



CITY OF  
**PORTLAND, OREGON**

OFFICIAL  
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 2ND DAY OF OCTOBER, 2002 AT 9:30 A.M.

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

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

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

<b>COMMUNICATIONS</b>	<b>Disposition:</b>
<p><b>1178</b> Request of Terry Prather to address Council regarding the Sit/Lie/Stand regulations (Communication)</p>	<b>PLACED ON FILE</b>
<p><b>1179</b> Request of Jacose Bell to address Council regarding the Sit/Lie/Stand regulations (Communication)</p>	<b>PLACED ON FILE</b>
<p><b>1180</b> Request of Jill Howdyshell to address Council regarding the Sit/Lie/Stand regulations (Communication)</p>	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>	
<p><b>1181 TIME CERTAIN: 9:30 AM</b> – Accept Portland Emergency Preparedness Council report update on terrorism preparedness (Report introduced by Mayor Katz and Commissioner Sten)</p> <p><b>Motion to accept the Portland Emergency Preparedness Council Report update:</b> Moved by Commissioner Saltzman and seconded by Commissioner Sten.</p> <p>(Y-4)</p>	<b>ACCEPTED</b>
<p><b>1182 TIME CERTAIN: 10:00 AM</b> – Audubon Society 100<sup>th</sup> Anniversary (Presentation introduced by Commissioner Francesconi)</p>	<b>PLACED ON FILE</b>

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<p><b>1183</b> <b>TIME CERTAIN: 10:05 AM</b> – Declare the importance of the film and video industry in Portland’s economic development strategy, develop competitive regulatory policies, fees and service level by the City and coordinate with other agencies in the region (Resolution introduced by Commissioner Francesconi)  (Y-4)</p>	<p align="center"><b>36098</b></p>
<p align="center"><b>CONSENT AGENDA – NO DISCUSSION</b></p>	
<p align="center"><b>Mayor Vera Katz</b></p>	
<p><b>*1184</b> Pay claim of William Ollenbrook underinsured motorist coverage (Ordinance)  (Y-4)</p>	<p align="center"><b>176935</b></p>
<p><b>*1185</b> Authorize a contract with Ball Janik, LLP for legal services related to the City spectator facilities (Ordinance; waive Code Section 5.68)  (Y-4)</p>	<p align="center"><b>176936</b></p>
<p><b>*1186</b> Extend Legal Services Agreement with Brown, Reavis &amp; Manning, LLP for outside counsel (Ordinance; amend Contract No. 31627)  (Y-4)</p>	<p align="center"><b>176937</b></p>
<p><b>*1187</b> Extend Legal Service Agreement with Beery &amp; Elsner, LLP for outside counsel (Ordinance; amend Contract No. 33069)  (Y-4)</p>	<p align="center"><b>176938</b></p>
<p><b>*1188</b> Extend contract with Miller, Nash LLP for outside counsel requirements (Ordinance; amend Contract No. 34146)  (Y-4)</p>	<p align="center"><b>176939</b></p>
<p><b>*1189</b> Extend contract with Tonkin Torp, LLP for outside counsel requirements (Ordinance; amend Contract No. 34446)  (Y-4)</p>	<p align="center"><b>176940</b></p>
<p><b>1190</b> Grant a ten-year property tax exemption to Pearl 2002 LLC for new multiple-unit housing on the full block bounded by NW 9th and 10th Avenues and Hoyt and Irving Streets (Ordinance)</p>	<p align="center"><b>PASSED TO SECOND READING OCTOBER 9, 2002 AT 9:30 AM</b></p>
<p><b>1191</b> Grant a ten-year property tax exemption to Lloyd 2002 LLC for new multiple-unit housing on the full block bounded by NE Wasco, 3rd, Multnomah, and Martin Luther King Jr. Boulevard (Ordinance)</p>	<p align="center"><b>PASSED TO SECOND READING OCTOBER 9, 2002 AT 9:30 AM</b></p>
<p align="center"><b>Commissioner Jim Francesconi</b></p>	
<p><b>1192</b> Set hearing date, 9:30 a.m., Wednesday, October 23, 2002, to vacate a certain portion of SW Davenport Street and Crown Avenue near SW Chelmsford (Report; VAC-10007)  (Y-4)</p>	<p align="center"><b>ADOPTED</b></p>

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<p><b>*1193</b> Authorize grant application to the Bureau of Justice Assistance for the Crime Prevention program in the amount of \$250,000 for gun violence prevention, community outreach and education (Ordinance) (Y-4)</p>	<b>176941</b>
<b>Commissioner Dan Saltzman</b>	
<p><b>*1194</b> Contract with Central Northeast Neighbors for \$749,465 for bulky waste collection events and provide for payment through June 30, 2005 (Ordinance) (Y-4)</p>	<b>176942</b>
<b>Commissioner Erik Sten</b>	
<p><b>*1195</b> Extend the term of a temporary, revocable permit for an additional twelve months (Ordinance; amend Ordinance No. 175757) (Y-4)</p>	<b>176943</b>
<p><b>*1196</b> Extend term of AT&amp;T long-distance telecommunications franchise (Ordinance; amend Ordinance No. 162822) (Y-4)</p>	<b>176944</b>
<p><b>*1197</b> Extend term of temporary, revocable permit granted to TCG Oregon (Ordinance; amend Ordinance No. 173990) (Y-4)</p>	<b>176945</b>
<p><b>*1198</b> Apply for a \$95,000 grant from the Federal Emergency Management Agency for Portland Fire and Rescue (Ordinance) (Y-4)</p>	<b>176946</b>
<p><b>*1199</b> Authorize agreement with Cascadia Behavioral Healthcare, Inc. for \$80,000 for the acquisition, rehabilitation and development of affordable rental housing and provide for payment (Ordinance) (Y-4)</p>	<b>176947</b>
<p><b>*1200</b> Amend agreement with the Community Energy Project by adding \$945 to purchase a second High Efficiency Particulate Air vacuum and provide for payment (Ordinance; amend Contract No. 34324) (Y-4)</p>	<b>176948</b>
<b>City Auditor Gary Blackmer</b>	
<p><b>*1201</b> Assess property for system development charge contracts and private plumbing loan contracts (Ordinance; Z0740, T0065, K0052, T0066, K0050, P0062) (Y-4)</p>	<b>176949</b>

At 11:06 a.m., Council recessed.

**OCTOBER 2, 2002**

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

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

Commissioner Sten arrived at 2:05 p.m.

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

	<b>DISPOSITION</b>
<p><b>1202 TIME CERTAIN: 2:00 PM</b> – Appeal of Centennial and Pleasant Valley Neighborhood Associations against Hearings Officer’s decision to approve the application of the Portland Bureau of Water Works for a conditional use master plan with environmental review and adjustments for water and park-related developments on Powell Butte at 16198 and 15800 SE Powell Boulevard (Hearing; LUR 00-00414 CU MS EN EV AD)</p> <p><b>Motion to approve Hearings Officer's decision with additional conditions listed in the applicant's supplemental materials dated October 2nd, and modification on the pedestrian path:</b> Moved by Commissioner Francesconi and seconded by Commissioner Saltzman.</p> <p>(Y-4)</p>	<p><b>APPROVE HEARING OFFICER’S DECISION WITH CONDITIONS. PREPARE FINDINGS FOR OCTOBER 30, 2002 AT 2:00 PM</b></p>
<p><b>Mayor Vera Katz</b></p> <p><b>1203</b> Amend Code to increase availability of variances, again designate drug-free zones, reduce penalty of violation, conform language with 14B.30 (Second Reading Agenda 1175; amend Code Section 14B.20)</p> <p>(Y-3; N-1, Sten)</p>	<p><b>176950</b> AS AMENDED</p>
<p><b>1204</b> 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 (Second Reading Agenda 1176; amend Code Section 14B.30)</p> <p>(Y-3; N-1, Sten)</p>	<p><b>176951</b> AS AMENDED</p>

At 4:17 p.m., Council adjourned.

GARY BLACKMER  
Auditor of the City of Portland

By Karla Moore-Love  
Clerk of the Council

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

**OCTOBER 2, 2002**  
**Closed Caption Transcript of Portland City Council Meeting**

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

Key: \*\*\*\*\* means unidentified speaker.

**OCTOBER 2, 2002 9:30 AM**

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

**Francesconi:** If I had the fire bureau, I would have been here on time. Here.

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

**Katz:** Mayor's present. Let's start with communications. 1178.

**Item 1178.**

**Katz:** Come on up.

**Terry Prather:** Good morning. My name is terry prather. I'm a homeless person. First of all, I am not a nuisance. I am a human being like you. This ordinance is a nuisance because it is not a solution. Suppose you were homeless and doing your best to find work or keep a job and you get a ticket. Do you comply with the courts, lose your job and stay in the system? Better way would be to have a day shelter where people could have a shower or bathroom to use and feel safe to leave their property to look for work and improve their lives. This would be a workable solution.

Another would be a more affordable housing, both single rooms and for families. I've been away from Portland for about two years and I have noticed more older and younger people with kids and even some with mental and physical problems on the streets. So to me it's a growing problem.

**Katz:** Thank you.

**Prather:** We need solutions.

**Katz:** 1179.

**Item 1179.**

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

**Katz:** Good morning.

**Jacose Bell:** My name is jacose bell. I'm here to speak on the sit/lie obstructions as nuisances law. I found it deeply troubling that our homeless citizens are seen with discompassionate eyes, labeled as nuisances by members of our city government and press. That our leadership is made more uncomfortable by the sight of homelessness rather than the causes of homelessness I find even more disturbing. If the pedestrian and business constituencies do not wish to deal with the unsightly realities of homelessness, then perhaps homeless persons -- then perhaps the \$5 the downtown business community invested in the ice skating rink to monopolize pioneer courthouse square would have been better spent on affordable housing or a community center for homeless persons to sit down and rest their weary feet. It seems that as we head into the season of giving, Portland city council places more importance on winter wonderland tourist attractions and expensive christmas lighting than it does on its least fortunate community members. Rather than exercising the courage to face the problems of homelessness with compassion and humanity you've gone the way of willie brown and cities like new york and san francisco. Shame on you for not having the political will to do differently.

**Katz:** Thank you. 1180.

**Item 1180.**

**Jill Howdyshell:** My name is jill howdyshell. I volunteer with the cascadia forest alliance. In the past few weeks we've been organizing events to urge senator wyden to vote on legislation that would protect native forests. We've used a variety of techniques to send a message to wyden's

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office, including two peaceful rallies, a call-in day and overnight vigils. On our second overnight vigil, september 16th, 2002, we had a dozen environmentalists bundled up in hats and blankets to keep warm and dry from the pouring rain. At 10:30 p.m., six Portland police officers arrived on the scene and told us we would not be able to sit or lie down on the public sidewalk out of senator wyden's office. They also would not let us stand underneath the overhang. We were told we could not have sleeping bags or blankets on the sidewalk and we'd have to stand all night to complete our vigil. The officer threatened to arrest us if we did not move our belongings within 30 seconds. We stopped our vigil and began a new struggle to speak out against the sit/lie ordinance, which takes people's rights to peacefully protest as seen in our situation. Coming under rosie sizer with the Portland police force has ensured that political events are exempt from this ordinance. But our event was shut down. The new revisions to title 14 were done without public comment. We demand that the assault on our civil liberties stop and the new revisions to title 14 be abolished.

**Katz:** Thank you. Just for clarification, there were no new revisions to the ordinance. The ordinance wasn't changed at all. Just for clarification. But I understand your point. Let me just add, I usually don't make a comment. I need to clarify with dave when he comes back with regard to when does a protest in an event end and when does camping on the street begin? Okay. Consent agenda. Anybody want to remove an item off a consent agenda? Any member of the council want to remove an item off the consent agenda? Roll call on consent agenda.

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

**Katz:** Mayor votes aye. [ gavel pounding ] time certain, 1181.

**Item 1181.**

**Katz:** Let me just say before we bring everybody up, we had an interesting meeting of lip sick yesterday where we heard information from everybody, from every place, from every jurisdiction, from every interested person, on this issue. And it was -- it was a very good educational opportunity for us to clearly understand what our jurisdictions are doing. There was a little bit of concern about beginning to knit all the pieces together. And I think around that table, or other tables, that can easily be done. We were talking about how we think we could accomplish that without having another big exercise or not. It's basically for the heads of all of these agencies, including dr. June working on the health issue, to understand how all of this is going to be integrated and who is the point person at different times from an incident to recovery. So having said that, let's begin, then.

**Carl Simpson, Director, Bureau of Emergency Communications:** Good morning, council. Mayor Katz. My name is carl simpson, the director of the bureau of emergency communications. Last october council crafted an ordinance directing chief wilson and the Portland office of emergency management to evaluate our responsibility to respond to and recover from a large-scale public safety emergency. Well, during the past year, we've pulled together a diverse and very capable team of city, county and private sector representatives to assess the rose city's level of preparedness. And provide directions for improvement. We're here to give you an update of our activities since we last met in may. In short, we're in a good position and the level of interaction -- excuse me -- the interagency cooperation has never been better. Our greatest strengths are the exceptional relationships that exist across the various boxes of the organizational charts and the level of cooperation between the participants. Our greatest challenge is the gap between the participants' needs for funding, training and equipment. But we have some exciting gains to report here to you today. With me are members of Portland emergency preparedness council, and we're here to report the progress of our cross-functional teams. To my right, assistant chief derrick foxworth and his associate assistant chief greg hendricks will provide status of police bureau's activities. Doug mcgillvry, director of emergency management, Multnomah county, will provide an update on the work he's been doing. Joining us in a few minutes will be dr. John jui, and steve muir, manager of emergency management for the fire bureau, each with a status update from their

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areas. Frankly we've been busy since last spring. Subcommittees have formed. We're adopting best practice activities from ours and other organizations, and prioritizing future activities. Facilitators have been assigned to some of the teams to help better determine our direction and we're currently working to address issues and challenges in the four areas of our greatest concern. And those are -- communications, building security, our recovery efforts, and the training and equipment piece. Each of these subcommittees have similar charters. Determine the capabilities required in response mode, identify what can be done currently to maximize our capabilities, and then to prioritize our current and future activities. I'm going to give you an update on what the different subcommittees have been doing. Communication team has been addressing interoperability issues, developing an infrastructure, completing a family notification program and placing an emphasis on the hardening of strategic facilities. The building and securities subcommittee is developing a response matrix based on state, municipal threat levels, preestablishing contracts with vendors of choice who we will call to respond to assist us and determining a citywide approach to building access where appropriate. The recovery team is evaluating critical and noncritical personnel and facilities systems and process issues in both internal and external short-term and long-term time frames. They will begin the preplanning effort that the make our recovery period shorter and as effective as possible. Finally, the training and equipment subcommittee will be making recommendations for internal and external training exercises that will directly correspond with the needs identified by the other subcommittees, as well as those needs previously identified. Maximize our internal training resources, improve public awareness, conduct media training, provide community planning training and tailored training for responders, administrators, and our community leaders. Our priority for equipment remains to be protective gear for the first responders.

**Katz:** Carl, before you go ahead, I identified an issue regarding radios and the fact that in some buildings they're very difficult in operations. Have we identified specifically those buildings that potentially would be targeted buildings and seeing what we can do, by installing -- what do you call them? Repeaters?

**Simpson:** Repeaters.

**Katz:** -- repeaters in those buildings.

**Simpson:** No, I can't speak specifically to replacing more repeaters in those facilities, but we're aware of which facilities cause us our greatest problems.

**Katz:** Let me flag that as an issue you need to address. The other one I remember hearing was the radios with schools, and that you're not being on the same frequency. I may not be accurate in that.

**Simpson:** I'll check into that, but I do know that we have school resource officers on frequencies.

**Katz:** On our frequencies?

**Simpson:** Right.

**Katz:** Okay. That's something else that probably needs -- that goes back to the issue of communication. Okay.

**Katz:** I mean, there are two levels of communication. One is a technical, do you have the equipment that works and matches with each other, and do you have kind of the system of communications, how you communicate with one another and who's on first. Okay?

