly basis. They also have the running tally of current prostitution-free zone exclusions per month. For the prostitution, it tends to run in the 200 level on each month. Obviously those change, some go on, and some go off the list. In the current drug-free zone, those exclusions, officer issued exclusions for the month for 359, conviction-based exclusions, based on those people who got that 90-day exclusion and then getting convicted were 380. And then judges imposing this as a condition of a sentence is 639. And then in the stop program, we also have people getting the same order not to go into the drug-free zone --

Saltzman: That's one month?

Abraham: That's the current ones per the month of august.

Woboril: That's not a month.

Abraham: That's the running total as of this month.

Saltzman: Snapshot taken this month.

Abraham: You have a total then, add those numbers together, it's 1,712. New exclusions coming in on a monthly basis, those run about 190 for january, 150 for february, 168 for march, 200 for april, go back down to 165, 152.

Sten: I'm trying to get a sense what's happening out there. Do we have statistics on how often somebody who's been excluded gets picked up or stopped or whatever the right word is, asked to leave? Are they -- if average person getting -- is there an average? Are they coming back twice, 20 times?

Abraham: The only way you could tell if somebody came back is if they then got arrested for violating their exclusion. So you could look at that. Some people come back constantly. Others don't come back at all. We have some people that come back every day and get arrested every day. Others may come back every day but not get arrested. So the only way we would be able to show

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you how often people violate their exclusion is whether police actually did arrest them. Many officers warn people over and over again that doesn't result in --

Sten: I'm trying to get -- get a basic sense of what's happening. Do you exclude them and they come right back? I've heard judges say after people come back the tenth time they don't even look anymore. Or people really moving -- maybe I should ask the officers.

Katz: If we're back -- on the street, let's ask the officers, because I can get a sense from just here that they want to respond to that. So Rosie, you have some officers who can respond to what's -- I didn't see -- I see. Come on up and share with us what's actually happening. Rosie, did you want to respond to the arrests?

Sten: The drug possession and dealing statistics are very interesting and important, and I think they're helpful. I'm trying to get a sense of what's happening. It's the -- is the same person coming back and you have to exclude them a bunch of times? After they get excluded for 90 days on the 91st day to you exclude them again? How does it work?

Katz: I don't think you've ever been here before. Just identify yourself for the record and then respond. Same for you.

Joe Luiz, Officer, Portland Police: I'm officer Joe Luiz, I work in the old town area. The first drug-free zone was down there. Some people come back time and time again, until they're tired of getting citations, they're tired of being taken to jail or being taken on a warrant when the citations build up, a warrant's eventually issued. Some people never come back. When you're talking about a drug user, you're talking about an individual who may not have a criminal record per se. The recreational drug user, the hard core addict, whatever, they come down to a drug-free zone, which is a designated area that people know they can purchase a certain kind of controlled substance. So those folks come there all the time. An array of folks can come there. And we will arrest them when they come, sometimes we do warn them. It just depends on maybe our workload at the time and just maybe the frequency of that individual also.

Katz: Sergeant?

Reed Hunt, Sgt, Portland Police: I'm Reed Hunt, from southeast precinct. I deal mostly with the prostitution issues. As far as the people coming back, the working prostitutes, they're coming back all the time. It's one of the best tools we have to deal with them. The johns we pick up hardly ever see them again. If you do, we've had a couple that are chronics and they know exactly where the zone is and you'll see them driving through the area and they go to contact somebody they're parking their car out of the zone and walking back in. Because they really want to be there. The working girls are coming back and the best tool we have is that exclusion so we can deal with them immediately.

Katz: Rosie, you wanted to address the arrest issue?

Rosie Sizer, Commander, Central Precinct: Commander of central precinct. I heard some discussion about probable cause being the standard for an arrest, and an exclusion. And then not all of those cases are taken forward for prosecution. Many of them are, but not all. For central precinct, I receive all of the declination that's come from the d.a.'s office. There are very few declined because they didn't have sufficient probable cause to make an arrest. Particularly now when we're dealing with a serious scarcity of district attorney resources, the bench for the acceptance of cases or the -- the bar for acceptance of cases gets risen higher and higher. Now, often they'll reject a case unless they are very sure that they can't prove beyond a reasonable doubt in court that they're not sure that they're going to get an absolute conviction. So it was a good arrest, it was a probable cause for arrest, we think it's a pretty solid case, but because the district attorney's office has had to cut drug d.a.s, some of our good cases aren't able to take forward.

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That's maybe not the most politically correct response, but it's how the officers feel that things really work on the street.

Katz: Stan?

Stan Grubbs, Commander, SE Precinct: I think I can reach. I'm stan grubbs. I want to spring board on what sergeant has said. Something important to commissioner Sten's question about first-time offenders, in prostitution-free zones particularly, our offenders are not from the Portland area.

From the state of Washington, from -- we've had city managers from southern california cities, beaverton, sherwood, these persons are very well aware of where the zones of prostitution are, where they can have their business, or pick one of the girls up, and if we don't have the ability to address them or encounter them on this first-time offense, they're very, very astute. There's a pipeline of information. What we're finding also with many of the prostitutes, we're not talking about a lot of -- we do see the drug-affected persons, but we've had minors that come from very affluent families. It's a provocative, very lucrative trade now, where it can be very profitable. So we are seeing that increase. Also our businesses, as you notice with the prostitution-free zones, is that they're along business corridors primarily, and as sergeant hunt has pointed out. We have persons filtering out into our neighborhoods. Those are our concerns. Commissioner, many of our persons are first hitch time offenders from outside of our Portland area.

Katz: Further questions so we can get to --

Sten: Just to follow up, I think it's an important point. I'm trying to explore this because I think it's a good tool, and i've been troubled by this one a lot over my concerns of could we make it tighter and still achieve the objective. Maybe i'm inconsistent, but for some reason i've found via little different reaction to the first time, no arrest record on the prostitution zones because they're in commercial corridors and because the nature -- there seems to be evidence the nature of people coming in as opposed to where I started being concerned is the residential neighborhoods of northeast where you have a lot of young people and others who -- at times it's hard to know who is in the drug zone and who's not, as you guys have much more than I have watched things in the parks, that's why I was a little more concerned, trying to give the community some sense you're not going to accidentally get excluded from your neighborhood. For some reason, maybe it's instinct wall, the prostitution-free zone hasn't worried me so much about making mistakes.

Grubbs: What we're finding, with your permission to follow up.

Sten: Please.

Grubbs: If you notice by the graphs, where we're seeing this expansion, what I call perhaps displacement or an increase, along that area of the neighborhoods of brentwood-darlington and lents, we're seeing that increased drug activity, increase in motor vehicle thefts, so we're seeing the intertwining of these crimes occurring. We kind of look at pfc -- the prostitution-free zone maybe a little more acceptable because we do have people from outside the area. What we're finding is with increased gang activity, with increased prostitution coming from other areas, if -- it brings along the other crimes along with it.

Sten: Thank you.

Sizer: I just wanted to say one other thing. We noticed a significant change, especially in the old town neighborhood, when the drug-free zone was impacted by the collins decision. And I think that has been borne out by crime statistics in central precinct. At the beginning of the year we were actually having a falling crime rate, and about -- we were down about 2%. At the moment we're up by 11%. And many of those are crimes that are I think generated out of drug trade, especially pedestrian robberies, car thefts, larceny, burglaries, all of those categories are up in the central area, particularly in the areas that are either closely bounded or the drug-free zones. And I think -- I feel

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personally that part of the causation is the weakening of the drug-free zone by the criminal trespass decision.

Luiz: I'd like to echo that. And also the folks that are the frequent participants inside the drug-free zone, i'm talking about the dealers and frequent users, they're well aware of what is going on and what the law is saying. And they respond to that by going to those areas and they'll respond to us in that way. You can't touch me, so -- and they understand the -- those laws very well, because it is part of their business.

Katz: Any further questions for our officers? All right. Thank you. Let's open it up for public testimony. And then i'm sure -- don't go away, there will be questions afterwards. Let's take three in support, and three in opposition, and let's move on.

Katz: Thank you for your patience.

*****: I hope I don't lose a minute for saying skate boards today. [laughter]

Katz: Fareless free zone. Is harris here?

*****: I don't think richard is here.

Katz: Is there another one? Go ahead.

Howard Weiner: My name is howard. 210 northwest sixth. I'm the chair of the old town-chinatown neighborhood association, and the public safety committee for old town. First of all, I have to speak personally before I speak as really chair of the neighborhood association. I've spent since 1984 in old town, since 1992 the drug-free zone has been in effect, it had a dramatic effect until the collins appeal. Which changed our neighborhood all the way back to before the drug-free zone. It became such a crisis we ended up with an emergency meeting. We invited the officers, and we got some immediate relief. Our public safety committee -- our neighborhood association had a presentation, and from that our neighborhood took a position which I would like to read to you. There are three substantive changes to the drug-free zone in which our board would like to offer comment. First we're concerned with the proposal that exclusions will only cover the zones in which they are issued. Therefore, we believe the downtown and central eastside drug-free zones should be merge in addition one zone. This would help towards eliminating the problem of drug dealers moving between the lloyd center, the downtown core, and the old town-chinatown and central eastside areas. Our second area of concern is that all individuals receive an exclusion will have the opportunity to receive a variance at the time of arrest. We believe the system now in place, which gives individuals two locations in the downtown and old town-chinatown neighborhoods to receive variances is the most effective way of handing out variances. We're deeply concerned the current proposal if enacted will have the effect of allowing variances to those who do not require them for any legal reason. Thirdly, we support the creating of a new crime of violating the terms of a variance. We believe this will give the police one more tool to help alleviate the problems of street-level drug dealing and prostitution. As you know, we're very interested in the outcome of these changes to the drug and prostitution zones. We would appreciate it if we could come -- if you could please come and inform our neighborhood association board when this matter comes before city council, which we would, and that's why i'm here to speak. How the drug-free zone affects everyone in old town in the livability is my major concern. The people who live, who work, and visit are the ones who are affected by these crimes. The property crimes, the violent crimes, have spiraled up as chief kroeker has said. We've had two shootings which have ended up with three people injured. The legal issues, it's very come appreciation -- complex. I'm a civil libertarian.

Katz: Let me ask the council if it's all right to have him continue.

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Weiner: I'll finish briefly. I know this is a very hard question, and it might take even some deeper thought before we conclude. But I would like to see the drug-free zone continue, and to have more teeth and for the city council to go to the state legislature and really work with them to try to change so that we get the criminal trespass too. Thank you very much.

Katz: At the end i'd like to ask jim, where is he? Jim, go back and later explain to me why we've only -- we're only excluding it from the area they've been arrested. That's the point I think howard made, is they ought to be excluded from every zone. Go ahead.

*******:** We've combined eastside and westside now.

Katz: Go ahead.

Mildred Ollee, CEO, Portland Community College, Cascade and Southeast Center: I'm mildred ole, the ceo at Portland community college cascade and the southeast center. The location is 705 killingsworth, Portland. I want to thank you mayor Katz and commissioners for allowing me to testify today in favor of reestablishing the drug-free and prostitution zones. As you know, Portland community college's cascade campus is located in what I would call an educational district. There is jefferson high school, there's the rosemary anderson high school, there is the public library, and then there is the health center, which does basic tutoring for those individuals who are illiterate. So you have, within a year's time, some 20,000 people passing to and fro to engage in education. With various age groups. We are in the heart of a neighborhood. There's commercial, pcc is the largest organization in the area. There are churches, and there are residences within that area. Now, when the drug-free zone was enacted, we were ecstatic, because we had been plagued by surrounding crime in the neighborhood, we entered -- and by "we" I mean Portland community college -- got involved and signed an agreement with the northeast precinct for a community policing agreement. The entire campus became involved in this activity. Because the safety of the students were coming to and fro, as well as the faculty members making choices about whether they were going to work in that particular area was in jeopardy. Prostitution was open, guns were fired during the day and especially at night. Now that the drug-free zone has -- was removed, no longer there, we have seen an increase in crime. We have seen people wandering around. We've experienced intimidation of our students by persons who are not engaged in education at all. We see the illegal activity going on.

Katz: Go ahead.

Ollee: I'll hasten. We have had, on each -- the first floor of each one of our college buildings, we have had to remove the ability of students to receive incoming calls. They can only make outgoing calls, and that is to discourage persons coming inside of the building and using those buildings for their business. Graffiti is on the increase. Our campus public safety officers are very concerned about the increase that we have seen in the crimes and the individuals, and those persons who move through the campus with police dogs. Or I should call them something else.

Katz: Could you wind up?

Ollee: I will. I know that there are individuals who say that we are -- we have profiling going on, and that there are other problems. I would say, let's take care of those problems separately from the drug-free zone. I urge you to take action and we support and we will have student letters coming to you that support the current proposal for extension of the zones and the variances as they're listed.

Katz: Thank you.

Richard Brown: Hi. I'm richard brown, 10 northeast ainsworth. I'm been listening to colin powell because he's real cool talking to these officials --

Katz: Who's that?

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*****: Colin powell.

Katz: Oh, I thought you were referencing jim hayden as -- [laughter]

Brown: No, no, no. And I thought if I could maintain some of his composure I would get through this. But after listening to y'all talk for the last 15 minutes, it just went out the window. If you want to know what's going on out there, erik, go to the piedmont, go to maple mallory, go to 18th and sumner, go to 17th and alberta, 9th and alberta. Go to sixth and -- if you want to know what's going on out there. Go to beech and mallory. Go to beech and garfield. Coming over here, I drove down garfield. I do this every day, so folks know me when they see me. And they still give me the eye, thinking I might have changed my mind and want to try something. [laughter] there's a lot of stuff going out there, and I am not a lawyer. It put me to sleep listening to y'all talk about it. [laughter] if you really are concerned about what's going on out there, go out there and rent one of those houses, if you're really concerned. There are two women in our community, mrs. Curry and mrs. Allen. They used to come -- they come on a meeting in the community, and they used to have to leave before dark because they live on beech. And they didn't want to go through that gauntlet of thug that's were out there. About three months ago, they started leaving again before dark. Because it's gotten bad again. I want to commend the work that jim and the d.a.'s office have done on this, and you know, I think that they should be eliminated from all the drug-free zones, so I think he's going a long way to make this work. That was one of the things I got at the hearings. People talk and come up with solutions. So I hope we can do that here. I think we need the drug-free zone.

Francesconi: Richard, I respect all that you've done. You've been there on crime much more than I have. But commissioner Sten's concerns are very legitimate. And he has concerns which I share. And commissioner Sten and I have both spent time on those places. So it would have been better if you'd listened to your heart on being more like colin powell.

Brown: No, it wouldn't have been. And I still say, today when you leave here, go down garfield, go down those streets, go to those places that I talked about, because when you go there, you'll see the things that make me not care about whether you stop them the first time or not. The community didn't say, come in there and in your time, fix this. They said, bring the national guard in there because the police can't do it.

Katz: Thanks.

Brown: It's not about whether you have been there. I'm there and I don't see -- I don't see a lot of folks here out there trying to get in front of those guys that are out there selling drugs or using drugs. We wait until they get in the system and then we are concerned about human rights. What about the right of the people who live in those houses? What about the rights of those people who had -- hear gunshots every night, whose children, whose children are being affected by gunshots every night?

Katz: Okay.

Sten: Mr. Brown, let me ask you a question.

Brown: Richard is fine. I'll still call you erik.

Sten: I'll call you mr. Brown, I have since I was a kid. I'm not really -- I appreciate mr. Francesconi's point, i'm not really offended. I think I know what's going on. I don't have any clue what you know and you know more than I do. I'm trying to get at the question, because sometimes when we have these arguments what makes me crazy is that if you have a legitimate kind of question about, is there a better way to do this, so that we don't inadvertently sanction somebody who wasn't the wrong person, you're soft on crime. And i'm not going to get mad, but that's not my position. I have a strong enough self identity to know i'm not soft on this stuff. The question I

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have for you, what -- do you think that when you drive down garfield that -- what percentage of those folks that are the chronic problem fit the description of never having been stopped before? My sense is if you put in a little bit of protection for that, maybe it doesn't happen that often, when somebody gets caught into this that shouldn't have, I don't think you'll miss out on any of the folks you're yelling about. Do you see what i'm getting at? Am I wrong on that? I think those guys are chronic.

Brown: I think so it's bad I don't care if it's your first time. We don't say, it's the first time you murdered somebody? We're going to give you a break. You robbed a bank. We're going to give you a hustle because this was your first time. We don't say that. I don't think we should jeopardize the livability of our communities -- because there are a lot of folks that will do it for the first time. They'll do it knowing oh, if they stop me the first time, I got a free pass. The same way that they come back to the community because the drug-free zone isn't effective.

Sten: If somebody thinking that way, is driving them -- if somebody has that kind of mind-set, is driving them downtown once and handing them an exclusion going to do anything?

Brown: I don't know, but it will stop them from doing it the second time. You are giving these folks a lot more credit than I do. I think folks see the dollar, and they will do it one time. If they don't get caught, they're not going to say, I didn't get caught i'm not going to do it again. They're going to do it again. If you -- if you want to test this, we could invite them over to your neighborhood where you live, and when you get tired of it, you can call me and i'll come and --

Sten: You're going to escalate, and that's not the question i'm asking. I'm trying to figure out did -

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Brown: I don't care: I don't care fits your first time. When you start letting murderers go because they do it the first time, then we can have the discussion.

Sten: I don't think that's --

Brown: I don't either.

Sten: We're in agreement.

Katz: Let's continue. Thank you.

Paul Levy, Chief Attorney, Metropolitan Public Defender: Thank you mayor Katz and commissioners. My name is paul, i'm the chief attorney of the metropolitan section of the public defender. First, i'm here to recommend to you that you amend both of these ordinances to read as follows. A 90-day exclusion terminates upon the dismissal of charges, acquittal of the person excluded or the failure to prosecute. There was a time when this would hardly have been seen as a controversial proposal. Indeed, to this very day, the Portland police bureau's directives require exactly this. If I can read from those directives in part, quote, in the event a criminal case connected to the issue answer of a dfz exclusion is declined or not issued, the exclusion notice is to be voided. And further, it says exclusions will continue to be valid only if the defendant is charged or found guilty of pcs or dcs, drug criminals. Moreover, the city of cincinnati, which adopted Portland's ordinance in 1996, amended it in 1999 to add this very language i'm recommending. Indeed i'm told that officials there are shocked to learn that Portland has not similarly amended our law already. I've checked with the Portland police bureau, and i'm told the directives i've just quoted have not been followed for some time. In fact, I know from my own experiences in reviewing many cases a person's charged with trespass for violating exclusions, that for a long time the police have been issuing exclusions, never arresting under the legitimate and well established definition of arrest, never arresting people or for that matter, initiating any type of criminal prosecution through the issue answer of a citation or other process for either drug or prostitution offenses. The effect of this is twofold. First, we've moved a long way from the original intent and

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purpose of this law, which is to keep people who have been arrested for drug and prostitution offenses and released from jail for whatever reason, from returning to their old haunts while their court cases are pending. That is the acknowledged and stated reason for this law initially. And we've moved completely away from that. More importantly, the requirement of the law that persons be excluded only if they are arrested upon probable cause that they've committed a crime, is being systematically ignored. The police have and will continue to issue exclusions to people for whom there is simply no probable cause to believe a crime has been committed. We see that in the review of our cases, where we're looking at trespass charges, and indeed "the Oregonian" in the year 2000 --

Francesconi: Can we extend his time?

Katz: Go ahead. Not too long.

Francesconi: But this is --

Katz: That's all right. Go ahead.

Levy: "the Oregonian" in a review in 2000, looked at the exclusion practices of the police and found, and I think it's useful to quote from the July 30th, 2000 paper, in the past two years, Portland police have routinely excluded people from zones when there isn't enough evidence to prosecute. And that certainly has been our observation as well. Without the proposed language that I'm recommending to you, outside of the police bureau, there is no one policing compliance with the requirement that there be arrests and probable cause. We've heard about cases reviewed and rejected by the district attorney's office. They never see a good significant percentage of these cases, because there never are charges referred to them. If there's any hope that this law will survive a comprehensive constitutional review, which has not happened to this date, it has to be narrowly tailored to accomplish a compelling governmental interest. And granting for a moment that there is a compelling governmental interest, I ask you, in conclusion, how you can deem this law carefully crafted and consistent with fundamental fairness if police issue exclusions without meaningful outside review. If people suffer exclusion when prosecutors decline cases for lack of evidence. When a court dismisses or a court case is dismissed or declined because of the constitutionally invalid search or seizure, or, as the law currently permits, a person could continue to suffer from a 90-day exclusion even though a judge or jury has found the person not guilty of the alleged crime.

Francesconi: A couple questions. First, now one of your last things you said surprised me, that there hasn't been a complete constitutional review. So you are taking -- I can't pronounce the name, the recent supreme court case didn't do that?

Levy: Absolutely not. The only thing it did was say it is not double jeopardy to exclude a person in a civil proceeding and then prosecute that person later. They did not look at the constitutional at either of these ordinances. And I've read that opinion carefully and closely, and I do not find any support for the contention that defense attorneys like myself would have a double jeopardy claim if the court -- if the council were to include a provision like I'm recommending. You don't need to be a lawyer to read this opinion and come to that same conclusion.

Francesconi: Well, you answered my second question. I perhaps have come to the incorrect opposite conclusion of what you just said. We'll get some -- so you answered my second question. Now, the last question about -- so do you -- I need more help from the policy if -- if the practice that you just described that you say the police are not following, if that practice is actually the practice -- see, that helps me find this in favor of this drug -- exclusion zone, because then I know they're not doing what you're saying, if that's the actual practice. What I'm concerned about, for

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everybody out there, is if officers are arresting and excluding without intending to go to prosecute, then I think we have a problem.

Levy: That's what's happening right now.

Francesconi: That's my last question. So what additional facts or evidence can you give me that that's happening?

Levy: Well, anecdotally from the trespass cases I see, where people are being prosecuted for violating, coming back when they've been excluded, and we look at the circumstances of the initial exclusion, it never went to the d.a.'s office. Nobody else ever reviewed it. I limited -- limited number of cases, these are the ones I supervise folks who have seen, but I have spoken about this at a lot of these neighborhood meetings in the presence of the police and they -- they've as much said it here already. That there is some percentage, and I think it's significant that don't go to the d.a.'s office, in fact what's happening is a really reorientation of this whole approach. It used to be we were trying to deal with the drug problem by prosecuting people for drug offenses. And treating them, putting them in jail, in prison. Now we're just sort of chucking that because of resource problems in the d.a.'s office and in the courts, and say, what we're going to do is give them exclusions and push them someplace else. And they are not being reviewed by --

Katz: You answered his questions.

Saltzman: I want to clarify something you said earlier. You said you found that most exclusion orders that you're seeing, the probable cause is not there?

Levy: In many, yes.

Saltzman: Yet -- commander sizer and her politically incorrect statement said the d.a. Office does review and an overwhelmingly majority find adequate probable cause, but the politically incorrect part was they do in fact don't go on to prosecute often.

Levy: And the d.a.'s office never even sees many of these. What happens is, it could be a group of people are standing together, and one person among them has a dirty pipe. And the police will give exclusions to everyone there. Or -- in fact, none --

Saltzman: It's my understanding all of these get reviewed by the district attorney's office.

Levy: They do not. I'm sure the d.a.'s and the other here will tell you they do not. They never get referred over there. And that's happening I think because of resource problems with the growing number of cases.

Katz: We'll double-check with the d.a.'s. Okay. Go ahead. Jim, would you flag all these issues and david, would you flag all the issues and we'll come back and we'll circle back and get answers to these?

Fred Smith: My name is fred smith. I live on northeast 18th avenue. I'm here of a representative of a neighborhood association. It seems like I was here a week ago arguing in favor of civil liberties. I'm here again with a similar argument. It appears civil liberties are up for sale in the majority of blacks and working class whites do not have the money to buy it. In the years past there was some hope a political entity called liberals could be counted on to protect civil liberties. Not anymore. Certainly the city council will reject the notion that drug-free zones are racist or in any way connected with class warfare. Everyone is being treated equally, right in the law does not discriminate. Both the rich and the poor are prevented from sleeping underneath bridges. But the professional that uses drugs on the west hills is unlikely to be caught not subject to urinal sis tests, and if caught has the money for a good lawyer. The poor are more closely watched. Are lucky to get any legal advice, easily from a public defender and are subject to ua tests if they're lucky enough to have a job. It is an injustice to treat poor differently from the rich. I know it's -- it happens all the time and I have little faith my testimony today will change any of that. Money

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talks and bullshit walks. The poor seldom contribute money to election campaigns and couldn't give much if they did. Fairness requires the law to be enforced equally. The drug-free zones ordinance codifies inequality. If applying the drug-free zone ordinance through all of Portland would be unconstitutional, applying it to targeted areas is denying constitutional protection based upon where one lives. This is unfair, unjust, and just plain wrong. There are roughly 2 million people incarcerated in jails across the united states. Prisons have become a big business. Two-thirds to three-quarters of the people in jail are there for nonviolent drug-related offenses. This costs a lot of money to the taxpayers. Money that could be better used funding schools, repairing roads, or doing many things more useful to society. It is well pastime to consider drugs to be a social problem rather than a criminal problem. Treatment must be free and readily available to all those that seek it. For centuries the american system has considered a person innocent until proven guilty. Our neighborhood thinks this is a good concept and is unconvinced by arguments to change it. We understand the vast majority of people restricted by the drug-free zones are done so by evidence that would not stand up to the scrutiny of a jury. I speak in support of the better people's amendments. I am confident that sabin would support all changes made to the ordinance to make it more acceptable to the courts. Sabin voted overwhelmingly to reject inclusion in the dignity villages and to oppose the policy throughout the city. While we oppose the attack on civil liberties, we do recognize the associated problems with drugs and want the police to respond to them. We remain frustrated that drug houses are routinely ignored by the police despite multiple complaints.

Katz: Your time is up, fred. Do you want to finish your thought?

Smith: Yes. The drug-free zones do not address drug houses. Nor do shifting drugs and prostitution from one part of the city to another.

Katz: Thank you. Go ahead.