**Simpson:** All right, thank you.

**Katz:** All right.

**\*\*\*\*\*:** Derrick?

**Derrick Foxworth, Assistant Chief, Police Bureau Operations Support:** Good morning, mayor Katz, members of the city council. My name is derrick foxworth. I'm a member of the Portland police bureau. I currently serve as assistant chief of the operations support branch. Myself and the captain are here this morning to share with you some of the prongs and efforts that the Portland

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police bureau has undertaken to prepare ourselves to deal with any terrorists or natural disaster event that may occur in the city. I have six areas that I want to share with you. I've been following those updates. Captain Hendricks is going to talk with you about something we're excited about, the project called the national center for decision-making. To begin with, the Portland police bureau, we're requiring all of our command personnel, including lieutenants and above, to attend a mandatory incident command training. This training is a four-hour training taking place on two separate dates -- October 15th and November 26th. The training is training that is -- is common between all emergency responders. The concepts of command, operations, planning, logistics, finances, and unified command that everyone should be familiar with for those people required to make critical decisions out in the field. That's the first thing we're doing. The second step is that we're looking at our emergency operation center for the Portland police bureau. Currently when there's a major event the bureau will establish a command post at one of three precincts. It normally established at center precinct, or at northeast precinct or at east precinct. Recently we've been working with the water bureau and found they have a state of art emergency operations center that is self-contained, has communications equipment, computers, everything that you would need to staff an emergency operations center. The benefit from the water bureau's emergency operation center and what we're currently doing is that the time to activate is much less than what we currently do now. Normally when we activate our command post, we have to identify equipment, bring it to our sight, and staff it with personnel. At the water bureau all that equipment is already there, in place, and the only thing it would require for us to do is identify the personnel, which we have done, and staff the emergency operations center. And that's something that we're really quite excited about. We use the water bureau's emergency operation center during the 9/11 events, and monitored events in the city, and the reviews that we received so far from those who were part of that have been very favorable. The third area is that we're looking at using our 17-member rapid response team in a different way. We're looking at training those people and equipping them so that in the event of a natural disaster or let's say a terrorist attack that they would be one of the first responders to go to an area and they would do evacuations and they would establish perimeter security for a particular area. And this is something that's relatively new. It's something that we're excited about. We would like to provide the training to those personnel and to exactly what they would be required to do as first responders. Secondly, what's also important is ensuring they have the proper equipment, so we don't send them into an area where they'd be exposed to any type of harmful elements. That's one of the other things we're doing. Another area that we're looking at, our own capabilities of being self-sufficient, self-sustaining for three days, 72 hours. The recommendation by many agencies is that not only families and individuals be prepared to be self-sufficient during the first three days following a natural disaster or terrorist event, but not only families and individuals, but also agencies and the Portland police bureau. And we're looking at providing emergency rations of food and water, acquiring that type of equipment, and having it placed at our different divisions and then the precincts, so that if the water source is contaminated or locations for food are limited, that we can at least feed and water our personnel for 72 hours following a natural disaster or terrorist event. The last area is one that, it's kind of a common need for many, and that's the procurement of first responders protective equipment for chemical, biological and radiological gas masks and disposable protective suits. We're looking at using grant monies to acquire that equipment so that we can provide it to members of our explosive disposal unit, first responders, as well as the rapid response team. Lastly, we're looking at ongoing training to test the capabilities of our personnel, to make the right decisions in the event of a major disaster or terrorist event. Some of the recent training that we've been involved in was the red rose exercise, but we also have at least three other training, tabletop and actual field trainings that are planned, beginning in November and going through the summer of 2003. And we think that with this continued training we're going to be able to identify in those areas that we need to improve for the



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Portland police bureau, as well as other agencies. The so those are things that we're doing. Those fixed things are things we're doing at the Portland police bureau at this time. I'm going to turn it over to captain hendricks to talk about the national center for disaster decision-making now.

**Captain Greg Hendricks:** Thanks, chief. Good morning, mayor, commissioners. I'll make my comments brief. The mayor heard this briefing yesterday, and I think commissioner Saltzman a couple weeks ago. Seven -- the leaders of seven institutions in the state have come together over the last few months to develop a national education and training center right here in Portland, Oregon, which would bring senior leaders from local government, state government, and executives from the private sector, right here to Portland, Oregon to develop their critical decision-making skills as they relate to the planning for, response to and recovery from disasters and other crisis, whether they be man made, man-caused or natural. In fact, those leaders have formed a nonprofit corporation for the public benefit that we're calling the national center for disaster decision-making. Those leaders make up our board of directors and i'll mention who they are. Dr. Ron tanman, the director of the hatfield school for government is the board chair. Chief mark kroeker from the police bureau. Chief ed wilson from the Portland fire bureau. Major general allen berger. Daniel bernstein, the president of Portland state university and ron ricer, the superintendent of the Oregon state police make up the board of directors. We're currently in a formative stages of obtaining funding from both the federal government and private sector. This center will be housed temporarily at the hatfield school, but ultimately, we hope in the three years, right here in the city of Portland, we'll have a permanent facility with a residence hall and food service facility attached to it where we'll have people, just as yourselves and people from the senior level from public safety, public health, up to the level of governor, will come here to develop their critical decision-making skills for disasters and other crisis. We'll have a state-of-the-art gaming and simulation center that will put captains like i, who would operate in the field during a disaster or crisis in a virtual world, so we would be faced with in this game or simulation the same situations in an environment that we would be in the field. We'll also have a state-of-the-art emergency operations center that senior leaders from our disciplines and elected officials to train in, much in the same environment that you would have in a real situation, a disaster or crisis. One of the things I neglected to mention that the local public safety coordinating council yesterday when I gave the presentation, was that in addition to providing this needed, critical resource for leaders on a national basis, what will this center do for us here in the local and the regional level? Well, we've offered the regional emergency management group is to have a dual hat responsibility for our state-of-the-art emergency operations center, and that it would become the regional emergency operations center. We do not have a regional e.o.c. at this time, and we believe that's a necessary resource. Because we'll have the very best minds in the country right here in Portland, we're also offering the opportunity to both the city, the county, and all the governments in the region to provide threat assessment, readiness assessment, and exercising as well. We look forward to developing the center. We're excited about it. People at every level of the federal government, including the office of homeland and f.e.m.a., have acknowledged that is a necessary resource, and we hope we we'll have it up and running in Portland in the very near future.

**Katz:** Thank you. We'll hold off on questions. I apologize, I asked carl, a question, until we finish with the testimony. So come on up. Steve, dr. Jui.

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

**Doug McGilvray, Director, Emergency Management for Multnomah County:** Good morning, mayor Katz, commissions. I'm doug mcgilvray, director of emergency management for Multnomah county. I'm here to speak for you just a few minutes on this project we've undertaken called citizen corps. Many of you know i'm sure that citizen corps came about as a result of a proposal made by president bush during his state of the union address and knowing us as all good local government folks do that those kinds of statements are usually followed by some funding. So we elected to

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jump on that particular bandwagon and move ahead with this citizen corps program. We began several months ago with a steering committee, if you will, a citizen corps council, made up of a diverse group of folks from across the county, all cities in the -- all political jurisdictions within the county were represented. Emergency response agencies, civilian groups, noncharitables, faith groups and so on. They've come together to serve as -- as a group that will provide direction to the four elements within this citizen corps program. And those four elements being the c.e.r.t. Program, neighborhood watch, volunteers and police service and medical and reserve corps. I'll take a moment to define those for you. Under the c.e.r.t. program, c.e.r.t. and f.e.m.a. language stands for community emergency response team. We've been going down that road for several years. Portland has a neighborhood emergency program. Under the umbrella of citizen corps, we have come to a point where we agree to proceed with both of those groups under a common agenda and providing some consistency in training. And I might add that that seems to be where emergency management is going all over. Not just here locally, but collaboration, cooperation, consolidation seems to be the order of the day. And this is one place where it seems to be working. Under the neighborhood watch project, we've taken the existing neighborhood watch programs that existed, we've talked to them, they're coming together, they're being led by joe anderson from gresham police, who has been doing this for 20-plus years. The power play for that group is to encourage residents in neighborhoods to be ever vigilant, I guess today would be ever-more vigilant, and to come together and be alert. We know that when people are alert in the neighborhoods the incidence of crime is reduced. The third element is volunteers and police service. Under that program we're anticipating a substantial increase in volunteer activity, volunteers that would be available to all law enforcement throughout the county, all the agencies, all the police departments and the sheriff. Includes reserves, cadets, explorers, citizen groups and so on. And lastly, I think at this particular point in time the star of this program looks to be the medical reserve corps. We're excited about this for a couple reasons. One, we're looking at following two tracks in developing this particular project. One track would follow currently active licensed medical professionals. Doctors, chiropractors, dentists, whatever.

**Katz:** Nurse practitioners?

**McGilvray:** Absolutely. Anybody that is a health professional currently. And those folks would be brought together, those who agree, to serve as surge capacity for the health department. So when we are struck by some kind of incident, whether -- doesn't matter what it is, and the health department and our medical resources are impacted, we have that cadre that can come and move into the hospitals and clinics, health care facilities and provide some legitimate expertise. The second track is focused on retired folks. We feel this has been almost neglected over the years. What happens to people in the medical community who retire? And why don't we have access to their skills? The fact that they're license has expired or is inactive doesn't really seem to be an issue. We have ways -- other places we can use them that don't require licensure, but we can take advantage of their expertise. That's the second piece, is to gather up a cadre of retired folks and organize them into a response unit. The health department has recently applied for a grant to begin this process. We haven't heard if that grant will be successful or not, but at least its beginning. For the overall citizen corps project, we got word just a couple days ago from f.e.m.a. that the state of Oregon has received funds. We don't know how many dollars that is, but there are funds in the state. We're awaiting direction on how to apply and the conditions of that grant. But they'll be used to fund the c.e.r.t. programs, or to help sustain the c.e.r.t. programs, and the neighborhood watch programs.

**Katz:** Thank you.

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

**Katz:** Thank you. Steve, and then dr. Jui.

**\*\*\*\*\*:** Go ahead.

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**Dr. John Jui, Multnomah County Emergency Medical Director:** Good morning, mayor Katz and members of council. My name is dr. John jui, e.m.s. Medical director for Multnomah county. I'm actually pleased to be here today to report to you the updates as far as health preparations for terrorism and weapons of mass destruction. As you all know we've had considerable effort dating back to the grant of m.m.r.s., metropolitan medical response system in 1999. The city of Portland was awarded that grant. We actually started a process of preparing for weapons of mass destruction from a health point of view two years before september 11th, 2001. Basically, if I could summarize where we're at, the best way for you to envision our preparation is to take three problematic areas. One is chemical threats. From that point of view we're well prepared. I'd give myself a 6 or 7 out of 10 as far as a grade. We've put boo process act vacation response with orders, personal protective equipment, decontamination, antidotes as well as transportation to the hospital. We're currently active and deployed right now. There are weak points including personal protection for police. Also, mass decontamination in the community, as well as the hospital and finally hospital training and education and equipment. We have recessed from centers for disease control and prevention a considerable grant in the health department and we just started to receive that as of july 1st. So we've received significant infrastructure and monetary and fiscal support from c.d.c. The second area which we've actually had preparation but we need to revise and update is the area of radiological emergencies. We do have radiation control plan, which is the radiation protection services in the Oregon health division, d.h.s. right now. That plan is quite comprehensive and tracks the movement of radiation through our community. What we need to do from the radiation plan is to look at the medical aspects, in other words persons exposed to radiation and injury. Most physicians, including myself, have not seen a radiation illness, and we probably need to be updated and educated regarding that issue. Finally, I think the most vexing issue, which requires the most work, is the issue of biologicals. I'm pleased to say that dr. Gary oxman and the health department are convening a group starting november-december 2001, which have looked at the biologicals, and we've taken the smallpox epidemic to be our planning process as well as. I'm pleased to announce that the process is well underway. We've divided the process into four portions. One of them is command and control, i.e. Governments. The second one is vaccine, vaccine deployment. The third one is medical care. Fourth one is epidemiology, contact disease and prevention as well. Each of the four county health officers have actually participated in this and the entire effort has been a regional effort rather than a local county-driven effort. Second of all, we've actually created relationships with the hospitals and private providers which never existed before. This has been a very -- relatively difficult task. I'm pleased to say that we're awaiting c.d.c. Recommendations regarding prevaccination issues as well the vaccine plan should the event occur in the next year or two for whatever reason, we probably will be able to respond, albeit, you know, with a lot of rough edges in the near future. I think that concludes my report right now.

**Steve Muir, Emergency Management Coordinator:** Mayor, council, my name is steve muir, the emergency management coordinator for the city of Portland. I'm going to talk briefly about a potential department of justice grant that we'll be receiving, as well as our -- the results of our past exercises. Let me start with the exercises. Several different members have reported today on operation red rose. As you'll recall there were two such exercises. One was the tabletop exercise on january 29th, and then we had the full-scale exercise on may 7th. What we learned from those exercises is that we need to continue to -- to focus on and improve our ability to communicate, to share information between sections at our emergency operation center between bureau e.o.c.s and the e.o.c., between the field and the e.o.c. I believe we do well at that, but we continue to do see that we need to continue to develop continued training and emphasis on how we do that better. Further one of the other areas we learned we needed to continue to address is in the area of decontamination training. We have trained all first responders in how to do the decontamination, but with different equipment coming and with some of the things we saw, we know we need to

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continue that training. And last, we know we need to continue training in the incident command system. Derrick foxworth talked about incident command system training with police. That's an example of the kind of training that our office will coordinate with police to do that. What we're doing to address these issues deals with training. We have several specific trainings set aside for communication flow, for communication linkages, both at the e.o.c. and with other responders. We have section-specific training scheduled for october or november to address these concerns. Lastly i'll talk about this department of justice grant. We're pleased to receive information this last week that we will be receiving \$312,000 in aid department of justice grant through the state. This is specifically for equipment. It's a coordinated approach for grant that the city sought and pursued and we're very fortunate to receive that money. In addition, we expect that there will be another \$4.5 million available to the state. We'll apply for that as a city next year. In conclusion, just want to wrap up that like dr. Jue reported, we've been working on terrorism response, since 1998 and before with chemical and biological defense command grants, with metropolitan medical response system grant, and other department of justice grants. And we've trained to a great degree. We've exercised and we've learned from those exercises. We planned regionally, planned as a cohesive unit. We with believe we have a number of things in place, but at the same time we have a long ways to go and will press forward. The conclusion of our committees' meeting. We have four committees addressed to the specific areas as addressed by carl simpson. These specific committees the will meet one more time in the next few weeks so the next council report will have a complete compilation of those reports, as well as recommendations to council for what we need to do next.

**Katz:** Thank you. Questions?

**Saltzman:** Dr. Jui, you gave yourself, presumably ourselves, a score of 6-7 on a scale of 10 for the chemical preparedness. What about radiological and biological?

**Jui:** Bio probably a 4, 3-4, and radiological, probably a 5, primarily because of the lack of medical training for radiological events. That could be from a programic point of view easily fixed. It is the biological which requires relationships and operations of multiple, both public and private, which is a problem area for us, and we're working hard on that.

**Saltzman:** And I just noticed, looking at our report grade, our overall grade, average score is a b, which is where we were, I guess, six months ago too. But any comments on that from any of the panel?

**Simpson:** I think the more that you -- the more that you learn, the more that you realize you don't know. So it's a bit of a slippery slope. We're learning as we go down the road, getting better every day.

**Saltzman:** One other question. Maybe this is commander foxworth, but when the police use the water bureau's emergency operations center, will that work in a situation when the water bureau itself needs its emergency operation center or in that type of scenario are we activating our own emergency operation center?

**Foxworth:** It's good you ask that question, because that was one of the issues that came up with 9/11. They could be in conflict. We're trying to look at how we can resolve that conflict, to see if there is a possibility that we could have the water bureau e.o.c. as well as a police bureau e.o.c. we don't have the answer to that yet. Something we're still looking at, though.

**Saltzman:** Okay. Is something we could get a report back on the next six months when you come back to us? And my final question, there will be several drills and exercises between now and spring of 2003? I thought --

**Muir:** Yeah, that's correct. We have exercises planned with tri-met. We have owe in terrorism. We also have a large earthquake exercises. It's a statewide exercise the city will coordinate, we'll work as Multnomah county. However though it's earthquake-related specific, it will have very definite benefits for how we operate in a large event. So repercussions for terrorism, too.

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**Saltzman:** Those are the big two that are happening?

**Muir:** Actually two tri-met exercises. The tabletop is in one month. And then a functional exercise next september. So it's actually three exercises.

**Saltzman:** Okay.

**Katz:** Just make sure it's not on wednesday.

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

**Francesconi:** Back on the water bureau, just one question. So is that water bureau facility, will that serve as a backup emergency command center? Am I missing this? Or do we still need a backup emergency command center?

**Simpson:** I'll speak for derrick, because we probably could use that space, too, but we would -- I believe we need dedicated and diverse communications centers to be used for multi-purposes in the event of the 9-1-1 center needing to be evacuated, we need a place to go. It should be a space that bureaus could use in the event they were evacuated from their resources.

**Muir:** As a city with multitudes of bureaus, the water bureau has a facility that's state-of-the-art. On limited act vacations, it would be a good backup facilities, but for large events like an earthquake, potentially terrorism, we do need a designated backup capability, and we're working on that.

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

**Sten:** One question.

**Katz:** Go ahead.

**Sten:** Steve, I just wanted to mention to council that this is steve's last visit in front of us after decades of getting Portland ready. We may go from a b to b-minus just losing you in the next couple of days. My next question is do you have anything you can advise that maybe you wouldn't do if you were still working here?

**Muir:** I'll be honest. I'm going to leave that comment untouched, but doing a great job here and glad to be a part of Portland and Portland fire bureau and Portland emergency management.