A.L. "Skipper" Osborne, President, National Association for the Advancement of Colored

People: My name is a.l. Skipper osborne, president of the national association for the advancement of colored people, Portland branch number 1120. September 21st, 2002, at the general membership meeting of the naacp Portland branch, a motion was made second and carried to oppose continuance of the drug-free zones and -- in residential communities particularly neighborhoods of north and northeast Portland. I not being present at the meeting, it was moved and seconded I speak before and present to the city council a letter detailing the position in regards to dfzs. The naacp is opposed based upon concerns regarding the constitutionality of infringement of the rights and protection of the people. The naacp has received complaints regarding racial profiling and it appears municipal state and federal laws are not deemed equally administered throughout the city. Portland's drug-free zone exclusionary laws has been criticized for their unconstitutionality. Revoking one's right, conviction before sentencing and is noted by "the Oregonian"'s research, too much power is given to the police both to issue the exclusion and to approve the variances for individuals who have been excluded from the dfzs to enter the zones for specified reasons. Research by "the Oregonian" has also shown police have been handing out more exclusion and fewer citations for alleged criminal offenses since a judge ruled giving out both constitutes violation of the fifth amendment double jeopardy. Portland attorney phillip lewis challenged an exclusion -- he successfully argued the ordinance violates the fifth amendment's protection against double jeopardy. Therefore, the city has opted exclusion instead of criminal citations. "the Oregonian"'s research has shown the police use of dfzs as a means to exercise racial profiling 60% of all exclusion were issued to whites yet 65% of the police officers issued exclusions were given to african-americans and latinos. Yes, there are advocates who defend these

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as constitutionally sound. But the burden overwhelmingly falls on the defender to file a written request for a hearing, represent themselves and in most -- and history has taught us that the police officer word is more likely to be taken over the defendant's especially the defendants when the defendants are people of color. We agree with the attorney, the cops are being cop, judge, and jury.

Robin and Scott who wrote the article for "the Oregonian" said, police say issuing exclusion is faster and cheaper to amass enough evidence to make a minor drug charge stick. The NAACP says the police cannot nor will we allow them to be cop, judge and jury.

Katz: Why don't you finish -- you don't need to read the whole thing, but finish the important -- okay.

Osborne: Because something is cheap to do is not sound policy or law to get around the constitutionality of drug-free zone issue we have to be bias against people of color. The NAACP takes position that has been taken by Cincinnati. In there's no underlying charge, arrest, conviction there should nobody exclusion. I'm not going to not finish my letter but I want to say in reference to what I've heard today from Commissioner Francesconi, Commissioner Saltzman and Commissioner Sten, you have hit it right on the nail head. It is the nebulosity of the law we're having a problem with. I ask you to vote in your conscious, and we believe DFZs constitutionality will not stand in court in the court of law and until then, the NAACP is asking the city council to vote against expanding, legalizing or further implementation of the drug-free zone because it has been shown and proven to be another tool to arrest people of color.

Katz: Thank you.

Billy Infield: It's important to say I am a recovering addict. The board does not debate whether or not the exclusion is a good or bad thing or it's constitutionality. However -- and we feel variances are necessary to allow individuals to obtain resources, which is important. But when we look at one element of the variance that allows an automatic variance to happen, we don't feel that it's automatic. And the reason we don't is because once the question is posed to an individual, whether you need to come back again does not make it automatic. When I shift my car into automatic, I don't go by neutral and get approval to drive. And then you look at the individual who the officer is speaking with, and you need to know that the individual is an individual who is undisciplined. This is an undisciplined person. So there's no verification other than a verbal confirmation from an individual to the officer that says, I need to come back. So we have a concern that an automatic variance that allows a person to say I need to come back, sends mixed messages. If there's no verification, there's no confirmation, no validity, and we do not want to trust that. Because we know that a person that has a problem with addictions, alcoholism, drug addiction, is not going to restrict themselves from an area. It's always going to be, we need to come back. I've got to go see my parole officer. I've got to go get my mail. I've got to do this and that. So we don't trust that. We trust that the officers do their best to make sure that when they detain someone, they have probable cause. We put more trust in that than we do the individual who is going to say, yes, I need -- that has just been arrested and has asked the question, do you need to come back. The majority is going to say yes. So we are asking that there be more discussion and consideration around accepting an automatic variance without some verification.

Katz: Thank you.

Doreen Binder, Director, Transition Projects: You can hear me. I'm Doreen Binder, the director of transition projects. Our shelters are located in three areas. One of them is in old town, one's -- two are in the drug-free zone and one is in the prostitution-free zone. Jane's place is in the drug-free -- in the prostitution-free zone, which I want you to be clear, the prostitution-free zone was there before we were. So it didn't come that way. I actually came here this -- it was I think this

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morning, it's now this afternoon, I came here today with a speech, and i've thrown it out since i've listened to the questions i've all asked, and I think they're excellent questions. I'm a little confused about some of the questions. The questions you've asked and my preconceived notions when I came here in my -- and my intent. For all the years i've been at transition projects, which is 71/2 years, every week we get a packet. I had to laugh when -- and remember the packet when you asked how many people are on the list. We got this hefty packet every week. And every week i'd open up that packet and say, my god, and there was these lists and lists of people. We would get the names of the people on the exclusion list. Because we made a commitment to the police and to the city that we would adhere to those exclusions, that we would then make sure when somebody got on the list to come into the shelter, that they had a variance in order to come into the shelter. I'm a little confused because all this time I was under the impression that when people got a ticket, it was an arrest and it wasn't just an exclusion. So i'm a little confused and i'm not sure which side I stand on. But regardless of that --

Francesconi: They were arrests. There's a difference of opinion as to what an arrest means.

Binder: I know. And that's what got me confused, because I thought the exclusion was a ticket, now I understand it not necessarily one in the same. But regardless, I look at the variances and I also understand that the commitment we made to the city, we also made to the people of the community and the people who live in the shelters. We made a decision, our agency made a decision 13 years ago to be a drug and alcohol-free facility. We went in that direction because we understand we believe that people who are wanting to be clean and sober, wanting to get into housing, have a longer road to go and because of that, they need services. And they needed a safe and clean place to be. We made that commitment. We think, and we understand the people coming to the shelter who want a variance, also understand people in recovery understand that they have decisions to make and they have responsibility and accountability in order to maintain that recovery. It's not too much to ask for somebody to get a variance. I think it's a contradiction and a problem to hand out an exclusion and a variance on the reverse side. I think you are sending a mixed message to the community and certainly to the person who is getting the exclusion. And so i'm asking you to keep -- to adhere to the practice as already is. You can hand out the exclusions -- and I have concerns too, what you're asking about, erik, about handing out something the first time.

When I worked in domestic violence, we had a very clear understanding that a first arrest, it was a first arrest and not a first offense. And we had so many times when we went to the police in domestic violence cases where the police would make it much easier on the first offense, but we used to say, it's not a first offense necessarily, it's a first arrest, and that's the difficulty of this decision. But again, i'm asking for you not to send out contradictory information -- messages. Mixed messages. Either exclude the person and continue to ask them to go get a variance and not just turn over the paper. Police officers are not social service workers. I don't think they should be able to make that decision.

Katz: Thank you.

Matt Ableidinger: My name is matt, and i'm from parkrose hardware, way down on sandy at 106th and sandy in the parkrose business district. I'm here today because I believe it's imperative to reauthorization the prostitution-free zones. In the parkrose area the city and state have spent over \$10 million to renovate and widen sandy boulevard. We've built a new parkrose high school and community center, we've rejuvenated the neighborhood association to a productive and positive community group. We have developed the new airport max light rail line, and built the new parkrose park and ride. And tomorrow we will celebrate the opening of the new parkrose sumner fire station. The first building to house both firefighters and community groups under the

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same road trip of. Parkrose business community and its residence are trying to improve and revitalize the area. All of these renovations are designed to make the parkrose business district a destination in the city of Portland where one can shop, dine, and enjoy the -- a beautiful day in the pacific northwest. Unfortunately in parkrose people are shopping for something different. Prostitution continues to inhibit the growth we're all striving to generate. At parkrose hardware we see over a thousand customers walk through our doors every day. These customers are being propositioned in our parking lots, they're being stopped in the streets, and they're being harassed in their daily lives and neighborhoods. As a business owner, it has been vital to be able to call for police assistance and to have prostitutes removed from the premises. It protects our customers and cleans up our neighborhood. As i'm sure you know, prostitution is a growing problem in the parkrose area. The word is out parkrose is a destination for prostitutes and johns to seek each other. From 2000 to 2001 prostitution related arrest and exclusions have increased over 130%. It's not just a problem, it's an epidemic. Additionally in the past few months we've seen a surge of prostitution activity in our area since the setback of state v. Collins. Prostitutes and johns know police no longer have the pow tore effectively stop prostitution. It's further proof these zones are needed to fight this growing problem. Officers need every available tool to successfully deal with prostitution. Please support the business district, the east precinct, and the parkrose community by reauthorization -- reauthorizing the prostitution-free zones. We can all work together to continue to revitalize the parkrose area and make it the destination it was intended to be. Thank you.

Katz: Thank you. Let me go back to the issue both of you raise. Why don't you grab the mikes. We try to accommodate the issues that have been raised by members of the community on the variances to make it a little easier for people to deal with them. You're case you're making is just -- it is surprising, and I want to -- give it back to us again, why you think that they need to go through a much more tedious process for variances, for the variance as opposed to receiving the basic variances on the spot.

Binder: We have people coming to the shelter, we have a waiting list that's exceptionally long at any given time and day. We work with people who are willing to work on their issues and move forward. We expect people to make decisions and to hold themselves responsible and accountable terror the -- for the actions they need in order to move forward. This is one of those accountability issues we want to ask them to do. And we're very willing to be one of those places that they -- and that's what we're asking. We -- and I think billy talked about it very clearly. So the police officer, with good intent, maybe, will say, and where do you need to go? So somebody rattles something off. What does that mean? We've made decisions which is why we -- in many respects we ask -- we intend that our services be outside of our facility a lot of them, because we don't want to make it that easy. We want to make sure somebody is -- somebody is willing to go the distance in order to accomplish what they need to accomplish. There's an accountability issue. And i'm concerned that this is too easy. And there's no proof to it. But it's not only that it's easier, people need to take that step. They need to take that first step. When our board of directors asks me all the time, how do you measure success, we say, it's impossible to say because it's incremental. This is one of those small steps that we're asking people to take in order to get what they need.

Katz: Do you want to add to that?

Infield: There's a good example, when central city concern implemented the mentorship program, which is at tpi also, one of the things we realized is who we were trying to help as an individual once again, that doesn't have what it takes to get from point a to point b without support and assistance. And so when we -- when someone leaves hooper and we expect them to go to the hospital for treatment, this is an expectation that's unrealistic without an escort, without the

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support. And here again, if you arrest someone, give them a variance with the expectation that they're going to go to where they need to go, it is an unrealistic expectation when you look at the person that you are arresting. They have to have support. And you know what else, we're supporting the continuation of a negative behavior and conduct when we give an automatic variance.

*****: Right.

*****: We support that. When the potential for violence --

Binder: Mayor Katz, I understand this is surprising coming from social services. I know that, because everybody is like baffled when we say this. We really -- social service agencies are really there to help somebody move on. We're not there to cover for them. We want to help them. And really what I came here today to ask is that we work as a community to do that. Because I think I - - i'm hearing for the first time some of the issues. I think you're hearing -- you're surprised that we feel this way. It's time i'm asking you to put a community effort together. Some sort of task force that we can work on this. The camping law, the homeless issues, all of those are very tied together. I don't think them as separate issues.

Francesconi: Without getting into all that, I find it incredibly refreshing. It's the notion that we all have responsibility for making ourselves better. So I find -- but I think there's two things going on here. One is treatment and recovery, and you're telling us to make the variances harder. Not harder --

Binder: Keep them the same.

Francesconi: As current. Then there's due process issues which are different than treatment and recovery issues we're trying to address. So we have to balance different things. So you are very appropriate in doing this. But there's some other issues that play here too.

Binder: Which is why i'm sitting in the middle.

Katz: Thank you. Let's keep going. We've got a long list of people who want to testify.

Marc Jolin, Attorney, Oregon Law Center: Hello mayor and commissioners. My name is marc jolin, i'm an attorney at the Oregon law center. As you know, the law center provides free legal services, civil legal services to low-income people in Portland and communities around the state. Our mission is to improve access to justice for people living in poverty. And through that, to improve the quality of their lives. We've heard a lot of people testify already that there's a great deal of concern in the low-income community that the government take effective steps to deal with the problems of industrial-level drug dealing and the consequences. I think there's also a great deal of concern in that same community that the tools that you craft as a government not be unnecessarily broad. That they not sweep up the innocent and not give the innocent adequate opportunity to vindicate themselves of wrongful accusations. And with those ideas in mind, our organization has put forward a number of proposed modifications to the drug-free zones. Hi some I was going to talk about specifically, I wasn't going to talk at length about the variance changes that have been made, which we think go along -- go a long way toward addressing concerns about supporting people trying to do the right thing in the zones. Whether they've actually been convicted of an offense or not. I want to make a couple comments, because I think they've been challenged. It should be clear what the automatic variances are that we're talking about. The automatic variances are for housing if you live in the area, for employment if you already have a job in the area, and for social services, if you're accessing those. You have to specify for the police at the scene what exactly your address is, what exactly the social service agency is that you need to go to, and under the provisions of this ordinance, you're expected to be traveling to and from one of those specified locations at all times. If you're seen not moving towards one of those places and --

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an officer can stop you, or if he believes you're not moving toward one of those places, the officer can stop you, require to see your variance and confirm that you are or aren't going there. I think that the issue of other variances that you may need, it's true that under this proposal an individual can ask for those from an officer, but my understanding is the expectation will be the individuals have to go to a police precinct to make their case for those. So I think it's misleading to say there aren't hurdles that we're not putting expectations on people. The other relevant point is that people need variance if they get a 90-day exclusion. Not just if they get a one-year exclusion based on a conviction. So you've got people you're making go through the variance process who you may have had probable cause to believe committed an offense, but have never convicted. And you have to keep that in mind when you're talking about how easy should it be to get a variance, certainly not everybody who is excluded is in recovery or dealing with those issues. I want to talk -- I want to focus on the question of the adequacy of the civil appeal process. I agree with Paul's assessment of the need for a provision that removes a 90-day exclusion if there isn't prosecution, if the court determines that an individual is innocent. Is that my three minutes?