**Katz:** Thank you, steve. Other questions?

**Saltzman:** Just one more question, probably to captain hendricks. The national center for disaster decision-making, you mentioned they will have an emergency operation center. And I guess I wasn't quite sure if that was an emergency operations for simulation purposes or actually a center we can use.

**Hendricks:** Actually it wouldn't be much of a simulation center unless it was one that had operational capability. We had a question asked -- would we have a dual hat responsibility to provide the resource to the region only, and we said absolutely. That could become the region's e.o.c.

**Saltzman:** All right, thank you.

**Katz:** Let me make sure that we get a report next time on the radio issues. The communication issues with our radios. I want to make sure we learn from the mistakes in other communities on 9/11, and that was -- that was a sign that there were folks who were just not prepared on some simple things like radio communication between fire and police. And then buildings where you don't have repeaters. Dr. Jui, on the illness tracking, do we have a database that you can track reported illnesses so that you can begin to see a pattern of whether it's biological contamination or radiation contamination?

**Jui:** That's a very good question, mayor Katz. If I could step back, the health department, especially county and state health, receive, I guess, active cases by actually physician or health care provider reporting. That's a classical -- what I call classical standard way of reporting. Over the past four years, the centers of disease control and prevention, in addition to a work group from o.h.s.u., as well as the health division, have worked on electronic reporting systems. Essentially would download data from each emergency departments to the health division, so we could track

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exactly what you're actually asking for. That is actually operational from o.h.s.u.'s perspective. We plan to bring up st. Vincent's. The health division, as well as the county health department is planning that kind of feature, but is not fully operational at this time yet. Just to let you know, we actually expect two natural epidemics that are going to occur through our community this year. One of them is obviously our annual influenza epidemic. The other is the west nile epidemic, which hasn't hit us year, and we'll probably escape it when the rains come, but I expect it to be in full force come spring or summer next year. That would give us an opportunity to track our -- our epidemic abilities as well.

**Katz:** Good. 'Cause that's something we need to get --

**Jui:** Yes. I think we need to have council's support. And there's some issues about hip pa, as well as confidentiality and public health that actually is much more complicated and needs another session as well, but I think we're trying to work around it. We have people working on it.

**Katz:** Thank you. Steve, good luck. What are you planning on doing?

**Muir:** Well, actually i'm going to be working for Washington county emergency management, i'll be their emergency manager. So I won't be far. I'll continue to work on regional issues, including terrorism, and look forward to continued activities to improve the Portland metropolitan area.

**Katz:** Thank you for your years of service.

**Muir:** Thank you, mayor.

**Katz:** Does anybody else want to testify? Okay, thank you. All right, i'll accept a motion to accept the Portland emergency preparedness council report update.

**Saltzman:** So moved.

**Sten:** Second.

**Katz:** Roll call?

**Francesconi:** Well, this is terrific work, and we appreciate that you've remained focused on this. You know, we all want to have an a-plus, but I think -- and it's a little dangerous if we just focus on the grade. The even more important thing is that we continue to improve and learn. And that never ends. So we always want to get better. So from my brief experience with this, we did need to integrate the hospitals and the health system into this. I think our citizens were very safe before september 11th, because of the professionalism of our fire bureau and our police bureau and the training that had already gone on, but i'm not sure that the health institutions were as integrated. So we do have work to do as dr. Jue said, especially on the biological side, to make our systems safe, but I think the overriding message here is that we have a great team who have already built relationships. We can do better, but we're remaining focused on this. And we are as -- going to be as prepared as we can be and we're always going to get better. It's a never-ending process. So thanks for your work. Aye.

**Saltzman:** Will well, this is great work. I'm glad that the council had the foresight to establish this emergency preparedness council about one year ago. I think it's paying off in dividends already. The most important dividend mentioned earlier, I think by carl simpson, was that people are really sort of busting out of the boxes and really learning to operate across the traditional jurisdictional barriers that all too often exist between governments and even within our own government itself. As we've seen in other tragedies, there's just no excuse for that type of behavior. And we have to rise above that. I think we're making a sincere, honest effort to do that, not to say that obstacles still don't remain. From what I understand in the briefing yesterday, that was one of the issues identified as exactly having a clear chain of command, who's in charge, who makes very important decisions that affect the citizens of this region in an emergency and natural disaster or terrorism incident, but i'm seeing good progress here, and I think we need to keep moving forward and I know we'll see you back here in six months. I mean, as I said, when we created this council a year ago, the best thing about this council and the work you're doing now is that you have the undivided attention of this council up here on these matters. And I think that's true in governments throughout the nation.

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Emergency planning has a heightened importance and attention from decision-makers at the top and I think a lot of you know that hasn't always been the case. We need to take advantage of that, keep that situation as it is. So we'll see you back here in six months. Aye.

**Sten:** Well, I agree. I appreciate all the work you're doing. I think it's very hard. I know for me, and this helps a lot, to try and figure out, in the climate we're in, what's a good investment of time, what's not a good investment, and where should we be focusing our energies. I think the collective work you're doing is keeping us focused in a smart way. It's harder to do as time goes on. As you look at more and more issues it's a lot easier not to catch some things than it is to get ready for things. I appreciate the work you're doing. Also wanted to thank Steve again for decades of hard work. We may be losing, but the region is gaining. One of the topics that we've been talking a little bit about before this is how much this needs to be regional as well. I think that's the direction that Carl and the police bureau and everybody is going. I can't imagine we won't be helped by having you at Washington county. We'll miss you, but thanks. Aye.

**Katz:** One of the citizens yesterday asked the question, "well, who is in charge when we have an emergency?" fortunately, and unfortunately, the mayor and the county chair are in charge. Driven by our own code language. So the chair and mayors, whoever they will be, and current chair and mayor, needs these folks to clearly work through their relationships in different local jurisdictions, because we will be counting on their expertise and their ability to touch everybody that needs to be involved so that they can give us their best recommendations so we can act instantaneously when an emergency hits us, whether it's a natural one or man-made. It's absolutely critical that all of you know who is in charge for every aspect of the activity so that we're all -- we're covered, not only through Portland, but the county and the region. I also want to thank the county. They've really stepped up. A couple years ago you didn't really have much at all. So I think it's with your leadership that the county has really come through and been thinking through some of these issues. Okay. Aye. [ gavel pounding ] all right. 1182.

**Item 1182.**

**Katz:** All right. Come on up. We love to celebrate, because we can applaud. That's the only time.

\*\*\*\*\*: Brief time-out.

**Katz:** So you're 100 years old? [ laughter ] collectively.

\*\*\*\*\*: Cumulatively.

**Francesconi:** If I can be really brief in introducing this. First of all, I want to thank the mayor, because we normally don't do this, but because we have such a precious institution in our community that's done so much for our whole city, our natural environment, but our whole city, we wanted to take this moment to recognize you. So it's your mission for Audubon, but you have performed a function here -- I was asking around for some others about, you know, why this is so significant in addition to being 100 years. And it's really because you have taken the lead on urban wildlife habitat and natural areas in the city, even beyond the technical part of your mission for Audubon. It could have been some other institution, but you stepped up on this issue. So as a result of your leadership, Mike Houck, it's also the whole organization. You've provided us with multi-objective goals here, whether we call it multi-objective, green infrastructure, green habitat, you've the leader on this, not only in this city, in the state, in this country. We wanted to take a moment to recognize you.

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

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

**Katz:** It's all yours.

**Mike Houck, Portland Audubon Society:** Is that it? Okay. No, I didn't know if there was actually going to be a reading of the proclamation. As Commissioner Francesconi noted, we actually got originated our work at the national level. In fact, when President Roosevelt, Teddy

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roosevelt, came to Portland one of the first things he said after meeting the mayor and other dignitaries from the city is "bring me bill finley," who in fact was the first president of Portland audubon society and responsible for working with president roosevelt to establish klamath basin, malheur and other natural wildlife refuges. We've always had a presence, but always had a commitment to the city of Portland, particularly nationally working with school children in our environmental education programs. In fact, as a brief historical footnote, there is a reference in "the Oregonian" to the fact that city council had set aside a room specifically as a meeting room in city hall for then the Oregon audubon society, which I found to be interesting. It's no coincidence that our membership, which was about 1200 in 1982, grew to over 10,000 today. That happens to coincide with the establishment of the urban conservation program at audubon society of Portland. People recognized we were making a commitment to preserving and helping improve the quality of life and environmental quality in the city of Portland. And as you noted all of that work has -- you know, we do have our differences of opinion over time, but basically that's been an incredibly cooperative effort, in my opinion. The reason I wanted to be here today with my colleague, director of the wildlife center, ron carly, is basically to recommit to working with the city of Portland, council, your staff and bureau staff, over the next 100 years, cumulatively, and more long term, to continue that record, making a commitment to integrating the natural and build environment in the city of Portland. I wanted to point out that our efforts are going to intensify over the next decade or so. We put a huge amount of personnel work and financial resources into our work over the past 20 years. We're going to actually intensify that. Bob salinger is director of the wildlife care center. We're working together to create a new program, called living with wildlife. We recognize that we have to go beyond the policy work to do a better job of integrating to build a natural environment through the sustainability program with the city of Portland. By the way, I just did return from a month in europe, a week in london. There's a huge amount of interest london. They want to help us launch our greenspaces effort. There's a lot of recognition around the world, in fact, that Portland is a leader on urban greening.

**Katz:** Say it and it shall be so.

**Houck:** Absolutely. Create your own reality. And it was interesting to note that dr. Jui's comments, regarding west nile virus, one of the things we recognize is we can do all we want to protect and restore wetlands. The fact of the matter is we've got some real challenges ahead of us with respect to how we actually co-exist with wildlife in the urban environment. A classic example of that is going to be west nile. The east coast went through some horrific mistakes in our opinion with respect to how they responded to west nile virus. To that end we'll be working with the city, with your staff, and others, in the metropolitan region to put on a mosquito, living with urban mosquitoes workshop in january, to bring experts from around the country to Portland, so we can get the scientific information that allows you, the policymakers, to make good decisions before the issue becomes politicized. We know that there's interested in managing oaks bottom differently, perhaps, from folks concerned about vector control. My point is we'll devote even more resources to trying to work with you and your staff to make sure that we're doing a better job of coexisting with wildlife in the urban environment. So we just want to thank you very much for honoring us in this way. And we appreciate it greatly.

**Katz:** Thank you. You want to add anything?

\*\*\*\*\*: Mike said it well.

\*\*\*\*\*: Yeah, I agree.

**Katz:** All right. I do now have the proclamation. So i'll read it before we formally thank you. "whereas the audubon society of Portland, which was first incorporated in 1902, as the john burrows club, which merged with the Oregon audubon society in 1906, and whereas in 1929 the Oregon audubon society established a sanctuary north of cornell road, which has been the site of a enumerable public programs, the care of injured wildlife and the source of nature enjoyment for



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thousands of Portlanders, and whereas in 1977 the Oregon audubon society officially changed its name to the audubon society of Portland, Oregon, and where as for the past century the audubon society of Portland has worked cooperatively with the city of Portland in many capacities, including but not limited to the following -- establishment of forest park, efforts to clean up the willamette river, developing a restoration plan for ross island, establishing oaks bottom wildlife refuge, developing the Portland parks 2020 master plan, willamette river greenway planning, providing inner city environmental education opportunities for the alberta nature team program, working cooperatively with chapman elementary school to protect one of the world's largest video swift roosts. Are they still there?

**Houck:** They are there. We're pleased we in fact raised \$25,000 to build a new chimney, so the school could be heated in the fall and the swifts would still have their --

**Katz:** Oh. I recommend that view about 6:00.

\*\*\*\*\*: Have y'all been up there?

**Katz:** I've seen it. It's wonderful.

**Houck:** They left last week.

**Katz:** Next year. "providing the audubon peregrine falcons, the nest on the fremont and st. Johns bridges in Portland, assisting the city in its efforts to rejuvenate the columbia slough, providing thousands of Portland citizens, young and old, with field tours and environmental education courses to learn about and appreciate nature, and leading hundreds of wild in the city field trips with Portland parks outdoor program, all of these efforts contributing to the quality of life for all of Portland citizens, and whereas the audubon society of Portland is celebrating its first 100 years of inspiring people to love and protect nature at its centennial gala on october 5th, 2002, now therefore on behalf of the city of Portland, I vera Katz, honor audubon society's, Portland's first century of service, do here by proclaim, friday, october 5th, to be the audubon society of Portland day in Portland." thank you.

**Houck:** Thank you.

**Katz:** Every time I see you, I tell about the birds in my backyard. I saw a hummingbird the other day. And I couldn't believe it. So thank you for at least giving me the ability to appreciate --

**Houck:** Thank to audubon.

**Katz:** Actually, it's thanks to mike who has given me the appreciation of the nature. The little animals around us. Thank you.

\*\*\*\*\*: Thank you. [ gavel pounding ]

**Katz:** All right. Item 1183.

**Item 1183.**

**Katz:** Before I turn it over to commissioner Francesconi, I want to remind everybody that all of us attended a meeting in the northwest, about a year ago with film and industry folks involved in the industry. We got a very nice presentation and issues were raised, familiar to us, some not familiar to us, and we committed, as a council, to do something and do something to promote that industry, because it was one that we felt we had a competitive edge. And so commissioner Francesconi, who is got the bureau that handles this, has come up with this owe with this ordinance, and it to turn it over to him.

**Francesconi:** Thanks. Jim wadsworth and cynthia warren if you can come forward. I'll be brief in introducing it the staff will be brief, because I think you'd rather here from rich and gus van sant. The mayor gave me the assignment of film and video, and it took me awhile to get to this point, but because of the importance of the film and video industry, really a creative class, powering cities across the country, and has a lot of potential here. In fact, there was a book written about that the future of cities is the creative class, I actually believe personally we need a diversified economy, I believe having a manufacturing class here is important, but I also believe we need to take advantage of all the talents of our local people who are being forced now to leave Portland in order to get

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business, but we also need to attract more businesses here, too, to showcase our city, produce work. So the current film and video I think contributes already \$120 million-plus to the local economy. What we're going to hear about is streamlining the permitting process with a single point of contact when we have that person in Cynthia Warren by giving her more authority, reducing fees in parks and transportation, which I have little to do with, and encouraging others of us here to see what local incentives we can give through our own bureau structure. Then building a public-private partner with the hotel industries and others to actually try to hire some private sector folks to act as scouts to bring more business here to us. These are three elements of this resolution that's in front of you. Jim?

**Jim Wadsworth, Director, Bureau of Licenses:** Mayor Katz, commissioners, I'm Jim Wadsworth with the bureau of licenses. As you mentioned, Mayor Katz, this group was before you, before council, and informal last December to raise issues, and we're following up on that with this resolution. Joining me at the table are Cynthia Warren from the bureau of licenses, who is our special events coordinator.

**Katz:** She's more than that. [laughter]

**Francesconi:** She will be as soon as the resolution passes.

**Katz:** And to with this responsibility.

**Wadsworth:** And Pete from the Portland development commission and Veronica from the Oregon state film and video office. This resolution reiterates the importance of the film and video industry to the economic development of the region and of course Portland. It directs the license bureau and other city bureaus to work together to develop competitive regulatory policies, fees, and service provision. As Commissioner Francesconi mentioned, we've really got a several-prong attack that's underway. Here's what we're planning to do. We want to revise film permitting policies, fees, and coordination among the bureaus, as well as develop a city one-stop permitting process to reduce red tape and provide a point of contact, a central point of contact, for producers, particularly out of state producers. We want to waive or reduce fees for local companies and retain and attract additional businesses in our area. We want to work with tourism in the private sector partners, specifically Portland Oregon visitors association, and you'll hear from them later. And the Oregon film and video office to develop scouting and promotional programs that augment other marketing and recruiting efforts. And finally we want to work together with the Oregon media production association to establish a regional one-stop permitting system for the film and video industry and provide in-kind and matching funding in accordance with the Multnomah-Washington regional investment board grant awarded in August of 2002. And with that I'll let Cynthia talk a little bit.

**Cynthia Warren, License Bureau:** Thank you. Cynthia Warren, license bureau. Good morning Mayor, commissioners.

**Katz:** Good morning.

**Warren:** As Jim mentioned we worked with the Oregon media production association and prepared a grant. Request for a grant to the Multnomah-Washington regional investment board to help with funding for the regional one-stop film permitting process. OMP was awarded that grant this summer. The consensus of the R.I.B. was that this was a situation that government should handle. Development of a one-stop permitting process within the city first and then cooperation with Multnomah county can be used as the model for taking the process region wide. Since the bulk of the production work in the region is done in Portland, Multnomah and Washington county it's logical this process begin here. There are also permitting and facilities use issues I was going to say regulatory but that seems to be a hot word. Issues that need to be addressed within the bureaus, and we need direction from council that is important to them that we fix these issues. This resolution makes clear that the film video permit coordinator currently housed in the license bureau, is the key contact and access point for filming in the city. This designation is needed for improved communications between bureaus, as well as to make it clear to the industry and groups they work

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with, that there is one place they can go to get answers or information on filming-related issues. This resolution, as it's been mentioned before, also provides for fee waivers for use of park facilities and directs the office of transportation to develop film friendly policies and reduce or waive fees for filming in the Portland area. Joining us at the table today are Pete Eggspuehler from pdc and Veronica Reiner from the Oregon film and video office. We also have with us, as was mentioned, Gus Van Sant, Mike Rich, David Kress, industry people, Donna Jennison, from the Oregon Media Production Association and Joe D'Alessandro from Pova. I'd like to turn it over to Pete.

**Pete Eggspuehler, Portland Development Commission:** Thank you very much. Mayor and commissioners, I just want to say this is a clean industry --

**Katz:** Identify yourself.

**Eggspuehler:** I'm sorry. Pete Eggspuehler with the Portland development commission. The p.d.c. has recognized this industry as a clean and important industry. This is an industry that will really seed the new economy. Every job we preserve and grow in this industry will be directly related to developing streaming content, websites, all the new economy positions of the future. Not only that, but it has a 1-3 direct economic impact regionally and we'd like to do everything we can to support this industry. Thank you.

**Francesconi:** As Veronica prepares to speak, I wanted to thank you for your leadership on this issue statewide. I should have acknowledged it earlier. You've been a real leader that's moved this thing forward.

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

**Veronica Rinard, State of Oregon Film & Video Office:** Well, commissioner Francesconi, Mayor Katz, and the other commissioners, thank you for the opportunity to talk with you again today. I know you've heard some of my numbers before, but I just wanted to give a quick reminder of what this industry contributes to the city's and region's economy. In the most recent year the year 2000, the film and industry directed a direct economic impact of \$318 million in Multnomah county which translated to \$540 million. Employment of 5400 full-time jobs with a labor income of \$214 million. All of that generates revenues for the city and for the and for other local governments. Taxes and fees to the city in that year from the film industry were \$5 million. Taxes and fees to the county amounted to \$2.7 million. And other local governments received \$1.6 million from our industry. Since we last made our presentation to you, we have also had completed a study of the economic impact of the industry statewide. It showed for every \$1 million in out of state spending that we bring into the state, 76,000 is -- dollars are generated for the state treasury and \$63,000 go to state and local governments. That's from the out of state projects that come here to film. The indigenous industry from the business they do, generates for every million dollars of revenues, a total of \$127,000 to state and local governments. A couple of quick case studies. "The Hunted" that was filming here recently spent \$31 million in our community. That's the single largest production spending-wise we've had in our states. We had other films of that size, but they didn't film entirely in Oregon. From that the state will receive an estimated \$2.37 million and local governments will receive close to \$2 million just from one film. On a smaller scale, but equally important and notable, "The Dust Factory," the small independent film that wrapped a couple weeks ago, will contribute an estimated \$137,000 to the state government and \$114,000 to local governments. I mentioned the income to the state, because, of course, the more money we can put into the state coffers, the more money there is for things like -- that's all value like education. I present all of these numbers to emphasize the return on investment that's possible from this industry. If we can dedicate a small amount of additional resources to growing this industry, the returns for both the community and the city are huge. And if we can combine efforts at the city level and local levels with more aggressive state programs like some programs we're trying to put through the legislature in the next session, we can really grow this industry statewide. Thank you very much.

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**Katz:** Thank you. All right. Who wants to come up and talk to us? I'm going to introduce the next few folks that are going to come up and play musical chairs. Mike Rich, as you probably know, has quickly become one of Hollywood's A-list screenwriters, writing such hits as "Finding Forrester" and "The Rookie." Gus Van Sant, director of "Goodwill Hunting" and "Finding Forrester" and David Kress who produces high-end commercials on a national level.

**Katz:** Gentlemen, come on up. Mike Rich is tentative creative building. So thank you. Who wants to start? I think we need to start with you, Gus.

**Gus Van Sant:** My name is Gus Van Sant. I live 420 Northwest 11th. And I'm a filmmaker, a local filmmaker, and also a Hollywood filmmaker at times, and I think this is an issue I think that's been brought up to the city council before. I was part of a group that tried to get Bud Clark to give us some money to form an office that would centralize the hurdles that the filmmakers have to go through when they come in to a city. Bud sort of didn't like the idea and sort of threw it out. But it's always been, I think, a need for filmmakers that come from -- from even locally or from outside to figure out how they're going to accomplish their task and where people can live if they're coming from the outside or how easy it is to -- for them to get their job done. And if there was a centralized place to do that I think it would invite more business than maybe has already been invited here already. And I think Portland's done awfully well, too. Over the past ten years. And the number of projects that have come to town. So I'm just very much in support of the idea.

**Katz:** Thank you, Gus. Mike?

**Mike Rich:** My name is Mike Rich. I'm from Beaverton, Oregon, but proudly proclaim myself from the Portland area when I'm down in Los Angeles.

**Katz:** I just want to know where you pay your property taxes, that's all. [laughter]

**Rich:** I've had the good fortune in the last four years in having two of my screenplays produced, into feature films, with two others to begin filming within the next two weeks. Those films have been shot in Toronto, in New York, in Austin, Texas, in Dallas, Texas, in Charleston, South Carolina, and Vancouver, British Columbia. There is a general assumption that the film industry is losing all of its projects to Canada, and it is losing several. In fact, it's somewhat ironic that the screenplay that I've written on the 1980 U.S. Olympic hockey team, which I think would arguably be classified as the greatest American sports achievement of this century is going to be shot in Canada. But there were countless projects that U.S. cities are losing to other U.S. cities, simply because of the aggressiveness in which these projects are pursued and the seamless manner in which they're able to set up shop in those communities. Austin, Texas, is a good example. It's developed a reputation as a practical location, almost as a matter of course. They're very deep when it comes to film crews. They've converted an old airport into a production facility, and perhaps most importantly they're very, very creative when it comes to putting together the mechanisms to attract these projects. Sandra Bullock is known as an Austin native, which she's not. She simply moved there after seeing its commitment to the film industry and the fact that it's an interesting town, something Portland has never had a problem selling itself on. In fact, I think Austin and Portland are very similar communities. We were set to film my next feature project, "Radio," in Austin. Austin may be a lot of things, but South Carolina it's not. It wasn't until South Carolina became aware of the project that it was able to put together an aggressive package and pursue the project and swung the project in its favor. Unfortunately, there were still instances -- and this is the God's honest truth in which I'm asked if Portland is in the same time zone as Los Angeles. It would be nice to see Portland some day considered as a top tier choice like Wilmington, North Carolina, and Austin, Texas. I certainly think it's within our reach. Thanks.

**Katz:** Thank you, Mike.

**David Cress:** Hello. My name is David Cress. I do live in Portland, Northeast Portland. I started with a group of partners, a company called Food Chain Films about seven years ago. It's -- we concentrate on television commercials, but we do a cup of music videos and a couple of short films

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a year. When we first set up food chain, we were working on a national level. We really had a competitive advantage, because we could produce television commercials in Portland for about a 30% advantage over los angeles. Over the years we've been watching as other communities have been very aggressive about -- about making -- about providing incentives and making it easy for us to produce there. We've watched the numbers, our competitiveness dwindle, and the number of productions our company does here diminish quite a bit. We used to do half of our projects here, now we only do about third. Three things we take into account as producers. One of them is the appropriateness of the location. If you need mountains, you need mountains. The other thing is the cost of the location and then its relationship to what we call a production center, a place where there's the infrastructure for film. Portland's always been a really great place for infrastructure, but over the seven years we've watched that sort of dwindle as other communities have become more competitive. It's really great as a business owner and a filmmaker to see the city so committed to our industry. It's very gratifying. I appreciate it. The resolution's important and I hope you pass it. Thank you.

**Katz:** Before we go ahead, where y'all from?

**[Student Group]:** Beaver acres

**Katz:** Nice to have you here from beaver acres. We're talking about film and video. This is your - - thank you. Questions?

**Sten:** One question -- it's a pretty broad industry. Are there certain niches that you see that really we ought to be able to win at? Not at the exclusion of other things, but are there some kind of areas we should be really -- you mentioned they built a facility down in austin, those kind of things. Is there something you see that we could really achieve that we have the natural advantage over these other folks?

**Van Sant:** Well, this is a pretty -- I mean, the idea here I think is pretty simple, just like to get some coordination.

**Sten:** Yeah.

**Van Sant:** It's a small thing, but when people first come from out of town it's one of the first things that the production manager checks into, to figure out like where -- you know, just very simple things like that. If it seems easy, then they go, "okay, Portland's not so bad." I think it's got so many great things already, that it has, I think, a pretty good advantage, perhaps maybe not like exclusive sun, has a lot of rain in the winter. But that's one. People talk about competing with canada. That's a monetary -- you know, the value of the dollar is -- is a big deal, you know, when you're bringing your show to canada. Also there's a rebate in canada. So I think in the end you get something like 40% of your money back, unless Oregon can somehow -- and people have talked about doing that -- of somehow giving an incentive, monetary incentive. That certainly would like attract a lot of attention. But I think besides smaller things, like the idea of this office, Oregon has a lot of great things going for it. Building a studio has also been a question over the years. That's almost like the chicken or the egg. Which comes first? The show that's going to go in the studio or the studio itself? I think that the show usually would be the thing to come first. If they can shoot "ninja turtles" in astoria and figure out a place to do it, then i'm not sure building a studio is the great answer. It's nice to think of, though, it's a fun thing to think about. Perhaps that would help.

**Rich:** I'll continue to go back to austin as an example. I think one thing that austin's done a great job of it really has, for lack of a better term, it's one-stop shopping. Because filmmakers and production companies just cannot, when they go into a preproduction mode, they don't want to spend a lot of time wondering who they need to talk to, do I need go this way, it needs to be just a one-person, one office that handles, whether it be questions about permits or whatever. It was -- it was really easy for when we were filming "the rookie" in that we filmed in and around austin, we could go back to the production offices there in austin and at the end of the day when we wanted to

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watch the film we had shot, it was right there as well. They made it very, very easy. It wasn't like you had to wonder where to go for any particular question.

**Katz:** All right, thank you.

**Cress:** I think this is the kind of thing that can be done in steps. First I think you need to show -- or from my perspective as a producer -- you need to show a willingness to want the film industry there. Because it's nice to be wanted. And the other thing is you need to give veronica and the film office something saleable to advertise. Then when they get here, like with all advertising, it only works if it's really there. So the one-stop permitting I think is a really good first step. I would like to see something done about parking and civic use of buildings that we get in los angeles and we get in new york and some other municipalities. And then perhaps down the road a facility like a sound stage that could be a public-private partnership, not unlike a convention center, would really, really boost the industry here. But I do think you can do it in steps. I think in the current fiscal environment that's probably going to be necessary.

**Katz:** Thank you. Further questions? Gentlemen, thank you. Yeah?

**Francesconi:** Just two or three more.

**Katz:** Good luck on all your ventures.

**Katz:** Are you from beaver acres? How did I know about that? How about that? Nice to have all of you here.

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

**Katz:** Go ahead.

**Donna Jennison, Executive Director, Oregon Media Production:** I'm donna jennison, executive director of the Oregon media production organization. We're a professional trade organization whose mission to promote the advancement and growth of film and video and multi-media industry.

We represent industrywide approximately 192 firms over 2800 jobs, and that translates to about \$44,000 annual salary. What i'm here for is to talk about jobs and small business, because that's what we represent. As you know, from everything that you've heard so far, the industry is down in Portland and in Oregon. Not only from the recession, but because of runaway productions in canada and because other cities in the nation have stepped up and recognized that there's a big return on investment in this industry. So I heard, not this last summer, but the summer before, that key crew people were painting houses because they wanted to stay in Oregon. And they were doing remodeling, set builders were doing remodeling, because they wanted to stay in Oregon. A lot of people didn't stay in Oregon. They had to go elsewhere to find jobs. So my mantra is keep these people here in Oregon. We need the -- we need all of the incentives, all the competitive advantage that we can get. There's a mystique about the film and video industry. And it's -- we need to know, and I think you've already recognized, that it's not a luxury, that it's a basic economic driver. So I am very appreciative that we had a public-private committee working on this one-stop committee. We developed a grant, presented it to the regional investment board. They were interested. They also recognized that this is an industry to invest in. It's a diversity, as you had mentioned, commissioner. And but they find it partial. So I wanted to make that clear, that we are partially funded and we're looking to bring this thing to fruition. So I thank you for your recognition of this industry and that you're stepping forward and I think that this will be a win-win as they say situation for jobs, for keeping people in Oregon, and for growing the industry. Thank you.

**Katz:** Thank you.

**Joe D'Alessandro, President and CEO, POVA:** Good morning, mayor and members of the commission. I'm with the Portland visitors organization. I'm here to verify that Portland is in the same time zone that los angeles is in. I just checked that out. [ laughter ] i'm not from the film industry, but we represent over 1100 business in the Portland region who definitely receive benefit from the film industry. It provides a great synergy for a variety of businesses. I have in the room here craig thompson who runs the fifth avenue suites, one of our finest hotel properties, who

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currently has a production crew in town. Also has members from small florists who receive benefit from product objections when they're in town and also from the local indigenous industry. I think this industry is a perfect fit for Portland, what we're trying to achieve as a community. The industry provides a creativity and a sense of place that a lot of other energies -- industries do not. The out of town industry, when they come here, they're able to promote Portland as an attractive destination and a place we want to do. It's a real win-win for this community, for every aspect of this community. I've had the pleasure of serving on the blue ribbon economic development committee, and I can certainly say that the film and video is a win for Portland. I encourage you to do everything you can to aggressively promote it, to embrace it, and support it. We can't just sit back and hope it's vital and hope it stays and hope we can get out of productions. We have to be aggressive to be successful in this industry. We encourage it. It's a great win for Portland and we encourage you to do everything you can to support it.

**Katz:** Thank you, joe. Y'all from beavercreek? I'm sorry, beaver acres. Has the school been evacuated? We welcome you here. We're talking about film and video. Questions? Thank you. Anybody else want to testify? All right. Roll call.

**Francesconi:** In addition, i'm glad joe recognized craig thompson. Two other people that didn't testify, but I want to acknowledge, is tim larson from downstream and julieanna from larch films. Just briefly, you heard me, but I think Portland is a terrific city, but we got a little -- i'm not sure we understand just how terrific it is. And one of the things is we need to build upon excellence as we -- to deal with this downturn, severe downturn in the economy. So whether that excellence is o.h.s.u., whether it's the retail core and the vital downtown, whether it's the port, or whether it's our film and video creative professionals, people like mike rich who is here, gus van sant, as an aside, I saw one of my staff people in here for the first time ever, because you two were testifying, so if you go by my office and give diane your autograph, i've been here six years. Anyway, that's the -- that's the kind of excellence and creativity and hope and excitement we got to bring to this. You know, we need some -- we need you to kind of put some more pizzazz back in us. We appreciate kind of all you've done for our city. So that's the bright side. On the other side, we need some incentives to make this thing work. I know that 18,000 from parks is not much, but I know we just cut \$2.5 million from parks. So we're trying to show in a small gesture that it's important. Transportation is in a world of hurt. We're not even fixing potholes in some of our neighborhoods, but we're going to waive some fees because we want to show it's important. Ultimately we need some help from the state, and veronica is fully in favor of this. We need a portion of the income tax or the unemployment insurance fund on work force that gives us an incentive fund by which we can grow more businesses and pay more income tax. And so we're working towards a larger incentive fund that we're not going be able to get right now, but we need to get so that we can then offer our targeted industries of which I hope you're one. And this resolution says you are. So thank you. Aye.

**Saltzman:** Well, you're a great industry and we're glad -- i'm certainly glad we can acknowledge your greatness in one small regard, which is heeding your call for a one-stop center. You know, we need to do all we can and as commissioner Francesconi and y'all know resource are tight, incentives are tough to come up with these days. It's hard probably to compete with the canadian dollar and 40% rebate, but nevertheless we have a critical mass of bright, creative, talented people here and want to keep them here too, and we want to make sure they do all they can to promote this area as a venue for film and video. I recall from your promotional video a year ago that probably one of the best things we have going for us you can find I think every climate in the world within an hour and a half of Portland. That's a pretty remarkable thing. So that's one of our attributes. You're definitely one of our attributes too. Thanks for all you do for us. Aye.

**Sten:** I agree completely. I just want to -- hats off to everyone for -- we want to do this and we need help from the industry to figure out what we can do that's effective, because sometimes we

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do things that we think are great and they don't work. If we can keep this communication going -- the way things are going, the canadian dollar's going to be strong soon compared to us. You know, these things are cyclical. We've got to build our industry. You know, I think it's fun. I think people get a kick out of it. Economy's very important and it's a green industry, but I also think, you know, people love to complain when their street is closed, but they get a kick out of it too when they see that film crew in there. I live close to a neighborhood that "the hunted" was being filmed.