Katz: It is your three minutes, but we'll give you a little more time.

Jolin: Okay. I'll get to the time -- this is something we do. We're civil attorneys and to the extent we have experience with the drug-free zones, it's in helping people go through the civil appeal process. Right now you're giving people only five days to file an appeal. Typically the hearings office will schedule a hearing within a week to two weeks of receiving the appeal notice. So that means an individual who generally is not going to be represented needs to figure out how to file the written appeal, the legally significant question of what to ask for when filing the appeal, and they need to understand what their rights are going to be at the hearing, they need to develop the evidence, get their witnesses, get the exhibits together, they need to understand the arguments they're going to make at the hearing in order to best represent their case and appear there and contend with a very practiced other side which is generally the city of Portland and the police officer who issued the exclusion. It's not realistic. And our office, assuming folks are even able to get there and legal aid, is very limited resources. At best most folks will receive advice about how to go through the appeals process. The low-income people being excluded are going to be on their own to put these cases together and try to represent themselves. That is not an effective mechanism for giving someone the ability if they feel they didn't commit an offense that they were wrongly excluded and again, this is in the context of exclusions being issued by officers that are never being reviewed, that is not a fair opportunity for that individual. Not just to escape the exclusion, but to get the exclusion off of his record. Because what's showing up on people's record is excluded for possession, for attempted to distribute. Those, as you know, are being looked at by potential employers, by landlords, and they're being assessed as part of whether or not this individual is going to get the job or get the house. It matters to folks whether they have these things on their records and they should have an adequate opportunity to clear their names. And I think by giving a 45-day period, I'm stopping, giving a 45-day period you give that person a reasonable opportunity to put together their case understand their rights and appear within the two-week period after filing the appeal.

Katz: Let me ask you, I know you've made the argument, let me ask you something, how many of those cases do you take on?

Jolin: Many of them were not -- we're not able to because the person comes to us after the appeal period has run.

Katz: Give me a rough idea of how many of those are that actually come to you, whether you can take them or not, because there are -- the five days are have -- have run out.

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Jolin: I've only been in this position for a year. It's not something that we necessarily advertise. It's not a high priority in our office. I've probably had a dozen people approach me about them, and of those, I've actually provided representation in two. Been able to. So -- but the dominant theme is, the individual has more experience with this, but the individual has missed the appeal period, or the individual has filed the appeal and gone before the hearings officer and lost. And the thing that you have to understand from a legal standpoint, this is the one opportunity that the individual has to build a record. And it's also the city attorney's position has been that unless an individual makes a legal argument at this hearing, that is -- that argument is waived for purposes of an appeal to the circuit court. That's not a position we agree with, but this is really their only shot at it.

Katz: Okay.

Saltzman: This is kind of -- you mentioned landlords, employers, and all that could access the Portland police data system.

Jolin: They can't access -- what they can do is require that an applicant present them with their police report. It says you're free to apply but as a condition of your application we need to see your police report. So including the housing authority, which evaluates police contacts and criminal record as part of making a decision about whether or not to admit somebody into their programs.

Saltzman: An individual can request their own information?

*****: Yes.

Sten: With the affordable housing, we recommend that they do as part of the screening. It's part of the city's policy for sure.

Katz: I thought -- the state law allows for the employers to ask for that information?

*****: The state law?

Katz: Right.

Jolin: My understanding is yes. Actually, the folks at central city may be -- they've got employment programs --

Katz: I remember this argument way back, so I wanted to just double-check that.

Woboril: I can't be certain about this. I believe the state law prohibits access to law enforcement data system information. It doesn't prohibit -- if we have information in Portland police data system that isn't lents data, the lents agreement doesn't prohibit release. It's as much as I can tell you right now.

Katz: I know they can't go into it themselves.

*****: But my understanding is they do fairly routinely request it, especially working with low-income people where they have concerns.

Katz: Further questions?

Francesconi: I think you answered it. From the date of the appeal to the date of the hearing, two weeks?

Jolin: I spoke to them this morning. My own experience is they tend to get scheduled within a week to two weeks. I spoke to the person who does the scheduling today, and she said they try to get it scheduled within a week to two weeks. If I represent somebody, I immediately ask and it would be my obligation to ask for a continuance. I think from the -- because you've got to put the case together.

Francesconi: Do they grant continuances?

Jolin: They have in park exclusion cases I've worked on. It hasn't been an issue in the drug-free zone cases, but the issue I think from the city's perspective as well, you -- if you give more time to file the appeal, there's less of a justification for pushing the hearing itself out, and as you know, the

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hearing itself is -- the hearing itself during the pendency of it, the exclusion is suspended. So it's one of the reasons I assume that there's a push to schedule the hearing relatively quickly, because they want to have the appeal go back into effect. Under the current system an individual doesn't get a fair shot of the hearing, if you push the time during which they had to file the exclusion out, the exclusion would be in effect up until the date they filed. They would be better prepared and there would be less of a due process argument about whether it was okay to hold the hearing within a week to two weeks.

Katz: This is an issue I know that was raised by everybody on the council, so we're going to double back with that issue after we hear -- thanks. Okay.

Genny Nelson, Director, Sisters of the Road Cafe: Good afternoon, my name is jenny nelson, i'm a director of sisters of the road cafe. Drug dealers, drug runners, buyers and users abound in the old town chinatown neighbor. They have been there as long as we have. Based in our philosophy of nonviolence, we've always said it is the behavior that is inappropriate and currently illegal. Stop the behavior and you're welcome in sisters and in the neighborhood. A decade or more ongoing ago, sisters started saying that our neighborhood was an open air drug market for a tri-county consumer base. Our neighborhood association said loudly and clearly that we should not be solely responsible for tackling this problem, the only ones trying to address solutions or come up with the resources to back any strategies. When the drug-free zone was introduced in old town-chinatown, anyone who had been here ten years or more recognized the difference. Once upon a time sisters staff would be in our doorway saying in english and spanish, please don't sell, buy or use your drugs here. Stop that behavior and you're welcome. However, sisters has also historically said we're troubled by this ordinance because of its apparent unconstitutionality. Sisters asks you today to ensure the places additional variances will be available, continue to include nonprofits like central city concern, because they are more accessible to our community, so not just the police station, if you will. We ask you to do -- to agree with our position that the 90-day exclusion goes away if no charges are filed. The person is not prosecuted or he/she is acquitted. We ask you to support 45 days as a reasonable expansion of a person's appeal time, and finally, we ask you to consider not giving a 90-day exclusion unless the person has previously been arrested or convicted for committing drug offenses within the zone. A person who repeatedly has shown that they are not deterred by the criminal justice system.

Katz: Thank you. Go ahead.

Andrea Meyer, ACLU Legislative Director: Thank you, mayor, commissioners. Andrea meyer, legislative director for the aclu. As you know, the aclu has opposed and does oppose the drug and prostitution-free zones. We believe they are extrajudicial, that they bypass the required judicial process by allowing police officers as part of the executive branch to take on the role of the judicial project. That said, I want to briefly echo many of the things that both paul levy and mark have articulated today and others in support of the failure to prosecute suggestion that has been made that that requirement be added in. As well as the repeat offender requirement. We have -- as you know, there's been a request for the expansion for 45 days. We think that's essential. Individuals do not know how to access the system. My goodness, lawyers are given far more time than five days. And we think the council should be afraid to provide the opportunities for people to have the opportunity to have a lawyer to -- when they want to appeal the exclusion. And I won't go into it more because I think mark did a good job. I want to continue working on the form that we have seen that we have had some input in already. Because there are still some things that should be I believe improved on the form. And particularly I just want to highlight, I hope we'll have a continued opportunity to work on this, that the fact that you can request additional variances is in

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tiny writing at the bottom. And it does not even have a header. And right below that you're right -- your right to appeal is also in tiny font. Certainly the right to appeal something is a basic fundamental right. And that should be right up there and if it's in there twice, so be it. Because individuals need to know that they have the right to appeal and it will lapse if they do not act on it. Finally, one more point. I just want to encourage one of the other calls that has been made to you for an independent assessment to look at whether the accomplished goals are -- and the unintended consequences of these ordinances, I think it very apropos today I heard a combination of probably at least four or five questions from various commissioners for statistical information, what is really going on with these ordinances that you were not able to get answers to. And I think those are basic fundamental and appropriate questions that we need some third party independent source looking at all that data and fully presenting to not only the council, but the community the ramifications of these ordinances. Thank you.

Katz: Thank you.

Francesconi: I have one question. Go ahead. I've been dying to ask this question. Ever since the idea that our starch still may be unconstitutional. The question is, what grounds did the ACLU fail to raise in the last constitutional challenge? That you think is still valid?

Meyer: Mayor, commissioner Francesconi, I don't believe we did direct representation on that case. I believed we filed an amicus. That case was very limited in which the issue was. Of course a friend of the court brief, we can only address the issues that are already before the court. This person objected to after being excluded --

Katz: You're right.

Francesconi: What was the --

Meyer: It was just double jeopardy --

Francesconi: I understand that, but what constitutional challenge do you think remain to our ordinance?

Meyer: I'm sure Mark is also able to answer that. I think the underlying -- the issue -- the issue of the role of the executive branch, separation of powers argument, and --

Katz: Why haven't you challenged that order?

Meyer: The executive issuing through the law enforcement, issuing what we believe should be done by a court, either pretrial or upon conviction. Which is the exclusion. To be honest, I have not been involved in the details with the organization long enough in terms of those issues becoming before it. We take the cases, as they arrive.

Francesconi: That's fair. My question was unfair.

Meyer: Mark might have more to add.

Jolin: In the Cincinnati -- in the cases that challenge the Cincinnati ordinance and that were ultimately successful, the arguments, some of the additional arguments the court's found persuasive included that one, that in the absence of some showing that an individual posed a particular risk, that they would return to the zone and again, commit a drug-related offense, the government hadn't shown a sufficiently compelling interest to warrant the exclusion from a significant section of the city. That was one of the -- there's a compelling interest in -- as applied to a particular individual who doesn't have -- he can't make some showing of a past history that they won't respect the fact they've been arrested for this offense, and potentially prosecuted for it, that isn't going to be enough to deter them, that the exclusion wasn't -- the other is on the other side of that due process analysis, and that is the significant infringement on fundamental liberty interests that people have to maintain personal relationships and attend worship services and attend political functions. All of which, those rights are all burdened by being excluded from large sections of the city, in particular

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if you're excluded from your own neighborhood, which many people often are. So those are two additional grounds that I don't think have been raised in Oregon courts at least not at the appeals level on which the Cincinnati ordinance was struck down.

Katz: Thank you. How far did it go, the Cincinnati ordinance?

Jolin: The Ohio Supreme Court and the federal district court. Both invalidated it.

Saltzman: I just wanted to respond to Andrea's point about the forms. Although they're a vast improvement, I think they're still very dense and complicated and Chief Kroecker has committed to produce a pamphlet that will be simple, clear, and in English and Spanish explaining what the exclusion is, what it means and how to appeal. Those will be given out at the time the exclusion orders are issued.

*****: That's great, and I would love to see a draft of that. I'm a lawyer and I tend to write things as a lawyer, but I'm able to look at this and try to unburdensome of the legal terms that are in here and make it more clear for people, so I'm happy to help doing that.

Saltzman: The emphasis on simple, and I think we'll have a chance the review that.

*****: One last point, the employment variance in the ordinance talks about the ability to go to work from or for work, you may travel to, from, or for work. And not all that language is in there reflecting what's actually in the ordinance.

Katz: Let me do say, we have time, one of the reasons it's not an emergency, because I know there were a lot of issues that have been raised, however, we are going to make sure that if this passes or anything else passes, that we extend the current law, because otherwise we're going to be without anything for about 30 days. I just wanted to flag that to everybody. Okay. Go ahead.

Jay Issac, Lloyd District Business Improvement District Board: I'm senior vice-president with the Rose Quarter. I'm here today representing the Lloyd District Business Improvement District Board upon which I sit. The Lloyd BID supports the extension of the drug-free zone. Our board works with Wayne Pearson, the Lloyd District Special Prosecutor and we're concerned about the recent increases in drug activity and arrests in Holladay Park and other locations around the Lloyd District. We're aware of how effective the drug-free zone has been in reducing drug activity and believe the extension will improve conditions for those who work and live in the Lloyd District and for the millions of people who from all over the state, who visit the Rose Quarter for entertainment. So for those reasons we urge Council to support the extension of the zone.

Katz: Thank you.

Greg Peden, Portland Business Alliance: Good afternoon Mayor and members of the Council. My name is Greg, I'm with the Portland Business Alliance representing the 1700 members around Portland and the metro area.

Katz: What did you say, Corporate Business Alliance? Portland, okay.

Peden: Sorry. We're not the ones to testify or make comments on the concerns of many that have spoken today about due process or constitutional rights, but I do want to make two points. The first is that we have, as I'm sure there are many businesses around the area that are in the drug-free zones, an example that I want to share with you as a member of our organization, as the Westin Hotel in downtown. It's right across the street from a meth clinic, which is a type of treatment for heroin users. While the Westin has no concern or complaint with the methadone clinic, they do believe in us -- and we agree without the drug-free zone in the exclusion principles behind it, the crime in the drug use in their neighborhood of downtown would be severe and be problematic for their business. I think that's indicative of the solution or the scenario that this represents for our members and for businesses at home. I think that's enough. Thank you.

Katz: Thank you.

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*****: Good afternoon. My name is pamela, I live --

Katz: Your voice is low, get closer.

Pamela Levy: My name is pamela, I live on northwest couch street. I'm right off the corridor on the west side of the zone, and these are just a few of my thoughts. I think it's imperative the zone be expanded to allot the extra policeman power for the northwest neighborhoods, because the only thing that's keeping things under control at this time is the continued police presence, which including the frequent drive arounds and the excellent response time, which generally even on the nonemergency calls is between ten and 15 minutes, most of the time. I personally have kept a log for a period between June 23rd and July 27th where I recorded 26 incidents not all of which required police action, but a lot of which did resolve -- result in having to call nonemergency number and two -- to which the police responded. I believe the ordinance needs to be clear as to what the specific activities individuals can be excluded for, and how broad are the criteria for the exclusions. Drug use dealing, prostitution or promotion of prostitution is clear, but what about noise-related or loitering activities? These are things that happen in my neighborhood. Public drinking and intoxication. I'd like to see the see work more with police to slap the hands of the local bar owners who normally serve alcohol, and it's a big problem in my mind, and what are the bar policies about when they see drug dealing happening in their establishments what do they doing to curtail or exclude 40 their premises. I personally do not think the appeal process should be extended to more than ten days because this -- the exclusion is suspended until the appeal is dealt with. It gives people time to return to the neighborhood and continue their criminal activity. As far as the civil rights, I feel about what about our rights? What about my right to quiet enjoyment of my neighborhood and my need to feel safe? I have personally whacked around my neighborhood on a bright sunny day on Saturday afternoon because it was a hot day, I was wearing a sun dress and carrying my keys and as I came around the corner I was solicited by a man who mistook me for a prostitute. For single women or women in general in my neighborhood, they're walking down the street trying to do their daily business and cars slow down and guys check them out or say things that's inappropriate. I would like to see the city take a more hard line approach. I don't want to see my blocked area turn into a police state, but individuals who come into my neighborhood knowingly and deliberately breaking the law by promoting drug, prostitution or other criminal activity forfeit their civil rights and should be excluded, and the exclusion should continue. I'd like to see something like a three strikes rule apply to people who are repeat offenders, because these people are clearly and obviously not interested in changing their behavior, and I'd also like to finish by saying I don't want to see this become about racial profiling. It's just an unfortunate statistic, my log reflects a lot of the activity happens to be people of different ethnic diversity, some white, some black, but it across the board. It's not about color. It's about people who want to come into my neighborhood and act up and continually and knowingly just be in our face fighting, just everything that's been going on. Thankfully it's more under control, but it's certainly still there. One last thing, last Sunday when I called in a prostitution call, I happened to walk around the block with my cell phone so my neighbors across the street, and that morning they had walked out to find two needles on their front lawn, which they had thrown into the street and which the officer thankfully picked up and disposed of which they came to respond to the call. Thank you.

Katz: Thank you.

Bob Ueland: Hollywood neighborhood association. I'm also board member of Hollywood development corporation and today I'm also speaking on behalf of the boosters. Paul Clark is out of town. We all unanimously ask that the city council renew the prostitution-free zone ordinance.

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This is my second sunset session, so I guess we're five or six years into it. It's caused a complete change in the character of the hollywood district. The citizens, as the lady before us said, are able to have quiet enjoyment of the streets. We have -- and the businesses are able to operate without having to deal with the prostitution business going on in front of their businesses. We don't have the leftover materials that wound up in the gutter or on the sidewalks, left over from the sex trade and/or the drug trade that follows with it. We're able to have a successful farmers market, women, children, customers are able to walk the streets of hollywood and have an enjoyable experience. So if it's been such a good deal, why do we want it renewed? As commander grub pointed out, these people don't go very far away. They're always out there, and for some reason, sandy boulevard is imprinted on the minding of people in the sex trade who come here from all parts of the nation, northwest, wherever they're coming from, they head for sandy boulevard. And so the whole length of sandy boulevard is affected. We happen to be in the prostitution-free zone. We would hope parkrose eventually would be able to get in there too. Because we don't doubt that many people, many of the prostitutes who would be in hollywood probably wind up out in parkrose. One of the things that kind of bothers me, and i'll finish in 30 seconds, is that you've got -- this just comes up in the past week, you've got it tested and settled ordinance on the books. And I sit here today and hear you -- you know, that's fine. It's your -- that's your -- we vote you in to do these things, but I hope you seriously think about it before you make any changes. Since it's -- well, three years on the last appeal, and we've sat out there for months now worrying about -- because our district officers tell us they can't -- they had to change the way they deal with the prostitute situation. So please consider it seriously before you make any changes to what seems to be a legal and successful ordinance. Thank you.

Chip Shields: Thank you mayor Katz, commissioners. My name is chip shields. I am executive director of better people, living wage employment and counseling program for adult probationers and parolees. Located in the heart of the beech drug exclusion zone at 4310 northeast martin luther king. My home is in the elliott neighborhood. I am here in support of the amendments offered by commissioner Sten, drafted in large part by the Oregon law center, aclu, and many in the recovery community. I should let you know of those amendments offered by commissioner Sten, our board had some disagreement on the issue of whether or not an exclusion should be dropped when the conviction or the charges are dropped. So therefore the board does not necessarily -- does not support that amendment. Better people board, including long-time northeast activists is interested in improving the drug-free zones. We would like to see them be more supportive of people who are in recovery from their addictions. For it is our view helping people enter and maintain a recovery lifestyle is the most important thing city government can do to decrease the scourge of drug dealing in our neighborhoods. We cannot arrest our way out of this problem. The main issue for better people in achieving a better balance in this ordinance is extending the appeal time. That's our number 1 issue. The current ordinance allows for only five days to appeal an officer issued exclusion. I've talked to many people on this issue and have yet to find one who believes five days is sufficient for a person, usually very limited means, to decide the appeal and prepare for that appeal. It's been argued the people with real concerns about the validity of their exclusion do have meaningful access to a code hearings process. But the article in "the Oregonian" july 30th contradicts that. Scott and robin concluded that appeals are rare in the past 18 months, just 48 of roughly 1,000 officer-issued exclusions were appealed. 48 of a thousand. They continue when cases are appealed they usually don't hold up. In the past 18 months, eight of the ten appeals that went to hearing were overturned. Some of the overturned case were strikingly similar to case that's were not appealed. So the point they seem to be making is that appeal cases over turned were

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similar to those that weren't overturned. So our view is that to put little more due process in there, making sure we're getting at the heart of the problem, which is the dealers, and I think we have a legitimate reason to do so, particularly in those neighborhoods where I work and live that we should expand the appeal for time to 45 days. We feel that's a reasonable time.

Katz: Thank you.

LC Oddie: I'm here on -- as a concerned citizen, and I live in northeast. I've been living there for years, and what I'm here to say to you all today is that the drug-free zone, it is kind of unconstitutional in a way, and in some ways it's not so unconstitutional. But what I want to say is that the people, most of the citizens that live in northeast is in this zone, they have real major problems on this zone. And in particular, like if, say, for instance, that this gentleman and I was up at the park playing basketball, and I didn't tell this gentleman that I didn't -- I got busted for drugs, and everything else, and the police come along, what you think would have happened when they stopped me? And -- inside that zone itself? When they stop me inside that zone, this gentleman goes to jail too. Because they're not going to leave him out. This is what I get from the neighborhood, and from the people who live in the neighborhood. Just -- they say it's unconstitutional, and they like to see the -- the drug-free zone -- I know you have to have a tool to work with in order to curb the drugs. But for the civil rights of the individuals, I think that's really the problem right here. In the northeast area. I can't speak for other areas. I think it's a civil rights area. Thank you.

Katz: Go ahead.

Art Hendricks: Mayor, members of the council, my name is art hendricks. I'm actually speaking on behalf of frank bird, who had to leave early and asked if I would go ahead and give a report based on an nwda taking up this issue in july. In july they had a meeting where over 120 community residents attended, and the meeting was organized by the crime prevention program, and the public safety committee. They were concerned about the intensity of activity they're seeing in the northwest area between northwest 17th and burnside and the 21st to the pettygrove area. At the meeting they did bring up the issue of the drug-free zone, and over 80% of the people who were there attended supported the expansion of the drug-free zone into northwest area. Based on the increased activity they're seeing and drug activity and prostitution.

Katz: Thank you.

Vicki Sherer: My name is vicky sherer, I work at the church of scientology on 2636 northeast sandy. I'm also the chairman for the kerns neighborhood association. -- kerns neighborhood association. The board voted unanimously in support of the continuation of the prostitution-free zone ordinance. This ordinance is the tool that we have now to deal with prostitution in our neighborhood. We don't want the individuals that are soliciting back in the neighborhood unless they have a legitimate reason to be there. If the reason to be in the neighborhood is solely for the purpose of prostitution, then we do not want them in our neighborhood. As a parent, I don't want my child exposed to this kind of activity and have to explain to them what is going on if they see something like that happening. The ordinance allows our community to be a safer place for the families and the individuals that are living and working in the kerns neighborhood. On an average, from the church we see about three prostitutes a week. We've had one of our out of town parishioners actually was solicited, attempted to be solicited one time, and so we're definitely -- want the ordinance to continue.

Katz: Thank you.

Frances O'Halloran: I'm a lifetime citizen of Portland, Oregon. I live in northeast Portland. And I've walked some of those streets that mr. Brown spoke of with such disdain as a grand matter on a

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daily basis. President skipper osborn spoke of the 14th amendment. It was ratified in 1868 to protect the rights of recently freed people. Former slaves. Quoting from section 1, no state shall make or enforce any law which shall abridge the privileges or immune advertise of citizens of the united states. Nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person with -- within its jurisdiction equal protection of the laws. Section 3, no person who having previously taken an oath to support the constitution of the united states, shall have engaged in insurrection or rebellion against the same or give aid or comfort to enemies thereof. Thereof being, the united states constitution. In Portland police newsletter called the rap sheet, discussion of opposition to civil rights violations is referred to as constitutional gobbeldy-gook, one could wonder whether the author of such a statement is the friend of the constitution. International law, the united states general assembly has defined genocide as any of the following acts committed with intent to destroy in whole or part a nation, ethnic, racial or religious group such as killing members of the group, causing serious bodily harm, or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about physical destruction in whole or part. When deputy d.a. Jim hayden was asked three years ago why the entire city was not a drug-free zone, he replied that would be unconstitutional. However, the city could impede citizens' right to travel in a targeted area to meet a compelling governmental objective. To improve livability. Livability for whom? Our community in north-northeast Portland has been targeted for several years by various governmental agencies. Resulting in the gentrification of the black neighborhoods. Add these drug-free zones to racial profiling, ongoing surveillance of families and children, and targeting the area by hcd for housing nuisance, then revisit the definition of genocide. Chronic perpetration by profiteers of drug activities has not curbed drug use in these zones. Rather our community and our children have been criminalized. You have not and are not protecting our children. You are exploiting them. A higher law is that of truth. Truth never goes away.

Katz: Thank you.

O'Halloran: I'm not through. The war on drugs -- I just have a little bit left.

Katz: Tighten it up.

O'Halloran: Okay. Constantly tweaking this ordinance and waiting it to be successfully challenged in court does not exemplify upholding the constitution. And to those who are profiting from property development, millions of dollars, federal funds, criminalization and exploitation of our community, remember this -- the light of truth glows eternally.

Katz: Thank you. Go ahead.

Helen Sherman: So true. My name is helen sherman, and I am a homeowner in northeast. Not directly in the drug-free zone, because I am lucky enough to live behind nature's. They have a dynamics of their own. And so therefore I get exempted from living in a drug-free zone. But i'm not exempted from the abuse of property developers, law enforcement, kkk, drug dealers, by the way, please not let me forget to show you my kkk letter that I got at my house, and it says it's from the police department. I think the police department has letterhead. But this doesn't. And it was delivered to my porch and I looked at the man who put it there. When he put it there. Those are the kind of things that we are suffering from. It's the property development. It's law enforcement. They're into criminality. In the meantime, I remember when officers are called gang members to task for their behavior when Portland's livability was going nationwide for statistics on this being a livable place. And you know what? Crime curbed. What happened? I don't know. It -- I don't know why they can't do it anymore. And this hearing has failed to address the black market it supports. Maybe the reason you have fear for the black market also. You know drugs, when you

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don't legal eyes something, just like alcohol had a black market, drugs has a black market. And it's causing me and my family great harm. In fact, we don't think we're going to live the next day each day. We all expect it to get killed. Because your tactics on the way you handle this situation is dangerous to our lives. How would you like to wake upper morning and feel that way and having great grandchildren? I cannot walk my grandchildren to school without someone attacking me. I've been living in my house for 30 years, and I don't understand how it is that you're so free and i'm not. If you can expect the 14th amendment to cover you, then am I less a person than you? And if I am, tell me up front and stop sending me these stupid laws that doesn't work and hurt me and my family.

Katz: Thank you.