Everybody was talking about. There was a garage blown up. It was very exciting. And personally, you know, as I see some of the films filmed in Portland, they always mean a little more if you know something about it. I think it's a fun thing, too. The city isn't just about economics, it's about art and trying to get economic benefit from the artists is a pretty neat idea. So thank you, everyone. Aye.

**Katz:** They all loved it. I got all the calls. You know, I love to look at demographics. Somewhere I had a love for data and statistics. And looking at it we were able to see the growth of young men and women coming from outside to Portland, to Oregon. And that slice of -- of the demographics was of great interest to me. The next question was asked, what industry are all of these younger people involved in? And we did a cluster analysis of the industries. And we found they were in the creative services. And one of the aspects of the creative services was film and video. And we counted up all the -- all the jobs that we had at that time and we've counted them up since then, and we were able to -- by targeting creative services as one of the industries that we wanted to promote, and we did that with the Portland development commission. We were able to grow those numbers. Now with the economy and the recession, i'm sure those numbers have declined. But the point is that we are a city that -- well educated, young people get attracted to, and many of them are in the creative services, whether it's the development of software, whether it's film and video, animation, whatever the art is. Public relations, marketing. This is a wonderful home. And to add to that, it is a central city core activity. So all of the investments that we placed in the central city core to wee a 24-hour city, I think we're probably a 19, maybe 20-hour city, but our aim is a 24, is what this population desires because they work at very strange hours and party at even stranger hours. So for us this will always be a -- a focus. I'm very pleased that with the help of all of you, and commissioner Francesconi, we have specifically targeted this film and video industry for a regulatory relief and some financial relief, but there's more to go. Aye. Thank you, everybody for being here. [ gavel pounding ] all right. And we stand adjourned until 2:00. [ gavel pounding ]

At 11:06 a.m., Council recessed.



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2:00 PM

**Katz:** Please call the roll.

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

**Katz:** Present. Why don't we take -- I was going to take 1203 first. Could somebody get commissioner Sten to come down? I don't want to do this without him. I don't know if we actually can do this. I don't know if we actually can get this done, but we will work on it. We will try.

**Francesconi:** I took off one of the hard questions.

**Katz:** I know.

**Katz:** All right. Let's read 1203.

**Item 1203.**

**Katz:** There is still some questions on what's an arrest, so jim, you want to come up here? The reason I call on jim. Jim's been carrying this issue for three years in front of a, in front of the courts and has written the ordinance, and probably knows better than anyone in this room.

**Saltzman:** I know we talked about this, last week, what's an arrest. And I guess it was new to me to realize that even some sort of a temporary restraint by an officer, or not restraint, but wanting to, to detain you for some purpose, ask you questions, issue you an exclusion, constitutes an arrest. And we received some correspondence responds that rebuts the information you made to us from, from paul levy, and I guess I want clarification because he's saying --

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

**Saltzman:** Have you seen the correspondence?

\*\*\*\*\*: Yes. -- the correspondence?

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

**Saltzman:** According to his letter, the o.r.s. statutes say a temporarily restraint of a person's liberty is not an arrest. So, I guess I wanted to --

**Jim Hayden, District Attorney's Office:** That's correct. I can tell that off the top of my head an arrest is not a temporary restraint of a person's liberty. So, that's happening in the drug-free zone.

**Katz:** Identify yourself.

**Hayden:** Jim hayden, district attorney's office. You have got four kinds of encounters with citizens. You have got mere conversation which is walking up to anybody and chatting with them.

They are free to go. You have got detention. That's basically dealing with somebody who has committed a noncriminal offense. They are not free to go. But, they are not under arrest.

Meaning, you can't place handcuffs on them. You have got a stop, which is a temporary restraint on a person's liberty. You are investigating criminal activity. They are not under arrest. But, they are not free to go. You have arrest, actual or constructive restraint or taking someone to jail to charge them with an offense. In the drug-free zones, which someone commits a drug crime, and they are to be given exclusion, the ordinance demands a probable cause arrest. Just because the person isn't put in handcuffs or taken to jail doesn't change the fact that it is an arrest for purposes of the o.r.s. they are not free to go. They could be in handcuffs as the officers could issue them a citation, they could be put in the back of a police car or driven to predict, all of those things could happen. -- they could be driven to a precinct, all those things could happen. Because the officer chooses not to put them under actual restraint, he's plays them under constructive restraint. Still, an arrest. Does it sound very much like a detention? Yeah, it does because when you get pulled over for a traffic ticket, again, you are not free to go. But, you are not under arrest. The officer can't put you in handcuffs. Here, if he's got probable cause, you committed a drug offense, he can put you

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in handcuffs. That's the big difference and the fact that the officer doesn't do it makes it sound like a detention, makes it sound like a stop but it's not a stop. It's an arrest.

**Saltzman:** Just like when you put someone in a custodial arrest you read them the Miranda rights.

Is there any affirmative obligation for an officer to inform the citizen that they are under the constructive restraint?

**Hayden:** There's no obligation to tell somebody you are under arrest. There's no requirement to read someone miranda rights. We think so because the television shows have told us.

**Saltzman:** I learned that last week about the miranda rights, but no affirmative obligation to inform somebody that they are under arrest?

**Hayden:** None, and maybe that confuses -- maybe people think you didn't tell me that's an arrest so, therefore, I can't be under arrest, well, in fact the, that's not the way the o.r.s. looks at it. So, they are under arrest. Under constructive restraint they are not free to go. Handcuffs can be placed on them. They are not.

**Saltzman:** What's the difference between that and a temporary restraint of a person's liberty.

**Hayden:** A temporary restraint of a person's liberty -- would be the standard use for one, 131 -- gill guess here, 605 -- that's investigating activity. A detention means you are, you are investigating a noncriminal offense, a stop means you are investigating a criminal offense.

Someone is about to engage in a crime. You think that they are going to commit a crime. This goes back to, to a case called terry versus ohio. And an officer is relying on their experience as police officers. They say, you know, I think that guy is going to rob that bank. I think that guy is going to burglarize that store. I think that guy is going to commit a drug offense and I am going to stop them. Can't arrest them or put handcuffs on them, but I am going to stop them and I am going to ask them to, investigate, to inquire of them what are they doing? What are you doing here?

Okay. Again, they can't be placed in handcuffs. They are not free to go. But, unless the officer develops further information in the investigation, that gives them probable cause to believe that they were going to commit this crime or had committed a crime, I should say. Then, they have got no charge and the person will be let go. They are all close.

\*\*\*\*\*: They are close.

**Hayden:** And they are good questions, and believe me, lawyers struggle over these and still do.

**Saltzman:** My other line of questioning has to do with the brochure we talked about, and I don't know, chief kroeker or --

**Katz:** Actually, we did something better than that --

**Saltzman:** I know, you put together, instead of a brochure you put together an 8. -- 8 1/2 by 11 letter, and I want to give you feedback on the text, but one of the things that confused me was it says you have to ask for an exclusion and under the new ordinance I thought that you were automatically given five exclusions.

**Hayden:** The variances.

**Saltzman:** Yes, variances.

**Hayden:** I haven't seen that so I am at a loss.

**Saltzman:** I am going to say variance. The, the question and answer on the sheet of paper you are going to hand to somebody says you have to affirmatively request a variance and I thought under the new ordinance you are automatically given five variances, and that's one point of confusion that I had. I want to get back to you but if I am confused reading it, certainly someone on the street will be confused reading that.

**Katz:** Identify yourself --

**Mark Kroeker, Chief of Police:** Mark kroeker, chief of police, Portland. And the, the variance that is referred to in that document that is proposed to be actually added to the form set so that it

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makes it simpler, so that the person getting the exclusion actually is given the pink copy along with these directions that are meant to be quite clear, but the, the variance that is referred to there is the variance in addition to those that are automatically rendered. So, if you want in addition to these, to be considered, then you have to take these steps.

**Saltzman:** Okay. Well that wasn't clear at all. But you asked me for, for feedback and I will get that for you.

**Kroeker:** We intended it to be very clear and in english and spanish, and so if there's confusion, we certainly can clear that up.

**Saltzman:** And I will get you back some written comments on that.

**Katz:** And I think that it's better if it's actually attached so that they can get it at the same time.

**Saltzman:** My understanding is you preferred to have it attached rather than brochures because they are awkward?

**Kroeker:** It makes it, it easier for, for the, the officer, we believe, to have just one set of, of paperwork to deal with and secondly, to the person getting the exclusion, they just have that form and the other one that goes along with it, as part of it, and with that language on there, the brochure becomes integral to the paperwork that's involved.

**Saltzman:** And you can do a bilingual version.

**Kroeker:** The other side is Spanish, yes. The one that you have, the spanish version is a draft. It was done with --

**Saltzman:** But when you ask someone are you going to attach it go to the back of the variance form, you can get the english and spanish version on or are you going to ask somebody which language?

**Katz:** It's on the flip side.

**Saltzman:** So you will be able to flip it. Okay. Well great.

**Katz:** Check and make sure that commissioner Saltzman actually sees the wording on it.

**Saltzman:** I have seen the wording and I want to provide you with comments because I was asked to give the opportunity to give you feedback on it.

**Kroeker:** I want to make sure that the spanish version is very clear to you. [ laughter ]

**Saltzman:** That will take some time.

**Katz:** Thank you both. Roll call.

**Francesconi:** I am going to support this for the reasons that I believe that drug-free and prostitution-free zones are, are important tools in order to accomplish our community policing goals of safer neighborhoods. I believe the statistics are there to actually prove it. I am particularly compelled by the statistics, which show a drop in drug related prostitution related offenses with this tool and I also am aware that we can't just rely upon police presence given diminishing resources, and that we need tools like this. I feel that the automatic variances in the, and the increase in variances, though, are also essential for my support, as well as the recent constitutional supreme court case, supporting this. Although, I do acknowledge that, that there are some potential constitutional issues remaining that I am sure that we will, that will be tested. The only other thing I want to say is that I was disturbed by the lack of data that, at the last hearing, and, so therefore, i, rather than making a formal amendment, which would slow this down and interfere with the timing of one of the drug-free zones, I have done it in a letter form, but I have requested that the city attorney's office, the district attorney's office and the independent police review division of the auditor's office conduct an annual review of our practices of drug and pros multi-free zones. And particularly, I want this annual report to document the number of exclusions per zone, the number of arrests, the number of dismissals, as well as prosecutions following arrest, the number of convictions, and a profile by race and ethnicity in the drug-free zones. And I would like this

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review to, to address the issues of, under what circumstances are exclusions being issued, how are they being reviewed and what patterns or trends emerge. And I think that we should do this on an annual basis because I think that it is a very important tool but I do believe that we have got to be careful to make sure that we are honoring people's constitutional rights. I believe that we are, but I sure would like to see this data. Because I believe it is an important tool to maintain the quality of life in our neighborhoods and the perception of reality of safety of our citizens, I vote aye.

**Saltzman:** Well, I believe, also, that this is, this has been proven to be an effective tool in dealing with, with prostitution and drug possession and drug sales in certain geographic areas of our city where they seem to be concentrated. And I think that there is a pretty clear objective test to determine which areas are, are, become drug-free or prostitution-free zones and I think that that's an important aspect to have. But, clearly, the results are, I think from the neighbors affected by these activities are overwhelmingly in support of this, and I think that this is a clear justification from the statistically information we provided. I share commissioner Francesconi's point that I believe that we were overwhelmed by the ability, to the extent that you were cobbling together the response to say what we thought were simple questions, like how many people have been excluded, have people been arrested elsewhere, so I think that this information that commissioner Francesconi is asking for will go a long way toward system advertising the information that we need in future renewals of the zones. I remain troubled and I am glad that we did lengthen the time to one to appeal an exclusion order from five working days to ten working days. I still wonder if that's enough time given the complicated issues around appealing an exclusion order, and the need, perhaps, to have council, as well. But, I think that we will take it ten days from now, ten working days and we revisit this, next time we will see, and I still remain troubled by the notion that an exclusion order remains in effect when one is actually acquitted of the offense for which they are charged. I understand that the arguments about mixing criminal and civil activities that has been made to us by, by the district attorney, our attorney, and, and the Portland police, but nevertheless, you know, from a nonlegal perspective of just from a lay citizen's perspective, which is how I approach this, it's still, troubles me that concept. And I will, I will want to, you know, revisit that at some point, too, and I think that, that we will probably have subsequent court decisions that will rule on this matter before we revisit the zones again. Aye.

**Sten:** Well, I think when you have a situation that our society faces, which is people who have been convicted of drug dealing and possession, routinely are back on the street in the place that they were picked up the first time doing it again, it makes some arguments like this pretty good to say, let's exclude people and give the police a tool, and I think that this has been a relatively effective tool. It's also, it's also a strong measure and I think that it really, it really took on a different approach when we went to northeast and huge parts of the neighborhood, the people live in, are included in the area from which people are excluded. There is neighborhood support, but the boise neighborhood, one of the hardest hit, said they supported it if we made some amendments to it that we didn't make, and so ink it's a more complex discussion that we really, as much time as we spent and looked at it. It's also a time in which citizens are correctly, in my opinion, worrying about our civil rights the federal government has taken drastic steps to say that we have less rights when people are suspected and there's good reasons for that, as well, and so what that gets to me is that, you know, everything is a balancing act, and I am not arrogant enough to think that I am always right or anyone else is right on these issues. It's a balancing act, trying to balance public safety, which I think is, is, has improved with this measure with civil rights. I guess why I am saddened by this approach and have been for quite a few years, is that I think that this unnecessarily pushes into the realm of civil rights without helping the public safety so much, and what I meant by that, and I put in writing last week was to propose amendments that did come from

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community groups, as well, was that I would like to see that either a person has a track record of being a problem, meaning they have been arrested twice, or convicted once, was a criteria that I proposed before being excluded, or if they had no track record, if that's not a good way to go, if you are acquitted or the charges are dismissed, for something that you are accused of, the exclusion also goes away, and my thinking is simple, whether it's a civil or criminal penalty, you know, you should be guilty before you are penalized, and it's very, very possible, and an Oregonian story has shown, pretty exclusively a couple years ago, it does regularly happen that mistakes are made, and I think that this council could absolutely equally effectively use these drug-free zones without having to say people who have been arrested, the first time with no track record and never convicted aren't excluded, because the odds are, and although we don't have statistics on it, I do believe that the vast majority of people that we are dealing with are repeat offenders, so I think that we could make the net a little tighter, make sure that we weren't making mistakes by excluding people who had simply been accused one time and had no track record, and I don't think that we would lose too much. There is legal arguments why, why, but I think that it's, it's, you know, it's harder to defend civil rights than public safety. I think there's a good public safety reason for this. I don't think it's a bad policy but I think it goes too far. No.

**Katz:** Aye. Commissioner Francesconi, let me just add, I think that all of you will continue to be underwhelmed about the statistical data available to us. We have been working for years and years on the local public safety council, public safety council and used grant money and even some general fund money to, to assist all the jurisdictions, the city and the county to begin to track what actually happens to anyone that is arrested. We have different data systems, the judges have been hankering for this so that they can make a decision as to what kind of penalties to invoke, and we are going to continue to work on it so, we will do whatever we can, but if, if the systems are not in place because we just don't have them, that's going to be very difficult. I want to be very up front and honest with you on, on that score. We have been continually working on it, and I don't know whether we will be able to continue giving the system additional resources to, to, to complete it, unfortunately. Unfortunately. But having said that, I think that, as I said in my opening statement, there are citizens in this community that are afraid to walk on the streets, that are afraid to go to work, that are afraid to, to even get out of their houses because of this criminal activity that's associated also with violence and with guns and with knives in their community, and we have, under the direction of jim hayden and others, found a tool that we can use that's been tested, and will continue to be tested, that seems to contain from the data that we have, contain that activity in the neighborhoods. Not in the entire city, but certainly in the neighborhoods where the statistics clearly show that this is a problem. Aye. All right, let's go on to the next one and that is prostitution-free zones, 1204.

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

**Katz:** Mayor votes aye because for those who are watching, because this is not an emergency ordinance we only need three votes otherwise we would need four. That's the reason it's not an emergency ordinance. Okay. Let's get to 1202, which is why people are here. Why some people are here.