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

Joanne Ferrero: I'm joanne, 230 east burnside street. I'm here today testifying in favor of the drug-free zones. I'm the chair of the central eastside industrial council's community relation and public safety committee, and i'm the cochair of the business -- the business cochair with our 11-year-old committee policing project in southeast precinct. I was here before 1992 and when -- and I was here when rob mcgraph called and said they're going to put in a drug-free zone down in old town, and you better get the east side involved in it or we'll be chasing all of the people across the bridge over to your side of the river. So that's how the central eastside got included in the initial -- the first drug-free zone. And it's been the most effective tool I would say the police have had to help clear the activity that's occurred in the district. When the criminal trespass law was overturned, the same dealers and prostitutes, the same buyers back in the area because they figured they could come in to our area when they were asked to leave by the police, they would step out and then they would come back in and they're asked to leave again, and then they would step out. So they soon figured out that's what it took to be able to be back in the area. But by creating the proposed central city zone that it would once again be able to stop this traffic from flowing back and forth across the river, and it would include the old town and lloyd district -- lloyd hollywood district areas, so if they were excluded from one zone, that was -- would alleviate the problem of them traveling back and forth across the bridges. I think by allowing the police to issue a variance does answer some of the problems that you had to deal with and putting those together. They can travel within the zone and -- when traveling from place to place, but if they -- law enforcement sees them hanging out in corners or bus stalls, they can arrest them for vie laying the terms of the variance. I guess we would go along with the ten-day appeals process, but 45 days seems like that's a long time to allow someone to continue to operate. I'm hopeful that the legislature found the trespass law can be used, but even if it would do that today, we wouldn't be able to use that until probably 2004. So I think what has been proposed today, the enlargement of this boundary, the variance, and maybe a ten-day appeals process is a good fix, that we could use. I do want to say we've seen signs of redevelopment and revitalization. Recently a very troubled motel, a hotel, and two other hotels have been purchased by people who want to upgrade and bring them up to standards.

Katz: Thank you.

Ferrero: I believe that this drug and prostitution-free zone has been an important element of this development because it helped to create an environment where others would want to invest in our district.

Katz: Thank you.

Sherman: I would like for my letter to be put in the record.

Katz: That's fine. We'll do that.

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Sherman: Okay. And I want you to know also that I don't hate you, I just don't like what you're doing.

Katz: I understand that. We can disagree.

Sherman: We all know that cocaine don't grow in Portland, so somehow or another the skinning and grinning and winking, which the -- when the drugs go past and land in grandma's house, it ain't got nothing to do with grandma.

O'Halloran: Can I add something?

Katz: No, you -- I gave you more than three minutes. Thank you.

*******:** There's no statistics -- I think people have comment order how there aren't any real statistics --

Katz: We'll get back to that. I noted that. I know, we can disagree on issues. It's okay.

Rehelta Drennan, Crime Prevention Specialist, Montvilla Neighborhood Association: I'm here on part of the montvilla neighborhood association. Earlier this spring the neighborhood association received a presentation by the deputy district attorney robin springer regarding the new prostitution-free zone. We would like to thank you for the presentation and inform you we strongly support prostitution-free zones as they were presented to us. We feel the prostitution-free zones are vital to the health of our neighborhoods. Which also includes northeast 82nd avenue. In addition to this, I wanted to add some observation that's come to me routinely from our neighborhood association that's border this zone. These neighbors categorically want to be able to set standards for their neighborhood. They want to be able to say what the character of that neighborhood is going to be like and what the behavioral standards will be. And we cannot separate for the most part commercial zones and residential zones. Backing the businesses along 82nd are residential homes and apartments. There are residential homes and apartments along 82nd. And it's the same for sandy boulevard. And routinely over and over and over again, my phone rings, they're making a contact on sandy, they're making a contact on 82nd. And they're coming on to my neighborhood street. I'm watching them do their business in the car. I'm finding residual stuff from their entertainment activities in the gutter, along my street. They've been confronted by these individuals when they've asked them to move off their residential streets. And have been threatened. So these are people who feel very threaten bide this activity coming into their neighborhoods off of these thoroughfares. A couple of instances, along sandy in the kerns neighborhood association, there are several apartment complexes that lie between sandy boulevard and the freeway. And recent -- in recent months i've done neighborhood watch trainings in those apartment complexes, and over and over again I hear from the women and the men that they're being propositioned on a -- along sandy or along the blocks as they walk to the bus stops. And that the women don't feel safe to go there alone anymore. They only go if they can go as a group or if a gentleman can accompany them. I have another individual who's come to me several times, along 82nd, he's candy happened and he's blind, he depends upon mass transit to take him to work, and in the pouring rain he had to move bus stops twice. The first time because he was being propositioned by a prostitute, and the second time because he was being propositioned by a drug dealer. Neighbors repeatedly report that -- wait. The other thing is neighbors call and they report over and over, I see this person. They give me the same descriptions. They know these people by name. This is blondie. She's up here on the street. I've talked to her. She's making her contacts along 82nd, she's coming into the neighborhood. People are logging this information and then they file the arrest this morning. It's very hard to tell these people then, it was a first offense.

Katz: Thank you.

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

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Jackie Robinson: Hi, my name is jackie robinson, and i'm -- I manage an apartment on north killingsworth. I need the drug-free zone in my area because ever since they put that building there, that's where the drug dealers and the prostitutes hang out. They use my back parking lot to prostitute to do their business back in the back. And the drug dealers stands on killingsworth and deals on the side of the building. I have the jefferson high school students dealing drugs there too. When they built that property they did not build a place for the kids to live.

Katz: This is the blue building?

Robinson: Yeah. When they built that property they did not build a place for the kids to play, so the only area where they can play at is in the back where the parking lot. I've had three shootings, the one shooting gang member shooting and one guy that got shot was drugged inside the building and the kids just went inside and another one somebody shot out two of my windows right next to my office, and then just last -- three weeks ago there was two blood and crisp shooting. When I call the officer, which I have not enforced that exclusion, when I call sits because I am fed up. And I have them -- have been watching that person for the longest -- and I don't want that person back on my property. And if he does, I want him arrested. A lot of my problems also, with the gang members, the drug dealers and stuff, a lot of the problems come to from people has not -- that's not even on the lease that have moved into the building. That's not even supposed to be there. So I mean, if you guys can do anything, I need help, because there is -- i'm just one person that use the front of the building that big old brick wall is out there so the gang members hang out on the wall. They're dealing drugs out of the pizza place, and he won't get involved. I need help.

Katz: All right. Would you let her know where to go tomorrow? Tomorrow is friday, we have the gang meetings. We'll hook you up. That's probably not the right term to use. Go ahead.

Bob Brown, Chair, Parkrose Business Association: I'm bob brown. I'm from parkrose. I'm a property owner. I have a tire center and three commercial rentals on sandy boulevard. I'm directly affected and impacted by the prostitution problem. We have not had the prostitution free-zone run out as far as my properties. So when they have the property, the -- the zone at 112th increases the business at my end of the street. I'm not here for that, but i'm representing parkrose business association. I'm the chairperson for the crime prevention committee. This is the parkrose business association's position on this. They're unanimously in favor of the prostitution-free zones. Parkrose business association's board of directors has met with Multnomah county district attorney robin springer regarding the continued reauthorization of the prostitution-free zone. We believe all aspects of the prostitution must be discouraged, including prostitution itself, promoting prostitution, loitering to solicit prostitution and unlawful prostitution procurement activity. The membership of the parkrose business association looks to the city council the Portland police bureau, Multnomah county district attorney and other government entities to maintain the safe and healthy livability level for our residents, businesses and their employees. Parkrose business association supports council's efforts to maintain improve and sustain the prostitution-free zone as a mechanism to halt unwanted and illegal activities that negatively impact our neighborhoods and business districts. In my circumstances, as businessmen, we are negatively impacted. Very much like brian. We have customers that are propositioned, i'm propositioned, I run the girls off, but it like swatting flies. They come right back. So I think this is really needed and i'd like to see it expanded.

Katz: Thank you.

Kelly Donan: I'm a resident of the laurelhurst district, but i've lived in northwest Portland. I'm a taxpayer and active volunteer in the community and a member of the recovery association project, and a recovering addict and alcoholic with four years of sobriety.

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Katz: Congratulations.

Donan: Thank you. I'm here today speaking as a citizen. I would first like to express I believe the drug and prostitution solution zones to be unconstitutional as they violate the freedom of assembly and association guaranteed by the first amendment of the united states constitution. And the right to travel guaranteed by the 14th amendment of the united states constitution. With that said, I am certainly sympathetic to law enforcement officials on the difficult job they have to try and manage the drug problem in Portland. If you decide to continue to use the drug and prostitution exclusion zones as a method to manage this drug problem, I would ask that you adopt the amendments which have been brought forward by the Oregon law center, metropolitan public defender, aclu of Oregon, as well as the additional suggestions made by erik Sten that I heard him mention today. In order to show that our city is willing to not only listen to its citizens but is willing to work toward the best possible exclusion for everyone. Something this important should not be implemented until a consensus among all stakeholders be achieved to especially include the business community, recovery community, law enforcement, and the neighborhood associations. That's all I have. Thank you.

Katz: Thank you. Go ahead, sir do you mind if we go this way? You were the next person that was called up. Why don't you grab the mic.

Herb Jenkins: My name is herb jenkins. I live at 5415 north albina at the intersection of albina and killingsworth. I'm a security guard for the falcon apartments, which is owned by brian wannemaker. Unfortunately he had to leave. I do patrols at night at the intersection of killingsworth and albina. I deal with this situation every night. I would like to thank roger of the nrt of the Portland police bureau. Chief kroeker, you, the mayor, your officers do a wonderful job. I totally support this program. One of the things that is needed is to involve citizens, the police are way overtaxed for the resources they have, and I think if citizens did more to assist the police, we could all make a huge difference. If you want to see what works, come out and watch me some night. [laughter] it's not a joke.

Katz: You got a date. What do you do? What do you do that we're going to be watching?

Jenkins: Interacting with people who deal crack, prostitutes, homeless, mentally ill, showing people the proper amount of respect that they actually deserve. Some of those people are stranded. Some of them are there on their own volition. They -- I feel it makes them -- they make improper choices, but I think we can deal with those people humanely. There are a lot of people in that neighborhood, and all neighborhoods, that want a decent life. I am paid by brian to do one thing -- guard that building. But I do much, much more. I patrol the entire neighborhood, including pcc, the renaissance market, the furniture store next door, I walk the alleys, I am out there unarmed by myself every night. I have ordinary citizens who ride the buses, the 72 and the 4 who thank me for being out there. They appreciate it. It makes a big difference. All I do is show up. If you've ever had cockroaches in your house, i'm the guy. I'm the light. [laughter]

Katz: Thank you.

Jenkins: I was told you're somebody I need to meet.

Francesconi: Well, I don't know about that part. I'd like to join the mayor. There's been some tense issues here today, and -- but I -- it appears basically we want the same things, and you've said it. You help keep it safe and you help the police do their job and do a good job, but --

Jenkins: The police help me.

Francesconi: Okay. And you're also trying to take care of these folks at the same time. And treat people humanely. I think that's what we all want. So on the question of first -- do you -- you don't

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have any qualms with what you've heard today about how it would be enforced. You feel comfortable that this ordinance is okay, basically?

Jenkins: The ordinance is okay. The only thing that I would say in my observation is that it has been taken to too high a level. And what I mean by that, I was -- as i've been sitting here watching these proceedings, I keep going back to when I was a cub scout and a boy scout. I'm 57 years old. When I was -- I was raised in northern california in a small town and when I was a scout, we used to have this thing called the ground observer core. For people who don't know what that is, we used to sit in this little station that station was as big as this table, and we would sit there with binoculars and watch for airplanes, because pearl harbor had been invaded, it was a throwback from world war ii. The point that i'm trying to make is that citizens made a difference. We all have to get involved in our own lives. And if we're going to wait for the police, the government or somebody else to make laws to save us, it's too late.

Francesconi: Thank you.

Paul Verhoeven, Executive Director, Portland Saturday Market: Good afternoon, council. I'm paul, i'm the executive director of Portland saturday market. I'm going to try to keep this short, because a lot of it's already been said today. But I just want to say, i'm located at 108 west burnside, right in probably the epicenter of where all the dots were on the maps you were shown earlier. I look out my window every day, I see drug dealing literally nonstop. And the change from when we had the drug-free ordinance to now is dramatic. It just can't be stated enough. I really want to advocate the reinstatement of the drug-free zone, the inclusion of the near east side with the downtown zone. I'm troubled about the ease of variances, and I think we need a drug-free zone with some teeth in it. We need the officers to be able to use their professional judgment on who they give those variances to. I think it's important to note when you see these drug dealers, they're sophisticated. They're out there to elude arrest. They're sitting there with the drugs in their mouth. You'll see them doing the deal, but in order to arrest them and get a conviction is very hard. The officers swoop down, tackle these guys, pry their mouths open before they can swallow the drugs. Do they get them? Usually not. I still want that person excluded from my neighborhood. I sit there and watch them do it. I don't think they need a conviction. Often times they're not going to get it. These people are ruining the vitality of the neighborhoods, and I think you owe it to the people who work and live in these neighborhoods to give them a place where they feel safe, where they feel comfortable, where they can succeed. Thank you.

Katz: Thank you.

Jenkins: May I ask a question? When I came in here at quarter to 2:00 there were five people on the list. How did we get so far down on the list? Do you do the list backwards?

Katz: No. What we try to do is balance the pros, the support for an ordinance and those who are in opposition. So sometimes you may sign up and have to wait a little longer.