**Item 1202.**

**Frank Hudson, Deputy City Attorney:** Good afternoon. Today's hearing is an evidentiary hearing. This means you may submit new evidence to council in support of your arguments. This evidence may be in any form. Such as testimony, letters, petitions, slides, photographs, maps, or drawings. If you haven't given the council clerk a copy of the evidence you plan to submit, you should give it to the council clerk after you finish your testimony to council. Any photographs, drawings, maps or other items you show to council during your testimony should be given to the

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council clerk at the end of your testimony to make sure that it becomes part of the record. The order of testimony will be, begin as follows -- we'll start with the staff report by the planning bureau, for approximately ten minutes, following the staff report, the city council will hear from interested persons in the following order. The appellant will go first and have ten minutes to present his or her case. Following the appellant, persons who support the appeal will go next. Each person will have three minutes to speak to council. The three-minute time limit applies regardless of whether you are speaking for yourself or on behalf of an organization, such as a business association or neighborhood association. Principle opponent will have 15 minutes to address the council. After the principal opponent the council will hear from persons who oppose the appeal. There is no principal opponent, then the council will move directly to testimony from persons who oppose the appeal after supporters of the appeal conclude their testimony. Again, each person will have three minutes, whether you are speaking for yourself or on behalf of an organization. The appellant will finally have five more minutes to rebut the presentation of the opponents of the appeal. The council will then close the hearing and deliberate. After the council has concluded its deliberations, the council will take a vote on the appeal. If the vote is a tentative vote, the council will set a future date for the adoption of findings and a final vote on the appeal. If council takes the final vote today, that will conclude the matter before council. If you wish to speak to the council on this matter and have not yet signed up on the list located outside of council chambers, please sign up at this time with the council clerk. I would like to announce several guidelines for those presenting testimony and participating in the hearing. These guidelines are established by the Portland zoning code and state law. And are as follows -- any testimony and evidence you present must be directed toward the applicable approval criteria or the land use review, or other criterion the city's comprehensive plan or zoning code, which you believe applied to the station. The planning staff will identify the applicable approval criteria as part of their staff report to council. Before the close of this hearing, any participant may ask for an opportunity to present additional evidence. If this kind of request is made, council may either grant a continuous or hold the record open for an additional seven days to provide an opportunity to submit additional evidence. And will then hold the record open for an additional seven days to provide an opportunity for parties to respond to that new evidence. Under state law, after the record is closed to all parties, the applicant is entitled to ask for an additional seven days to submit final written arguments before the council makes its decision. Finally, if you fail to raise an issue supported by statements or evidence sufficient to give the council and the parties an opportunity to respond to the issue, you will be precluded from appealing to the land board appeals based on that issue.

**Katz:** Staff report, go ahead.

**Duncan Brown, Office of Planning and Development Review:** Thank you. Duncan brown, opdr. We have before us an appeal of the Powell conditional use master plan as approved by the hearings officer. The conditional use master plan consists of three major areas of development. One is water system improvements, which include seismic upgrades of existing underground water storage reservoir, construction of two new reservoirs, and conduits to those reservoirs, and a pump station to serve one of the reservoirs. There are park improvements that include construction of five new trails and closing of, of some other unauthorized trails, construction of a grass amphitheater and for an outdoor teaching area. Construction of a, of a maintenance building and maintenance storage area, construction of the information kiosk improvement to say a parking area, and modification of rest rooms to comply with actual standards. And also, the designation of a, of an area in the southeast portion of the Powell Butte area for a wildlife area and restrict visitor access. Finally, there's mitigation improvements for an environmental violation that consists of the removal of, of invasive and nonnative plants in planting of native trees, shrubs, and ground cover,

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construction of a fence, and removal of the small shed. The application was made in July of 2000, almost two years ago. It was determined to be complete in April of this year. The hearing before the land use hearings officer was in May of this year, and decision in July, at which time appeals were made by the Pleasant Valley and Centennial Neighborhood Associations. And then the appeal, of course, is before you today. There are a number of issues that were brought up in the appeals. They deal with noncompliance of the zoning code chapters, conditional use and conditional use master plans, and as well as environmental violations and environmental reviews. The appellants would also like inclusion of a mitigation bank into the master plan, which was removed by the land use hearings officer, and also there were a number of other issues dealing with the lack of mention of the water treatment plant and the first phase of the master plan as well as noncompliance with an adjustment for tree removal. These are the approval criteria that must be met. Generally, the, the conditional use approval criteria for open space zones, conditional use master plan, approval criteria, the approval criteria for utility corridor, environmental review approval criteria, adjustments and the transportation element of the comprehensive plan. The site is located in the extreme southeast corner of the city of Portland. You can see by the orange circle. This is an aerial photo of the site, Powell Butte, and the surrounding area. It's bounded generally by Powell Boulevard on the north, 174th Avenue and Jenne Road on the east. Johnson Creek and the Spring Water Corridor on the south, and 136th Avenue on the west. This is generalized zoning and comprehensive plan map designation for the area. The green area is open space zoning. The yellow is single family residential, the orange is multifamily, the red is commercial -- multi-regional and the red is commercial. You can see the dark purple areas outside of the city of Portland. The site plan is shown in this green tint. It includes not only the open space area, but also some single family residential areas along the east boundary where we have the, the pipelines from Bull Run Reservoir that feed the existing reservoir on the site, and a newly acquired portion on the, on the south site boundary between the park and the Springwater Corridor. These are the master plan site boundaries, and the major water supply projects. This is generally speaking the Powell Butte Park area. The little squares in the upper right hand corner are where most of the activities for the Powell Butte Park are located. There's an existing reservoir that is lightly shaded, and a new proposed reservoir, 15 million gallon reservoir to the northwest of it. Further south over on the south side of the crest of Powell Butte is a 20 million gallon reservoir connecting these reservoirs would be pipelines that would, that would also link up to the, to the pipes that are now serving the butte from, from Bull Run Reservoir and also from the Columbia South Shore area. There would be a pump station located along the east site boundary, just over one of the pipelines which would help pump water during low-flow periods to the upper 20 million gallon reservoir. Access to the site is, is actually via a long driveway that connects to Powell Boulevard at 167th -- 162nd Avenue. You can see the intersection here. The neighborhood immediately north of the site is largely single family dwelling area. Characterized by, in this slide, incidentally, in the lower left-hand corner of the slides is a map of the surrounding area and an arrow showing where the slide was taken, so --

**Katz:** Thank you.

**Brown:** There are also entrances to the park area for pedestrians and bicyclists. Here's one. The northwest corner is also characterized by single family dwelling area. This is looking from Holgate Lake, the vicinity of Holgate Lake, itself, the low depression and floods periodically, looking up across the single family residential area towards Powell Butte. Again, there are some, some streets that connect Powell Butte to the surrounding single family area, and trails that lead into the Powell Butte Park, itself. The southwest corner of the site is very similar, only less development at this point in time. Its being rapidly developed, however, number of subdivisions have occurred in that

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area in the last year or two. This is a newly acquired property along the south side of Powell Butte.

It was a storage area for construction equipment, and it's just to the north spring water corridor, spring water corridor is shown, well, it citizens left and right across the slide and the crosswalk markings denote where this road crosses the spring water corridor. There are a couple of small residential inholdings along the south side of Powell Butte, also. This is one. There are three or four of them, and then toward the southeast corner of the site, you can see the spring water corridor snaking off into the distance to the northeast, and then Powell Butte, the butte, itself, going on up the hill and you can see, they are residential in holding here. This is the east side of Powell Butte, low density residential development, and the butte in the background. And then the, the corner of 174th and Powell Boulevard is a commercial corner, then there is residential development that is on the, the lower part of the butte and then the park, itself, is above that. And back to the entrance looking from the intersection of 162nd on up the hill to the parking lot. The water supply development consists of seismic upgrades, new 50 million gallon reservoir. Just west of the existing one here, and pipeline connections. A new 20 million gallon reservoir and a connection along with the pump station. This is the site of the existing 50 million gallon reservoir. It's below grade and covered by, by meadow and one of the park improvements, and I will go into this in a minute, is to retain and enhance the meadow area. These are typical above ground structures, some access pipes, vent pipes and the like, but they are relatively small. This is the site of the, of the proposed 50 million gallon reservoir. It's immediately northwest of the existing one, and after construction with the exception of the, of the, of those vent pipes and access points, it would be very much like you see here. It would be regraded back to close to the original contours. The 20 million gallon reservoir is located on, on a level part, just northeast of the, of the very summit of Powell Butte, and this is a picture looking toward the, the southeast, and the area where it would be located. And then the site of the, of the pipeline that would go down almost directly east would be through this meadow in the center of the picture. Here's a location of the, of the pump station that would pump water during low-flow for that 20 million gallon reservoir. The back lot, basically, of a recently developed, planned development. And looking down at the right-of-way east of Powell Butte toward Johnson Creek, immediately east of here. And then looking at the right-of-way back up west toward Powell Butte. There's an outfall structure and there would be an additional outfall pipe that would be connected to this structure that empties overflows into, into the reservoir into Johnson Creek at times. Park improvements include trails throughout the, the meadow area, grass amphitheater located in the, the northeast corner. The new caretaker's home just to the north of that, replacing a mobile home presently up there. A maintenance building, storage area, rebuilt parking area. Some remodeled rest rooms, and a restricted wildlife area. There will also -- there's also an adjustment to allow tree removal of invasive species throughout the park. This is a little closer view, aerial photo of the northeast area showing more specifically the parking lot --

**Katz:** Let me interrupt you. Could you identify where the tree removal is?

**Brown:** It's throughout the, the meadow area on the park. Let me go back. Okay. It would be throughout the, entire open space, at the top and I will show some pictures of the, of the trees that we removed in a moment. Some of the improvements that would occur in the northeast area, more specifically, are parking lot, redesigned, redesign and paving of the area, the specific design isn't known right at this time. The amphitheater location just above the parking lot, restroom improvements, removal of the caretaker's house and relocation of the permanent facility immediately west, and then the maintenance facility, which would be located near two above-groundwater tanks that are owned by the Powell Valley Road-Water District. This is, this is showing a picture of the parking lot looking east from just above the parking lot, and the circled area in the foreground is the approximate area of the amphitheater. It would be basically a resculpturing of the



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land. This is the parking lot, again, and showing the, the horsetrailer parking area, which is below the, the car parking area. And then the residence is just beyond. Here's the caretaker's facility that would be replaced, removed and replaced. Restroom facilities that would be upgraded --

**Katz:** What's wrong with that?

**Brown:** Some unimproved trails that would be upgraded, maintained or upgraded. And then these volunteer trails, these are the ones in the foreground would be blocked off or removed. These are, are some of the hawthorne trees that are invading the meadow now. They are largely nonnative hawthornes, and they are, they are quite invasive. They have taken over large areas of the top, top of the butte, and the, these would be removed and the meadow area maintained over a period of time.

**Katz:** You don't like the --

**Brown:** They are fine in their place, if they can stay in their place.

**Katz:** Okay. -- They are fine in their place if they can stay in their place.

**Francesconi:** That's how the mayor feels about the city council.

**Brown:** I can tell what street trees you will be pushing for.

**Katz:** There's a whole story about hawthorne trees. They are incredible species, but I won't go into it right now. Go ahead. Okay.

**Brown:** And then final element of the plan, the environmental violation and adjustment, that there was environmental violation removal of, of trees and vegetation, along the pipeline area to the east of the site and up into powell butte, and then what is proposed as part of the, of the environmental violation review, much of it is already occurred is the removal of the blackberries and english ivy, planting of native groundcover, construction of fencing and removal of a shed. All of which have been largely done. This is an aerial photo showing the, the pipeline that citizens from powell butte park to our left, down to and across johnson creek, which is in the lower part of the slide. And here's, here's the photo of the, of the pipeline area right-of-way shown with the dotted green area. And then johnson creek, along johnson creek where it crosses or the pipeline goes down to the, to the johnson creek area. And then looking back up toward powell butte the right-of-way, the kiosk information on the kiosk that was, that was also constructed as part of the, of the remediation. The appeal issues and the hearings' officer response to the appeal issues first noncompliance with the zoning code conditional use and conditional use master plan sections. The appellant didn't give any specific details as to why the decision doesn't comply. Hearings' officer's decision does detail almost over 70 pages how all the approval criteria for the conditional use and the master plan are met. For the adjustment to the tree removal regulations, that they should be limited to species on the nuisance plant list, no reason was given for that. The findings of the hearings officer concluded that the removal of the nonnuisance species was appropriate and necessary in order to develop a water facility on the butte, particularly the pump station area. And the removal of the native species was largely limited to the area of the, of the water bureau facility. The noncompliance with the environmental violation review again, hearings officer determined that removal of the nonnative nuisance plans, replanting with native plants and opening of a forested area provided the increased habitat for meadow wildlife and increased diversity of food and increase scenic values, thereby meeting this particular approval criterion. For noncompliance with the, the master plan, environmental review criteria for the master plan development, hearings officer specifically determined that the restoration and replanting of the disturbed areas where the underground reservoirs would go in would provide adequate mitigation and meet this criteria, and that's deflected in conditions "i" and "j" of the report decision. In addition to and beyond that required mitigation, future reviews are included in the plan to inch that there's no net loss of resource values, and that's included as condition "h" of the decision. The appellants would like reinclusion of the

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mitigation bank to the master plan. This was a kind of a last-minute proposal by the water bureau, and there really wasn't enough information on the mitigation bank to determine if it met the applicable approval criteria, so the applicant actually is, has agreed to flush out those details, no pun intended here, and as over the next year or so, and come back with, with an amendment to the, to the, conditional use master plan that would include the mitigation area and a mitigation bank. The concept holds promise but as I said, they are, there are not enough details. Finally, violation of the master plan approval criteria because there's no mention of a water treatment plant in phase one. Water treatment plant simply is not a part of the master plan because of the need for the treatment plant hasn't been established. The location hasn't been chosen, and construction of that treatment plant would be well beyond the ten-year life-span of the master plan. It was included, it was included as a, quote-unquote, possible future use, which is required under the master plan submittal requirements, simply because there's an outside chance it may be located up there. Noncompliance with, with the adjustment criteria for tree removal, hearings officer determined because of the need for the regrading of the area around the pump station and the parking area needed for maintenance vehicles, and for maintenance-related at this time for the pipeline, the adjustment to allow tree-cutting beyond the limits set in the Johnson Creek Basin Planned District were justified. The pump station is going to be located on the east slope of Powell Butte, and that is required for technical reasons, which the applicant can go into, if you would like. As a result, being located on a sloped area, the grading area around that pump station is larger than it would be normally be on a leveled area. So, hence, the need to remove trees well beyond the 10-foot requirement or allowance, 10-foot from any building or 5 foot from paved surface. The proposed maintenance or size and location, the appellants claim is not justified, the applicant submitted justification for a maintenance yard of 40,000 square feet, which would include a 5,000 square foot office building. The hearings officer determined that there was sufficient evidence to support that 40,000 square foot maintenance yard and approved that plan element. And then the opposition to the use of herbicide for vegetation removal, herbicide for the vegetation removal, Jim is here and can go into herbicide application on Powell Butte and other environmentally sensitive areas and how the park bureau does this. But, the herbicide application is not prohibited in an environmental zone, as long as it is applied only to remove targeted vegetation, nonnative nuisance plants, and not surrounding plants. Herbicide. It was actually adopted by the city council in 1986. But, it didn't receive land use approvals at that time. The plan was generally renovation, relocation replacement or expansion of the existing water supply and recreation development and activity. It includes a maintenance program to enhance scenic and natural resources values. The implementation of the plan will have little impact on the surrounding area after the, the construction. Park facilities are only really a moderate expansion of fairly low impact recreation activity, so any increase in the traffic, noise, and other impacts should be negligible. Environmental impacts are offset by the restoration and ongoing enhancement and maintenance to the area. And because of the large-scale master political analyst really not possible to have details necessary to give full land use approvals at this time. I would like to say, however, that this is one of the most detailed and complete master plan applications that we have received. The applicant, as you can see, this is a 2-year-old application, and the applicant has spent a lot of time and effort to give us the details to allow us to, to recommend approval to the hearings officer to allow the hearings officer to make the decision to approve.

**Katz:** That was an editorial comment.

**Brown:** So, recommended the hearings officer's decision be upheld.

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**Katz:** Thank you. All right. Before we ask questions, I neglected to ask the council members about ex parte contacts. Were there -- are there? Are there conflicts of interest in were there, are there?

**Saltzman:** I listened to a voice mail from linda bauer yesterday. [ laughter ]

**Katz:** Is that --

**Saltzman:** In the vein of the ex parte.

**Katz:** Okay. It could influence your decision? [ laughter ]

**Saltzman:** No. It won't influence my decision.

**Katz:** Okay. I need to ask commissioner Francesconi the same question before we proceed.

**Saltzman:** What does restricted wildlife area mean?

**Brown:** Fencing off of the area, and limiting or restricting human access.

**Saltzman:** Doesn't fencing pose a problem for wildlife?

**Brown:** Well, some types would, but, but this would be limited, as well. The type of fencing would still allow wildlife passage but restrict human, or at least give notice that people shouldn't be going in that area.

**Saltzman:** And the other thing, can you give me a simple explanation of what a mitigation bank is?

**Brown:** Mitigation bank is an area where mitigation can occur in anticipation or in advance of development and environmental impacts occurring, and that mitigation bank would enhance an area and then credits would be given. [ no audio ]

**Katz:** Anybody want to challenge us on ex parte contacts or interests? Okay. Ten minutes.

**Louise Cody:** My name is louise cody. My address is 1515 southeast 151st avenue. And speaking on behalf of the centennial community association. The first thing is the powell butte conditional master plan is incomplete because it does not contain mention of a treatment plant for phase one and the treatment plant would have to be completed with, within 2011. This violates 33820050, approval criteria a, b, c, d, and e, components, general statement, uses and functions and site plan, which are required to mention and include all parts of the, of the master plan. The maintenance yard and storage shed, we support the reasons in duncan brown's memo of 5-31-02 to the hearings officer rejecting the applicant's argument to expand the yard to more than 3,200 square feet and the shed to more than 500 square feet. The staff report says this site is in a scenic protected view shed. There is also a spring there. The request for a 40,000 square foot paved yard will result in nearly one acre of impervious surface. The new argument is given which was not in the conditional use application that a staging area for construction and storage is needed. Since paving would be a permanent and not a temporary action, an after-construction area could not return to open space as it should. Some of the uses for a storage shed are firefighting vehicle, mothers and tillers, and they are questionable. Fire station 45 is on 174th, closeby and another is infrequently used now, rarely in the winter or late fall and a tiller is never used. Now, work parties park and meet in the upper parking lot. They do not need to park in the park maintenance yard. Why is a conference room or meeting room needed in the maintenance building? The decision of the hearings officer on page 11 states "the applicant also included in its justification of need for the maintenance yard construction, period, and other temporary uses. The hearings officer fines that the construction period and temporary uses are not justification for a permanent disturbance, unquote. If the 40 parking spaces for construction workers and three trailers for construction projects were removed from the paved chain linked fence maintenance yard, they could be relocated outside the yard on gravel. If temporary fencing is desired, the construction company can install it. When the construction is complete, the area which is adjacent to the permanent water and park maintenance yard can be returned to open space and not cause a permanent disturbance. You

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just have been handed, if you look on page 2, you will see a maintenance yard with red ink through the, the 40 parking spaces and the three construction trailers. If you remove those, you could probably reduce the size of the maintenance yard from 40,000 to 20,000 square feet. The maintenance shed and yard because of their huge size conflict with 33815-100 uses in the open space and impact on the natural resources in the park, as well. They conflict with the purpose of the open space zone purpose. Providing opportunity for outdoor recreation. Providing contrast to the built-in environment. Preserving scenic qualities, protecting sensitive and fragile environmental areas and preserving the capacity and water quality of the stormwater system. Paving almost one acre of the yard creates a large impervious surface which conflicts with the Johnson Creek basin planned district purpose, 33535010, which is to prevent flooding, absorb runoff, store water and prevent erosion. Adjustment for tree removal. That, we are dropping our adjustment for tree removal of 50 trees at the pump station. And in rebuttal, the agreement is, is, um, we are dropping our adjustment, specifically, as it relates to the removal of 50 trees at the pump station. If these conditions are met, which were agreed to by the applicant. The access road to the pump station would be gravel and not paved. Relocation of the pump station toward the access road in order to save trees, especially the fur trees, to replace fur trees with furs and replace other trees at the site when removed to. Find a flexible pipe route to avoid as many trees as possible. There's going to be a very large pipe and it will cause destruction of trees and there is a possibility of moving it and being flexible in its root, which may, may preserve some trees. The resource enhancement of vegetation management. The intent is to remove nonnative tree, hawthornes and blackberries from the meadow and store the meadow, page 19, conditional use applications. Methods of accomplishing this are stated, quote "a variety of revegetative techniques may be used including but not limited to controlled burning, hand-held and motorized equipment and land clearing." There is no listing of the use of pesticides, herbicides, but this spring, more than 16 hawthorne seedlings were sprayed, as well as napa weed. That's a flowering weed. Very pretty, but invasive. The seedlings were sprayed along the dirt drainage ditch and the concrete stormwater culvert near the gravel road. The practice of vegetation management was not mentioned in the conditional use application on page 19. So, it did not receive an environmental review, and it violates pcc 33-100-010 regarding open space purpose. Number four -- preserve sensitive or fragile environmental areas, herbicides can injure or poison small and large birds, mammals, and butterflies which come into contact with it when it is wet or eat seeds or bury spray. This harm's wildlife and its habitat and can harm people and dogs, as well. Fragile environmental areas are not preserved by herbicide applications. Another criteria for open space is five, preserving the capacity and water quality of the stormwater drainage system. Areas are being sprayed, such as some of the hawthorne seedlings along the gravel road by the dirt and concrete drainage ditch. Water quality is compromised by spraying herbicides close to the drainage system that empties into Johnson Creek and its watershed. On page 32 of the staff report, under "b," resource enhancement projects, quote "in resource areas of environmental zones, resource enhancement projects will be approved if the applicant's applicant evaluation demonstrates that all of the following are met, unquote. Two -- there will be no significant detrimental impact on any resources and functional values. "B," no significant impact on any water bodies for the migration rearing, feeding or spawning of fish. The use of herbicides violates both of these requirements. There has been no impact evaluation of the use of herbicides as a method of vegetation control by the applicant because he did not disclose that he had any intent of using this as a, as a method of resource enhancement.

**Katz:** You have about -- less than two minutes. Did you want Linda to talk because she won't have time.

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**Cody:** We were understanding we each got ten minutes.

**Katz:** No, the appellants -- you will -- I will give you --

**Cody:** We are two different appellants.

**Katz:** Oh, okay. All right. Two separate.

**Cody:** Two separate, completely.

**Katz:** I stand corrected.

**\*\*\*\*\*:** I was wondering about that.

**Cody:** The use of herbicides, there's been no impact evaluation. The steep slopes of Powell Butte, the stormwater run-off, drainage into Johnson Creek and the total eventually seven reservoirs built on Powell Butte and the main water facility storage center for the city and suburbs are made vulnerable to contamination. Groundwater storage, storage pumps, stopper water, reservoirs, and Johnson Creek need protection. The use of herbicides should be prohibited as a conditional use of approval. Boy Scouts, Multnomah County Sheriff's as well as youth offenders are all sources that have worked in other parks. Centennial High School worked on projects in Powell View Park. These people could provide alternatives to herbicides used. Goats have been used by Metro to control blackberries. Alternatives are necessary because over 100 acres would be treated with herbicides. The policy in natural resource areas is to limit herbicide use in the city of Portland, but at Powell Butte this is not the plan.

**Katz:** Thank you. Questions of Louise?

**Francesconi:** Goats? I couldn't let that go.

**Cody:** It was on television about a week ago that Metro's, Metro had a natural area and they had, I believe, 72 goats --

**Katz:** 72?

**Cody:** A lot. [ laughter ]

**Cody:** It was a herd of goats, and that they were eating the blackberries like crazy.

**Francesconi:** But the goats eat things other than blackberries, including the things that we don't want them to eat.

**Cody:** That may be true but here they seem to be targeting, I guess they were confined to an area and were eating the blackberries. But they have been used, Metro has use them, you know, for vegetation management, and they said that the good thing is that you didn't have to plow, which would have, you know, dug up the earth, and that you didn't have to use any kind of herbicides.

**Katz:** Let me understand, they eat the berries and the plant?

**Cody:** Well, I guess -- they like, they like the thorns and they like the --

**Katz:** They like the thorns, okay.

**Cody:** I guess they don't like the thorns but the leaves.

**Katz:** I have a better way of collecting just the berries. All right. I didn't know that. That's interesting. All right. Go ahead. We have the second appeal. Thank you.

**Linda Bauer, Pleasant Valley Neighborhood Association:** Linda Bauer. For myself and for the Pleasant Valley Neighborhood Association, 6232 Southeast is 58th. I have supplied you with some pictures. These are, are the, the pictures of the wetland that is underneath the area that the hearings officer approved be paved as a maintenance yard. Okay. So, and my main concerns with this case are, with process, not with what is actually on the ground, except the maintenance yard. And I have enclosed a page from the, the citizen's panel of the Bull Run treatment plant and I start a couple of places where they have, their recommendations for you to read for yourself. Attached is a copy of the page from the citizen's panel for citing of the new water treatment plant. The start paragraphs indicate that the panel was led to believe that Powell Butte was purchased to cite a water treatment plant and that there will be significant impacts on the park and surrounding neighbors.

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Because of those significant impacts, the water treatment plant needs to be looked at in the context of all of the, of the proposed development at Powell Butte. And I enclosed a purpose statement for a conditional use, 33-820-0100 purpose so that you could read it so that you can see I don't take it out of context. The above purpose of the conditional use master plan says that projects expected within the next ten years are to be looked at, as a whole, not as piecemeal and the cumulative impacts can be addressed and adverse impacts from piecemeal expansions can be avoided. The duration of this plant is ten years. The water treatment plant is scheduled, if we don't get an exemption from the federal government, is, as Louise said, 2011, so that's only nine years. This is a ten-year plan. It should have been included, and all of the impacts should have been, been looked at, cumulatively, with all of the other development that is proposed. Not say that we are in favor of the water treatment plant. But, if, if the federal government gets, gives us an exemption, the impacts and the mitigation from those impacts can go away, but if we don't do the process all at one time, we will miss the opportunity to ever do it all at one time. So, we, ask that you deny the conditional use master plan as proposed because it doesn't include the water treatment plant. Then, then I oppose the granting of an environmental review. I've included the, the criteria out of the code 33-432-50, approval criteria, that says that an environmental revenue application will be approved if the review body finds that application has shown that all of the approval criteria are met. The applicant doesn't even attempt to do a mitigation plan. You will see in the next excerpt, 33432-50 criteria approval a-1, there are three, three requirements about a mitigation plan. This application has no mitigation plan whatever. As part of the proposed -- then on, on 33-800-050, the function of approval criteria "c" says all proposed improvements, mitigation measures and limitations must be submitted for consideration prior to the final decision by a review body. So, the hearings officer didn't have before him a mitigation plan, yet he made a decision to grant an environmental review without that information, which this, this, which this code citation specifically says, "cannot happen." If you deny the environmental review, it is not a serious problem for the water bureau because 33820-020 components of a master plan say that the required reviews for all phases may be done as part of the initial master plan review or maybe done separately at the time of each new phase of development. The plan must explain and provide enough detail on how the proposals comply with the approval criteria for review. The approval criteria calls for a mitigation plan. This plan has no mitigation plan. I included a definition of a mitigation plan, 3343240-b, as part of, of the conditions of approval, the applicant is proposing a, restoration plan, not a mitigation plan. We can see what a mitigation plan, which is required, is. What are the components of restoration plan? No one has made that clear. So, I don't know. And why did they change the name from a mitigation plan to a restoration plan? So that everybody would be clear on what, what the intent was. In 3343240-b, the supplemental narrative, which is required as part of your submission, the impact evaluation is based on resources and functional values identified as significant in the reports listed in 33-430020. The applicant never addressed 33430020. Those are the resources that have been identified for this site. He never, he never acknowledged that they existed. He never said what impact he's going to have on any of them. In the proposed new conditions of approval, they are dropping the, they are dropping the functional values and they are only asking for, if resources to be evaluated, to be mitigated. So, as part of the, of the, of the approval criteria, they are dropping part of what needs to be reviewed. And they are changing an environmental review in this case was a type iii process. They are proposing to change the, the review approval criteria from a type iii to a type I or ii, depending on the amount of disturbance. 33-820070, components of a master plan say conversely the more general the detail, the greater level of review that is required for subsequent phases. Since they gave no details whatsoever about a mitigation plan, how come it's going to be a lesser review than the original review? It doesn't

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make sense. The park -- oh, the park maintenance building -- I took those pictures on september 16th in the morning. September, if there's water, flowing in september, you can, you can be sure that there's water there year around. And this is just another reason to deny the environmental review. On page 23 of the hearings officer's decision, 33815230, it talks about rail lines and utilities. The street connectivity study recommends that a street connection be made between circle and powell butte estates as part of the new development. This application did not evaluate that requirement and does not confirm or deny substantial interference. Therefore, this criteria is not met, as well. Questions?

**Katz:** Okay. Everybody clear about what the appeal issues are? If not, we will probably have, have enough time to ask some additional questions. Questions now? Thank you. Supporters of the appellants, three minutes each. Anybody want to talk in support? All right. Our bureaus, principal opponent of the appeal. Are you the consultant?

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

**Katz:** Okay.

\*\*\*\*\*: If you could give me just a minute, I have a couple of materials that I need to bring up.

**Kevin Hanway, Montgomery Watson Harza, Consultant:** Thank you for your patience. Good afternoon, counselors, I am Kevin Hanway.

**Katz:** You have 15 minutes.

**Hanway:** Yes, I know. I will do my best. Responding to 20 minutes' worth of testimony will be tough. I am a consultant with Montgomery Watson Harza, with me are Bob Willis from the water bureau, Jim from the park's bureau. They have been involved in this planning process for Powell Butte since it began, in 1995. That master plan that was developed then is a culmination after two-year public stakeholder process to reach a consensus on what developments should occur on the butte for both the water and the park's bureaus. The stakeholders included the city bureaus, wholesale water customers, these neighborhood associations, and others, bicycle riders' group, mountain biker's group, friends of Powell Butte, the Audubon Society, 40-mile loop trust and friends of Spring Water Trail as Duncan Brown pointed out, that plan consensus was reached on the plan. It was brought to the council and adopted. After that, we spent several years developing more information to address the zoning code requirements, such things as stormwater management, traffic, parking and phases of development was going to occur, so we could get a conditional use master plan approval. We have continued to meet with the neighborhood associations, through that planning period and since the last hearing, and have agreed on some clarifications and new conditions which are in the materials that were distributed to you before the hearings labeled applicant supplemental materials before the Portland City Council seven-page document. Points 7 and 8 on page 6 and 7 of that document list out some clarification, for instance, Linda Bauer mentioned that the plan provides for approval of restoration plan. We have agreed to change that to restoration, mitigation plan to make it clearer what's coming in. And I believe that Louise Cody identified some of the other conditions that we agreed to that are detailed on page 8. I am kind of limited in time so I want to --

**Katz:** I am going to give you a little bit more time because I didn't realize that these were two separate appeals.

**Hanway:** Thank you, Mayor. So I want to raise the, the few less major issues before we get to the two major issues, the environmental review and the maintenance yard, which seem to be the major ones. There are points raised about objections to the street connectivity study. That requirement was not addressed. If you look on page -- I'm sorry, page 5 of the packet that I mentioned earlier, it details that, just like at crossings, there will be numerous street crossings between Powell Butte and Bull Run where the, the conduit will go under the street. We will be able

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to design, to satisfy whatever criteria is needed to cross that location, and if it's at the time of development or some other development, the council and the city decides to extend the street across that circle avenue location -- that the conduit is there will not interfere with it. As to the water treatment plant, I have addressed that on page 6 of that packet. What, what we are dealing with here is, is that the whole idea of where and when and whether a treatment plant is going to be built is just too speculative at this time to, to justify including it in the first phases of the process. Your capital improvements program does not, for ten years doesn't include funding for construction of the treatment plant. Your treatment panel included a recommendation that highlights powell butte but recommends continued study of alternative sites and certainly it's a decision that the council is going to make after a public process and you have not gone through that process yet. And so it's too speculative to know whether it's going to occur at the site. As far as the environmental review aspect of whether the cumulative impact of that project, in addition to the other projects in this plan has been addressed, it hasn't, but on the other hand, I have yet to hear any objections to the cumulative impact of the facilities that are included in this plan. So when the time comes, when the water bureau comes back to you and if they decide that powell butte is the place to be, that will be the time when you can look at how, what impacts, what additional impacts does the water treatment plant have, add to the facilities already here and you know, it's already been concluded that easing -- that these impacts are acceptable. There is one other issue that I want to address that the bureaus had objected to, and it has to do with pedestrian path. This -- the hearings officer -- the staff report and then the hearings report approved an additional condition that a required construction of a pedestrian path from powell boulevard up to the park center parking lot, that would comply with the ada standards and this, to comply with a, a pdot policy that would, that would encourage that kind of connection, if it's feasible. I hope you can see this drawing. The problem that we had, at the time of the hearing, we got the hearings officer's report or the staff report, a week before the hearing, we didn't have time to develop what that path would look like. Since then, we have been able to develop a draft plan. You can see this path that zigzags back and forth, has a total of 28 switchbacks, and meets the absolute maximum limit of ada standards of an 8% -- 8.83% grade, and doubles the length of the, of the route compared to the, the access road that's in place, and depending, that is not a feasible solution. 3200 -- or 3200 foot long path at 8.3% grade is not going to be something that anyone is not physically capable or has physical disability. They are not going to be attracted to taking advantage of that route. And we ask that that condition be deleted since you have the discretion --

**Saltzman:** It starts at powell boulevard?

**Hanway:** Correct. One last issue is, the pesticides the use of herbicides, at the butte. First of all, what was requested in, before the hearings officer was approval to use the herbicides to eliminate nonnative plants, hawthorne and blackberry, and nonnative nuisance plants. Your environmental review code specifically exempts from environmental review the removal of plants that are not on the, the Portland [ inaudible ] list.