Katherine Anderson, Crime Prevention Specialist, City of Portland: I'm a crime prevention specialist with the city. I'm here to speak on behalf of susan hamilton with the madison south neighborhood. She regrets she was unable to be here due to a medical appointment. She wants to thank the city for the prostitution-free zone that has been in existence. It has reduced the visible elements of prostitution along northeast 82nd and northeast sandy boulevard. Notice I said reduced, but not eliminated. There's still problems, there's still prostitutes out on the street on 82nd. These are new faces, things don't stay the same. This was part after recent report from the senior neighborhood officer at their last neighborhood association meeting. Why 82nd? Why northeast sandy boulevard? I think it's been pointed out that these areas have -- are historically known to be places where prostitutes are available, where prostitution is taking place, and this is

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my own aside. I think it's interesting that this is probably the same areas where we have the highest concentrations of adult sex businesses on both northeast sandy and 82nd avenue. Susan would like to bring to the council's attention current prostitution-related activity at their last neighborhood association meeting. Continued activity on rocky butte, realizing this is not part of the zone, particularly around 5:00 in the morning and east precinct is aware of this. Also continued activity on the neighbor street. Prostitution solicitation may take place on 82nd avenue, but the activity itself takes place in the residential streets there. So she would -- she urges you to renew it. The prostitution-free zone. If I might have a minute, I would like to talk about the history of how we got where we are. 1992, there were a series of meetings. I know the mayor was there, it was early after she came on, about how to deal with prostitution and the adult sex businesses and what kind of remedies with he to deal with this problem in the city. This week I moved to the new location you're all coming to the dedication tomorrow I hope, the new fire station. Blip. Okay. I came -- I was packing and I have -- I found a box, a whole box full of files on prostitution. And the files are about this high. I thought about bringing them here for impact, and I thought, that's okay, I didn't need to carry them all the way downtown. But what they say is that from that time on, there were many things that were tried and didn't remedy the situation. Copies of incident logs, neighbor reports about activity, a copy of the proposed city ordinances trying to deal with things, proposed legislation on obscenity, I have lots of information about neighbor -- neighborhood and also business watches that were instituted up and down sandy boulevard, the lower burnside area. I have copies of the signs that many businesses had, they're neon pink and they're black and say, report prostitution activity. Call 9-1-1. And you couldn't have gone up sandy without seeing those in just about every business. You know what? All those things, all the effort, all those people didn't solve the problem. We didn't come to this thing about a prostitution-free zone as the first instance too deal with it. I want to remind everybody that there were a lot of other remedies that were tried, and people still were complaining and calling police and do all the things they need to do. We still have the problem. What's worked the best is the prostitution-free zone.

Katz: Let me add to that that if my memory doesn't fail me, officer john skruggs, who was my security officer, long after that, was one of the officers that brought the prostitution-free zone.

*****: Right.

Derek J. Bliss: My name is derek bliss, I help run a security company. We're the largest locally owned private security company in Oregon with patrol officers and private response, and I also serve as the president or chair person for the american -- for the Oregon and southwest Washington area, which is made up of security providers and law enforcement officials. It's a society of membership. I speak on behalf of our properties that we serve from melvin mark, I going on and on. As far as the properties we protect and serve. Marijuana joint, \$10. Prostitute -- \$100. Prosecuting and arresting these offenders thousands of dollars. To keep this drug and prostitution zone in place, priceless. Really. I was -- that was supposed to get your attention.

Katz: That was a joke.

Bliss: Yeah. But it had a very valid equation. And I appreciate your patience this long into it. Like chief kroeker said, it's truly price less to take it away would be. You couldn't put a price on it.

The officers it would take to replace this tool that we use as private security, and there was one officer, I lived -- I would love to hire that officer, it's a good tool we can use. Along with Portland police as private security. Not only does law enforcement use it, but we too can look and know the zones in which we work, our officers can see this is a drug-free prostitution-free zone. And we see that type of criminal activity. We can call and know that we can get that type of response and something will be taking place. Property owners and managers want that as well. We have tools in

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place to help them have a secure and safe environment and living environments as well. I suspect to repeal this ordinance would be much the same as to change the drinking age to 18 the effect it would have. In high school I would have been in favor of that, now looking back that wouldn't be a good choice the same thing as repealing this. The effects would be detrimental and take us back a few years and we certainly wouldn't want to do that. A couple issues people brought up as to whether it's enforced or not. As far as if people are arrested and whether or not it goes to court is a separate issue. It has no bearing on your judgments on your decision of whether or not there should be a drug or a prostitution-free zone. It's whether or not it's being enforced or not. It really, it can be the decision. I served as a commissioner in my small town 25 miles south of here and I know when making decisions whether or not the helmet law was enforced it can't bear on our decision to to make a decision whether or not we are going to treat them a certain way and lastly, someone brought up about getting charging people or not, hiring people because of certain things that they were arrested for. and I just want to refer you to the fair credit reporting act of 1971, and i'm surprised no one mentioned it but i'm sure the lawyers will mention it that you can't discriminate upon the fact of if they're arrested or not. It's only convictions so what they were saying was real a moot point. I appreciate your time and with very little comfort breaks during this.

Katz: Thanks for reminding me of that. It was whether they were arrested. Okay. Anybody else? All right. David, jim, commander sizer. Come on up. We heard a lot of testimony. There is some confusion. Let's go through and clarify some of the issues that you have heard that you think need some clarification. And then we will take amendments if we can get through that today and then I have a 4/5ths I need to bring forward. Grab the mike.

Hayden: I'll take them as they came up. First of all, that there's been no complete constitutional review, I think mr. Levy brought up and I think mark alluded to the fact on the appellate level that's true. Double jeopardy's been cited. There has been a complete constitutional review by the circuit court and I was there arguing and metropolitan public defender was opposing and this was in front of judge marcus. I have the transcript. He ruled that the drug-free zone ordinance on every ground raised was constitutional it doesn't violate right to travel or right to association. I can go on down the list. This was after he was fully aware of the cincinnati decision by judge bloch in u.s. District court of that's what precipitated a lot of the defense position was that opinion. He had that. Not withstanding her position he found completely to the opposite. They found double jeopardy existed in cincinnati. The Oregon supreme court disagrees with him unanimously so for us to follow what cincinnati has done, what their courts have done, I have to say to you that's no indication of what the Oregon courts will do. The Oregon courts will decide on their own merit how they will rule on these zones and, again, thus far, we have had that review. Judge marcus, and it was followed by two other judges, judge weirs and judge freeman. I argued all those cases.

Francesconi: I have one question for both of you and for dave. It's not the freedom of association or freedom of travel or that argument but the argument about no judicial review of the decision to exclude. If I understand it. First of all, that's the one I wanted to ask you about. Are you secure on constitutional grounds on that?

Hayden: Absolutely. That was before judge marcus.

Francesconi: Okay. Can you just tell me why, briefly.

Hayden: Why? He didn't find that was --

Francesconi: I don't care -- well, I do care.

Hayden: State v. James they commented on the fact a hearing, which is what we have before you deprived of your right to go back in the zones, you are afforded a hearing.

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Francesconi: It doesn't have to be by a judge? The hearings officer is okay? Is that what you are saying, too, david?

Woboril: Yes. I feel the same way.

Francesconi: That answered my question.

Katz: Keep going.

Hayden: I'll keep going. I will be as brief as I can. The only thing judge marcus did find against us and this gets into the question why are we going exclusion from one zone only, why do we recommend that? Judge marcus found because the ordinance says the police may exclude you from one or more zones that caused a preemption problem we didn't give guide lanes to the chief how to determine whether to exclude someone from one or more drug-free zones so the reasons why we are proposing from one zone only, I can tell you it's a matter of we felt it was just a fairness issue that we wanted to do it that way and it complied with judge marcus's issue. We can easily overcome judge marcus's issue if the council finds that there are simply migration between the zones and we want, council wants to exclude people from all zones but that answers that question of why as proposed in that manner. Exclusions with prosecution, i've touched upon this. I think it's a double jeopardy problem on top of that. On top of that. I'll reiterate police exclude people on based on probable cause. If it's not prosecuted we declined it because we couldn't prove it to reasonable doubt. Completely different standards. The complaint centers office in the police bureau does their own independent review of all the exclusions. There's an internal review office and they void many excludes based on the fact they don't think there was probable cause for the exclusion. Additionally many of the exclusions that have been seen, prosecution wasn't undertaken, there were a lot of them after judge wittmeyer ruled it was double jeopardy because we told the police at that time we have a circuit court ruling that says either you exclude or you prosecute. The police chose on many of these cases to exclude and not prosecute so, of course, there are at an enormous must number of case for a long time where we didn't prosecute specifically because it was double jeopardy so that's why you saw, there were hundreds upon hundreds upon hundreds of those cases out there. Go on.

Saltzman: Question on that point. When the complaint center overrules an exclusion order, or your office, how does the person know? I don't see any place on this form for name and address and all that. How do they find out when it's been thrown out?

Hardy: The best way we can do it and I wish there was a better way and if you have one, i'm more than happy to consider it. They void it in the computer. So it's not valid. The person doesn't know. It says on the form the person can call, there's a number they can call at any time to check on the validity of their exclusion. 823-info is on the form.

Sten: How many get tossed out?

Hardy: Not a great number. Not a great number.

Sten: And they all get looked at by somebody?

Hardy: By the complaint center, yes, they do. Going on, of significance, I think that's as much as I need unless there are other issues.

Katz: The appeal time line.

Hardy: The appeal time line, we already know that the court of appeals has set the appeal time line is affords due process. They have specifically set that forth. To me the longer that we extend the appeal time line, the longer we will simply continue to eviscerate the effectiveness of this ordinance. If we extend the appeal time line 45 days, someone appeals on the 44th day. When does that notice get sent to the police bureau? On the 46th day? On the 47th day? I can't say for sure but I know that if that happens, if the person files it that day, we are then relying on the code

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hearings officer to make sure the police bureau get that notice on time in the computer right away. Of my sense is that may not happen. Internal system may not be -- may not pick up on that as quickly as we think it will and so --.

Sten: Why would it fail to be more efficient on the 46th day than the sixth day? It's the same system. Right?

Hardy: The exclusion never went into effect.

Sten: Exclusion --

Hardy: The system we have got right now. It doesn't go into effect if there's an appeal so we know the officer looks at an exclusion in the computer he knows this is a good exclusion. Now the exclusion, if say we extend it to 45 days or any time after the exclusion goes into effect, if after that time, the hearings officer accepts the case for review, accepts the appeal, now we have got a valid exclusion in the computer, which coda hearings officer accepts the review at 4:50 p.m. At 5:07 p.m. is back in the zone. The officer doesn't know that because it's not in the computer. It may not get in there for -- I don't know when. But i'm sure it won't happen instantaneously so I think what we are doing there's a potential -- I can't say hall happen -- there's a potential that someone who did file their appeal properly will still be in the computer as excluded from the zone which is potential liability. The other issue with that is, the longer you extend the appeal period the greater the opportunity that more people will be encouraged to appeal. Appealing because you have legitimate basis to appeal, no problem with that, that's legitimate. But now what you are going to see is the longer you extend this period you are going to see people encouraging them to appeal just to appeal. Just to appeal. Hey, appeal because you will get your exclusion frozen. Now you got the coda hearings officer so backed up with appeals all the exclusions are frozen. You heard the officers say these people figure out very quickly how to play the game. They will figure this out very quickly. And this appeal process will no longer be this constitutional due process process it will be, in my opinion, i'm just saying in my opinion it will be abused. And it will -- it will be so abused that the ordinance will no longer be effective once they catch on to doing this. All of the exclusions will be frozen. That's my point on the appeal process.

Francesconi: Do the exclusions not take effect until after the appeal period runs?

Hardy: Correct. They don't take effect until the eighth day.

Francesconi: So 45 day scenario it wouldn't take place until the 48th or 9th.

Hardy: That's the only way to me, that would take care of the one issue that I raised but now you have a person who's been excluded -- obviously can't, you know --

Francesconi: I got it.

Saltzman: I don't think that's what the people are advocating the 45 day were suggesting that the exclusion not take place until the 47th day. I think they're saying it goes into effect but they have 44 days.

*******:** My concerns, I agree with you that's not what they were advocating. I still have the same concerns about it by extending it.

Katz: Rosie-- are you finished? Did you want to add anything? Things you heard?

Sizer: I don't think so. Unless somebody has a question.

Katz: Does anybody have a question of rosie? Of david?

Francesconi: The issue that's concerning me is the one that I was out of the room when you testified. But I came back and I think I got it. It's just what review -- and I don't know if this is for you or chief broker. That most of these are being looked at for probable cause with the idea of prosecuting as opposed to, you know, filing exclusions as opposed to prosecuting, if i'm making

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any sense. I guess I need to know if this order is, if there was an order -- I guess that's my question. Was there an order? And is it still in effect? That's another way of phrasing my concern.

Sizer: I don't think I understand the question. An order to --

Hardy: If I were still in this, there was an order and I believe the order still is in effect. I don't know if it is or not that there's a review of the exclusions. But I think the order said that the exclusion is voided if there's no prosecution.

*****: Oh, okay.

*****: The reason, and but it hasn't been.

Francesconi: It wasn't a good yes so don't worry. I didn't know how to phrase it so I just made it up.

Hardy: That order made sense until judge Wittmeyer ruled that exclusions were double jeopardy. When he ruled exclusions were double jeopardy, we quit following that order because, again, it was tying the criminal process with the civil exclusion and so we have divorced the two. And again, so -- but it should have been reviewed but it never was.

Francesconi: What's the practice?

Hardy: The practice? is that the two are separate processes. The practice is the police do it internal review. They informally discuss with us cases but there's no formal process. They review all of these exclusions on their own and they void them out on their own if they think there is no probable cause. And it's not dependent upon whether we prosecute.

Katz: Let me just -- let me -- commissioner Saltzman has some issues with regard to the exclusion notice. You will have time to work through some of these issues. The size -- i'm trying to pick --

Saltzman: The brochure.

Woboril: Yes, mayor. I've been shepherding the forms. And we expect to make additional changes. The ordinance has proposed includes a substantially similar -- there's an exhibit. And the ordinance requires the police bureau to distribute a substantial -- a form that substantially similar to the exhibit that gives us room to improve it and fix anything.

Saltzman: Well, i'm not talking about improving the form. I'm talking about a separate brochure that is very, very plain, simple english and spanish that really explains the process, the appeal process. I don't think you ever going to accomplish the degree of simplicity needed in this type of a form. I think it has to be a separate brochure that's issued at the same time the order.

Katz: And I think in this memo, the chief has agreed to that.

Woboril: I understand the chief has agreed to undertake that. There will be difficulty --

Saltzman: And how simple to get it you can run it by us.

Woboril: I'll tell you one of the problems the further we stray from this language the more ambiguity in the rules we might create. It's going to be hard to do. But the chief's undertaken that and I will help him and show it to you all.

*****: It's up to --

Katz: Jim will help you.

Hardy: Your point's a good one trying to clarify for people. But what may happen is there will be an argument at trespass trial that now they've got two things to look at. Here they have a pamphlet. Here they have an exclusion. What's important? What's not? They're so confused. That's what we are going to hear at the criminal trial. Your point is a good one, well taken but that's my fear.

Francesconi: Just make them consistent. But on the language here, on the form now, not the brochure, the pamphlet, I agree that the appeal language should be bigger type. I mean that makes perfect sense there so people can see that. So I don't -- I guess that's fairly important to me.

Woboril: Very good. I'm glad to have many cooks put this stew together.

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Francesconi: That's the only ingredient that I care about.

Katz: All right. There was some concern on the time and I think commissioner Saltzman I know had a prepared amendment.

Saltzman: Yeah. I have an amendment to extend the appeal time from five business days to ten business days for both zones, drug and prostitution. I take to heart some of the arguments that have been put forward by Oregon law center and others about a need to really -- I think this is a pretty complicated process. And I think a lot of people are going to need some sort of advice on how to pursue it and whether it's legal advice or other advocacy advice, five business days doesn't seem to be enough time, compared to the relative wait of a sanction of a 90-day exclusion. So I think ten days, ten business days and given what you have said earlier about when the exclusion order should go into effect I would think perhaps the exclusion order should not go into effect until, well -- yeah. 12th day or -- I mean to parallel here you have five days and then takes effect on the eighth day so I would say if we are going to have ten days, ten business days, that it problem shouldn't take effect until the 15 or 16th calendar day.

Hardy: I would -- well --

Saltzman: From when it's issued.

Hardy: I would say it would go into effect the tenth day rather than 15 or 16 days. That would be my take. I agree with you that if we are going to extend it to ten days, we will fall into a trap. My advice to the bureau would be, i'll tell you anyway, council extend the period to ten days, then don't enter it in the computer until the tenth day. Or else you will get caught. So however --

Saltzman: As long as it's close of business on the tenth day.

Hardy: However you think is best to proceed would be my --

Saltzman: Okay.

Sten: You're saying it's just not tactically possible to have it go in effect right away and have an appeal period.

Woboril: It would be if you account for the lag time. If, for instance, the exclusion goes into effect before the appeal period runs, and you let a person know when they file an appeal that it may be, that it will be two days before the exclusion is voided.

Sten: I know that it's like what I think is common sense is being told not but I think that's the common sense way. You exclude them, the exclusion takes part right away and you give them a reasonable period of time to appeal as opposed to what it is now, you get five days but you can come back tomorrow because it's during the appeal period. It makes more sense to me to do it that way.

Woboril: We are starting to get into a difficult area. There are certain formulas you need to apply to the process provided in a purely civil remedy like this. And we have decided, to be safe, to allow a person access to deprivation hearing. As it stands now, before the exclusion goes into effect a person can file an appeal and never have the exclusion apply to them.

Francesconi: I feel more comfortable with that frankly so I would second the amendment with the idea of waiting for the exclusion until after, until the tenth day.

Saltzman: Close of business.

Katz: And you can live, you can live with that, jim? I mean you are the one that, you are the one that -- I know, I know. But he also understands the council wants a little bit of flexibility and I just want to make sure that in he remembers of legal grounds, we are --

Hardy: I think legally you are on solid ground to do that.

Sten: Are we in discussion phase on the amendment?

Katz: Yes.

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Sten: I guess my question to both of the attorneys would be, given yourself some latitude to discuss both policy and legal, are you comfortable that that's the better decision for this council? If you are not comfortable talking about that, from a policy standpoint, a longer appeal period and an immediate exclusion makes more sense to me as a solution for too short of an appeal period than doing it this way because it is ten days, but are you comfortable trying to make those two, understanding the policy benefits of letting the exclusion take place right away? The council is better off with this approach? I didn't say that very well.

Katz: No, yes, you did.

Hardy: Regardless of how you do it I think it's imperative that it is a deprivation hearing.

Woboril: That's been very important to our analysis of the civil side.

Katz: I would prefer your way as well. But I would take their council on -- counsel on that.

Woboril: You give up the ability to immediately affect the behavior. That's a policy issue for you whether to take on that cost.

Katz: All right. Let me, let's try to deal with this through consensus. There is a consensus to environmental protection agency commissioner Saltzman's amendment? Everybody? All right. Then the amendment will go formal the amendment passes. We will need to see it in written form and we'll -- but I think you have got the concept and the issue. All right. Anything else? That the council wants to present?

Sten: I would, I just want to say before I do this you make very clear cases and there's good arguments on all sides. I would move the amendment that the definition for exclusion be modified to people who have been arrested at least twice or convicted once. I think that it's, you know, I think to me that at the end of the day, that we won't see very many difference in who you are arresting or excluding. I think those few times when it is somebody in the first place who didn't do it, which is hard as we try we're not perfect. Might even save us money. We have had lawsuits on these things in the past. And I think at some point, I wish remember which person said it and I'm not going to go on and on because I have talked about this plenty, that one of the citizens today said, you know, the goal here is to get the job done and as much as possible, not unnecessarily push into the arena of civil rights and I think it's unnecessary to say that, we have to have the power to do this the first time that you're arrested, whether or not you get charged, whether or not you have a record and whether or not you ever get convicted on this thing. I think asking for just the modest amount of track record of being stopped and arrested twice, or convicted to show that you are a chronic problem is -- is -- you're not even close to a chronic problem if that's all you have done but it's a way of saying we do take this seriously so I move that amendment.

Katz: Okay.

Saltzman: I will second for purposes of discussion although I think we have discussed it a lot.

Katz: Okay.

Saltzman: For purpose of discussion.

Katz: Do you want to comment on it?

Hardy: Again, I'll just stick by the, I think we get back into the area where we could have trouble that's more akin to a punishment than a civil sanction without knowing what the answer will be. We know at this point the ordinance, or as the supreme court, does not constitute punishment, it's not double jeopardy. If we do it the way commissioner Sten proposes, I understand his point. It's very well taken but I am -- I fear that we will have to argue again double jeopardy, not knowing where they will go with it.

Sizer: I would really like to address this issue because it is a marketplace that we're talking about. And generally, sellers are chronics, buyers can be chronics but often aren't. And so -- but it takes

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both buyers and sellers to have a problem. And I think all of the people involved in the trade should be subjected to the same possibility of exclusion because it is part of a marketplace. The second thing is, I recently heard a conversation by a couple of old town officers about being able to arrest a woman who is very, very crafty, but who is out there every single day, every day. And because we used a special technique with undercover officers, and you know, to a degree targeted her, we were finally able to arrest her after lots and lots of police attention over a long period of time. So I guess your argument that people who aren't -- haven't been arrested before, or convicted before really can't be a neighborhood problem. I don't think that really is borne out in some of the street activity that we actually see.

Katz: All right.

Sten: I got to ask. This woman was not stopped that whole time with anything that would pass a probable cause test?

Sizer: She was very good at secreting the drugs or swallowing the drugs. And so she was very good at what she did. And we were never able to arrest her on probable cause. And believe me, the officers would have if they could have.

Katz: All right. I think we have had enough discussion on this. What's the feeling of the council?

Francesconi: Procedurally I think you should call a vote now.

Katz: Let's do that. Since there was a second, unless you want to withdraw the second. Okay. Let's do a roll call then.

Francesconi: I'm going to oppose this well-intentioned motion for maybe four reasons. On the constitutional side, I think the fact that we have a deprivation hearing and we have expanded the variances and made them automatic, contrary to some testimony, I think that that meets the constitutional test here that we have to be careful about. And so that's the first reason. I guess I have two reasons. The second is that this motion threatens to really undermine, if not throw out, the whole ordinance that I think is an important tool to preserve the quality of life in our neighborhood. I think it for two reasons. One is potentially it does threaten the legal basis. And I can't really judge that myself. It just creates a cloud. And I heard Bob Ueland testify about, we have got something with some certainty, why create a cloud? So that's one reason. But the second is just from a law enforcement standpoint. I just think it makes it very difficult to administer what is a civil remedy, now that we have created it and I think practically it makes it very difficult so for those reasons I vote no.

Saltzman: I'm going to oppose it also. I pretty much accept the increase risk of a double jeopardy argument. It seems to have a lot of merit to it. And also Commander Sizer's point about it does take two to consummate a deal. And this will, in fact, probably let a lot of buyers off the hook. No.

Sten: I think it's unfortunate the council is taking this position. But, you know, I do think the drug-free zones are a good strategy so I think these are judgments calls that people have to think through. As I went back and looked at the record, when the city loses lawsuits is when we hopefully go after folks that we think did something and I think it is easy to make mistakes if you are talking about a buyer. And I think it happens all the time that the most likely place we are going to make a mistake and I have more respect for Commander Sizer than just about anybody I know so your judgments means a lot to me but I think that's the place where mistakes are made when it's a buyer who's got no, that we think exists, but we have no first time we have seen them, first time we have tried to get them so I think we could tighten up. On the constitutionality question, I respect the lawyers a lot. And I read a lot, spent a lot of time with your argument on the recent supreme court case and the part you underlined is the Portland city council's clear intent to

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create a civil remedial action was what drove this thing. We make the intent so if our intent is to put a civil sanction in it the argument that a unanimous supreme court who found us constitutional on this case, if we make it a little tighter, who we are going to give the sanction to, is now going to find our intent was to make it criminal. I just can't figure out that argument. I understand the policy argument. But the idea that the supreme court is going to toss this because it's now a criminal sanction, when what they judge it on was our intent and we are could go it to less people I think is as a nonlawyer, doesn't make any sense. I cannot see a majority of the judges reversing themselves and say, okay, if apply the civil sanctions to less people it is now criminal. I can't get there. So I vote aye and I am disappointed because I think it's, you know, it's something that, you know, I think we lose a lot of support from citizens for good ideas like the drug free zones when we are unwilling to just trim them back a little bit.

Katz: I'm going to vote no. Let me just say that we had received most all of these amendments and he appreciated the work of the people who put them together. And appreciate the council's focusing in on them especially commissioner Sten, on them. And we had adopted a lot of them, we incorporated into this particularly new ordinance. But this I thought had gone too far. We struggle when the court, when we are challenged by the courts on this, on our ordinances and this is a tool that has been very important and critical to the neighborhoods. I don't want to take a chance on this and so I will be voting no as well. All right. Anything else? On this particular -- on these particular two ordinances?

Francesconi: I just want to -- the issue of some evaluation done of the practice of what's actually happening, that issue was raised. We haven't talked about it. But i'm interested in that. I want to see how this is actually being applied with more detail. And it is an appropriate role for the city attorney to look at this. And I really want to see this myself. Just the practice of how it's being applied. The statistics, how far it's going, how many are going to prosecution, even the racial profiling issue. This is something that we have to monitor. And I would feel more comfortable if the city attorney was also playing a role. It's just because of a check and balance system which is the basis of our constitution. It's not because I have any doubt about the officers.

Item 1177.

Katz: I think that's a good suggestion. The reason there's no emergency ordinance because, first of all, I really didn't know what the outcome was going to be if we had an emergency ordinance, but we wanted to give the ability for the training of officers under the new, the new language of this ordinance and give it 30 days. However, our current -- not prostitution, the drug-free zone ordinance will expire prior to this one going into effect. And so since i'm always reluctant to make a motion under roberts rule of order let me pass this on. And so we need to consider 4/5. So in order to consider the 4/5 I will move the suspension of the rules by making the following request. bring forward a new ordinance therefore I move to suspend the 4/5 rule which requires the 4/5 items to be filed by the council clerk no later than wednesday at five p.m. So is the council supportive of that?

Francesconi: Yes.

Katz: Okay. Commissioner Sten?

Sten: Yes.

Katz: Thank you. If we do that then we bring forward the ordinance that dave will explain in a second.

Woboril: The ordinance very simply allows the current drug free zone authorization to continue for another month to close the gap between its expiration currently scheduled for the 8th of October and possible passage by Council of the new zone next week on Wednesday. If council authorizes

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new zones they will take effect on November 1st. The ordinance covers the gap on October 8th and November 1st.

Katz: Okay, anybody want to testify on this. Roll call.

Francesconi: Aye. **Saltzman:** Aye. **Sten:** It makes common sense not to have a gap. Aye.

Katz: Aye. [gavel pounded] if you recall, we extended the prostitution-free zone. We were negligent in adding the drug-free zone to that. All right, everybody. I think this was very good discussion. Some legal issues have come up, clarification, and I think the requirement for us to begin taking some monitoring efforts on this, so that when you come back next year, we won't have the same question. And jim, thank you for all your work on this. It's almost become a full-time job to defend it and to write it, and to educate. So really appreciate your work. Okay. We stand adjourned. [gavel pounded]

At 6:06 p.m., Council adjourned.