**Hanway:** In addition, I presented you with memorandum -- september 19th to kevin hanway from jim sjulin that details how the park's bureau uses herbicides up there, and attached to that, is a copy of the park's bureaus integrated test management plans specifically for water bureau properties. What that demonstrates is that the way that the park's bureau uses those herbicides is in compliance with your limitations on hazardous materials and open space zones. Also, just to make clear that although an area as large as 100 acres may contain plants that, that are intended to be removed and may be removed in a number of ways, including the use of these herbicides, the intent is certainly and the policies that the parks bureau adopted is not for a broadcast application of these herbicides, it's targeted directly at specific plants and it's applied only during times when, when there's not a



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risk of run-off, off the site. Moving on from there. Two major issues that I will address have to do with environmental review and the, the size of the maintenance yard. On the environmental review, issues appear to be one, the hearings officer granted environmental review approval and was that appropriate. We have addressed all of the environmental review criteria, including the johnson creek basin plan, resource, and functional values information. Some of that information is included in the materials submitted to you today on pages 1 and 2. Second, the applicant has volunteered to have additional review of the mitigation restoration plans and although the master plan recommends that or provides that that be done with a type one process in consultation with city staff since then, we have determined that the type 2 process would be more appropriate. And so the question is, whether it is a type 2 process appropriate. What the neighborhood associations have indicated to us is they want an assurance that there's an opportunity for a public review of, of whatever mitigation and restoration plans come in. So, I think what's, what's important is understand, to understand what kind of mitigation we are dealing with. What we have, and I am trying to get to my last plan here. It's your site plan. If you look on there, the facilities we are talking about are, are a reservoir, 50 million gallon reservoir, 20 million gallon reservoir, pipelines to those, maintenance yard, and a pump station. For the, the total of those, by the way on the 600-acre site is the creation of approximately 12 acres of new impervious area. For the reservoirs and the pipelines, what's going to happen and what's committed to as a mitigation plan and the master plan is that the preexisting contours will be restored over those buried facilities and that the open meadow types of vegetation will be planted on top of them. There is not much more to say beyond that, on what's the mitigation and restoration plan is going to be. And that's, that's why we've made this combination-mitigation restoration plan is really on those sites, what we are dealing with is restoration. There's also the maintenance yard over here by two existing reservoirs. I will get into this more in the -- I won't get into this more than necessary but there is no detrimental points as a result of the development of that site. The drainage that linda bauer talked about and the landscaping that's proposed for around it will screen it very thoroughly. So what we are left with is, is that, that will have the most significant impact is the pump station. Sorry to keep running you back and forth between exhibits. You have a third packet that has a plan like this on the front. Shows the maintenance yard, second page of that is, is, illustrates the pump station site and the trees that are proposed to be removed. The application demonstrates why the, the pump station needs to be there. The reservoir, the 20 million gallon reservoir is too high. Too high of an elevation to be fed by gravity through this conduit, and actually most of the time it would be supplied from this reservoir so you need a pump station somewhere along this pipeline between the main reservoir and the 20-million gallon reservoir. This is site, and it also has to be at a certain elevation below the reservoir, so we are looking at a location somewhere between this point and this point. This is the site that has the least visual impacts and will involve the least intrusion into the park. We did work with the neighborhood association since the hearings officer's decision to see if there were ways to reduce the width of that corridor and we originally proposed the pump station would be buried there and so we looked at raising that above ground. That's what you see on the third page. Is the pump station moved to the east side of the site at a grade level. The problem is, that there are three pipes that need to be run through that corridor. One, 66-inch pipe running up to the reservoir, 66-inch pipe running back to feed the system and a 48-inch pipe for emergency overflow. Using all of our engineering expertise, we looked at that and we may be able to narrow that down to 68 or 70 feet, but we can't guarantee it, and to give us some flexibility to allow for moving those pipes somewhat to void some of those trees if we can, the 75-foot corridor is appropriate. So, what that means is for that 75-foot corridor that the hearings officer granted approval to remove the trees from, we need to do mitigation somewhere on -- I am sorry --

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**Katz:** Go ahead. How much more time do you need?

**Hanway:** I would say about five minutes.

**Katz:** Okay.

**Hanway:** Is that fair? Somewhere on this 570 acres, we need to find a place that we can plant several hundred trees that are on your native plant list. It's clear that this is not like your typical mitigation program where you have got a single site and you are trying to squeeze a large area of development and mitigation onto the same type. Here we are talking about 12 acres of development leaving 580 acres where we can do mitigation. I think it's gross overkill to require a public hearing on each and every one of these mitigation restoration plans. What we have proposed was a type ii process, is to retain the opportunity for interested parties to appeal to the hearings officer and beyond if they desire.

**Hanway:** Maintenance, yes, the maintenance yard does prevent -- does present the other major issue. Three questions, will it impact the trainage in that area. Will it violate view corridor restrictions against blocking the view. Why is it so big. The slide you see in front of you illustrates in oval area where we went out yesterday after the rains and identified where there is a drainage develop because there is a discharge pipe around there. And there's plenty of room in what this slide illustrates is the maintenance yard, site location has been adjusted northward, at the right-hand side of that slide. About 10 or 15 feet. So, that there's plenty of room to avoid that drainage. Next, will, will this, this -- you get the impression, when you talk about an acre of development this is going to be a spar that will be visible throughout the park and what I have done here is gone out and taken pictures from areas ranging from the parking lot to up, up the trail to the top of the ridge, and you can see, let's see, in addition right here, you can see some trees marked by an asterisk. I have used those as a marker surrounding these, and what you can see -- i'm sorry, this is -- this shows the view from the, the park center over towards the reservoirs. Right through here, behind this fence is where the two large reservoirs exist, that no one has any idea that they are there because they are so thoroughly screened by these trees. That's the same sort of effect that we expect to develop with our project. Then as you move up the hill, you be see these trees at the northwest corner of the site of the yard with the maintenance yard would be behind that on the slope going downhill. As you move up, a couple of hundred, about 200 feet, the existing reservoir site isn't visible any more, but these trees still are and you probably would be able to see at least some of the maintenance yard site. You go about 400 feet further and right at a ridge, they are still visible but as soon as you go over that ridge, you can't see anything down in the park center. And as you continue over and above the existing Portland reservoir, it's the same thing. There's a bench that shows that view so, what you have is, is an area that's really quite small, from the parking lot to about here, about here where there's another ridge. Those are the areas where you will be able to see this development and once the trees that we recommended are in place, even that won't be visible. Finally, why is it so big? We are talking about some significant facilities here for the water bureau that are going to be developed. Those will entail significant maintenance obligations.

The park's bureau also will benefit from, from mitigation and restoration and enhancement programs carried out during the development facilities. They will want to continue --

**Francesconi:** I'm sorry, you have my attention on the question of why is it so big. What facilities are you talking about?

**Hanway:** The parks?

**Francesconi:** No, that's going to be developed in the future.

**Hanway:** The facilities for water bureau are the two reservoirs, 50 million gallon to 20 million gallon reservoir. The pump station, the pipelines.

**Katz:** I think he was talking about --

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**Hanway:** And the maintenance yard. For the parks, there are the improvements to the rest rooms, to the parking areas, and to the trails and then for restoration and enhancement programs, we have talked earlier about removal of the trees to maintain the open meadows. That, that will be a continuing battle, however, to keep those invasive species out of that area and the importance of having the maintenance yard on-site is to assure that it's well equipped to allow for convenience -- convenient staffing so the maintenance, that both -- the point is both bureaus want to do a better job of maintaining the butte. That facility will allow them to do it. Thank you.

**Katz:** Thank you. Questions?

**Francesconi:** Can't it be smaller? I understand -- can't it be smaller? And still maintain the effectiveness, or not?

**Hanway:** We feel that we have justified a 40,000 square foot yard. Especially in light of the construction period needs that will also be able to take advantage of that, we think that it's important to manage those uses. There will be a lot of vehicles coming in and out. A lot of staging that will need to occur there. There will just be leaking oil and other spills that, that always happen at construction sites, much better to be able to manage those on a paved surface where we can tie them in, into run-off controls and to spill controls and stormwater management than to do that on a graveled site where we lose all control of those things. And so, for the combination of those construction period uses and then continuing onto be able to maintain the park and water facilities at a high level, we think that that area is justified.

**Francesconi:** So the further treatment facility that we are not talking about now, you need the 40,000 for, for the existing uses, not just, that you just named. Not just to set the stage for some future use?

**\*\*\*\*\*:** Excuse me for interrupting, sir.

**Francesconi:** No, that's all right.

**Hanway:** No. That is not sized with the eye that, that, that yard will be there ready when a water treatment plant comes in. That we have addressed only the facilities that are coming in at this time.

**Francesconi:** And if it was 32 -- 3,200 feet, apparently, duncan may have written a memo supporting that. What would be -- what would you lose from that 800 feet?

**Hanway:** Well, we are talking about 40,000 versus 3,200, so that's 37,000 -- frankly, 3200 square feet, it's not words developing it.

**Saltzman:** Wasn't that the original submission by the water bureau?

**Hanway:** What the application documents stated was 80,000 square feet, and there was an oversight in my review of our drafting that allowed the drawings to go out showing without any interventions on them, and when duncan scaled those off and measured it, 3200 square feet, but all the documentation references an 80,000 square foot request, so actually since we, we started meeting with the neighborhood association, we reduced our request from 80,000 square feet to the 40,000 square feet that's before you today.

**Katz:** Further questions? Are you finished, jim? Commissioner Saltzman?

**Saltzman:** I guess I would be interested in hearing from duncan why he found a 3200 square foot was supportive. With such a big difference in size, 3200 versus 4200.

**Katz:** Let's hold that back until we finish with the hearing. Any further questions of -- all right. Supporters. Appellants, you have five minutes for rebuttal. We will come back to that question.

**Bauer:** Linda bauer for the pleasant valley neighborhood association and myself. If the mitigation plan isn't that big of deal, why didn't they go ahead and do a mitigation plan as required by the code? They didn't address the impacts of, of, what is it, the code requires them to address the impacts of 33430020, which is our site-specific impacts identified for this particular site. They did

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not, anywhere in their application, even acknowledge that they knew anything about these resources and functional values. They did not analyze the impacts. There is no requirement for an impact evaluation in the new approval criteria, so we don't know if they will ever be addressed. In the, in what they are proposing. They are dropping the functional values from the approval criteria, the new proposed approval criteria so, all they have to do is, is apparently see that there are no significant losses to resources, but the functional values have just been dropped. There's no impact evaluation required. I object to them using a type three process for half a review and a type I or ii for the other half of a review. The code clearly says that, that in order to make a decision, you need to see that all, all of the appropriate approval criteria has been met and in this case, it has, it has not. Thank you.

**Cody:** Louise cody, centennial community association. The decision of the hearings officer said, and I have already read it, that the applicant cannot use as justification for the size of the maintenance yard the construction period and the temporary uses that construction entails. One of the reasons why the maintenance yard is so large and there's a picture of it, for 40 parking spaces, that isn't truck parking. That is the way the construction workers will get there. They are going to draw it. So, if we are going to manage the, the oil, we have had parking up at powell butte for over ten years, and, on gravel, and, you know, oil could be a problem but it shouldn't be any more problem if they take their maintenance -- their cars, park it outside the, the maintenance area. What's happened here is we are getting a combination of apples and oranges. We are getting a permanent facility to deal with water and park-related needs, and we are also making it big enough for three construction trailers, which the city of Portland will be supplying for the construction period. I believe that we should build a smaller maintenance yard outside adjacent to it, you could put three trailers or four trailers for construction uses, 40, let people park on gravel, the 40 cars or whatever construction cars will be, and then in ten years or 20 years, pack up the area and reseed it and let it go back to nature. One of the problems with building a permanent, permanent structure for temporary uses, it cannot return to nature. Okay. For 12 years up at powell butte, there was no use of herbicides or pesticides. That was the condition in which the water bureau said that the park bureau could have a park there, was if they didn't use any kind of pesticides and about two years ago, that agreement changed. I am not specifically objecting to the use of herbicides and pesticides. I mean, I am, but not in this process. I am complaining about it. The reason is the nature of my appeal here is that the resource enhancement, vegetation management program has to jump through hoops. It has to show that it's not hurting the storm water, that it's not hurting the environment. And the issue here is that because they didn't disclose it, a variety of vegetative techniques may be used included. They did not say herbicides, so they could not say herbicides will not hurt these approval criteria. They are consistent with it. And that is the nature of my appeal. Not that I am against pesticides or herbicides, which is not really the issue here. It's that it didn't meet the approval criteria. The access road to the pump station, that was left out. When we talked about dropping the appeal, they said that there was going to be a parking area which is for the crane, which they would look at impervious surfaces. They also left out the access road to the pump station would be gravel and not paved. And we would ask them to please orally say that they would intended to do that because they agreed that they would.

**Katz:** Okay. Thanks. All right.

**Saltzman:** Question. Any response to the request about dropping the condition for the pedestrian path? Do you have a reaction to that?

**Cody:** Which one? You are talking about the one up from powell to 162? I think that they should have a pedestrian thing, like a pathway off on the side so people don't get run over which they kind of do but make it better with some kind of gravel, but it shouldn't be paved because it's much too

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steep and dangerous. Right now they have a trail and I would suggest that be graveled so the footing is, is better for people who want to walk up so they don't get hit by cars. But paving there is, is, I mean, people are going to use it for skateboards and bikes and if you are walking up it, you are going to be toast.

**Saltzman:** Part of the paving is the ada requirement.

**Cody:** No ada person would go on that unless they want to commit suicide. It's terribly steep, it's just impossible. I mean, you would need to -- you would need to go up and see it would be terribly dangerous.

**Saltzman:** Good skateboarding, probably. [ laughter ]

**Cody:** Yeah, you won't need a park.

**Katz:** Let's bring up staff. I want to identify everybody will have their own issues but I am to identify the maintenance area and having it gravel as opposed to a permanent area, so I don't know if you want to talk about it now but we want go down the line. Is there anything that you want to flag and have discussion? Commissioner Sten and Saltzman?

**Sten:** I just wondered, orient me again on the mitigation bank concept that came up after the hearings officer. Is there any hope there?

**Brown:** There was some questions on the maintenance area, both the size of it, I believe, commissioner Saltzman and the paving or nonpaving of it. As far as the size goes, the application did ask for 80,000 square foot maintenance yard but showed it 3200 square foot. 80-foot maintenance yard on the site plan. I simply called the applicant on it, you said you are asking for this, showing this, there's a big difference. Please justify it. And they were unable to at that time. They were -- they prepared the information in time for the hearings officer but not in time for my staff report, so I simply said, that we recommend what you show and that that makes sense. You have got to have a place to, to put a lawn mower, too.

**Saltzman:** So it truly was an error?

**Brown:** Yes, yes. The applicant provided information to the hearings officer, not only discussing construction management and that sort of thing, but also ongoing use of that area for ongoing maintenance of the park and recreation facilities as well as ongoing maintenance of the water bureau facility. We are going to have three times the number of reservoirs, the pump station up there, much more in the way of mechanical maintenance needs and that sort of thing for, for water bureau activities up there. And along with that, I think that the park bureau would be the first to step up and agree that maintenance levels on that, that park and the meadow are not exactly up to the level that they would like, and part of that is the, because of the need to, to truck everything up, and so the applicant provided this material to the hearings officer to justify a larger than 3200 square foot maintenance yard. And the hearings officer agreed that this, this was appropriate. As far as the paving versus --

**Francesconi:** What do you think?

**Brown:** Just looking at it, okay, my feelings are that this is a city block, 40,000 square foot maintenance yard, as big as the city hall and just look at it and is that justified, well, the, there was evidence that was presented. There was nothing that was presented to contradict that, so, and I think that the hearings officer, in his conclusion, said something to the effect that, well, probably what really is needed is something between duncan's 3200 square foot and the 40,000 square feet requested, but that there is no evidence to pin that down any more closely.

**Francesconi:** So are we supposed to pick it out of the air? [ laughter ]

**\*\*\*\*\*:** Well --

**Katz:** Well --

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**Brown:** In actuality once the landscaping requirements, perimeter landscaping requirements are put in, you are going to see something less than 40,000 square feet, something more in the area of about 30,000 square feet of actual hard surface or impervious surface, if the request is, is approved.

**Saltzman:** What about the issue that construction period is not supposed to factor into this, the size of the facility? And yet there's three construction trailers, I think, at least three.

**Brown:** Yeah, that's correct. And the evidence that, that the, that the hearings officer saw also included future use of that site for storage of material. Plantings and, and equipment, outdoor equipment that couldn't fit into the, the shed.

**Saltzman:** So when the trailers are gone, that would be storage areas?

**Brown:** The impervious surface.

**Katz:** If you go down to the river or pearl district and watch the construction, a lot of the equipment is on surfaces that are gravel, dirt, rock, they don't pave a square block to put their, their cranes and all their equipment on. Why do we have to do that in an area that is somewhat of a pristine area?

**Brown:** Okay, again, the construction activity should not enter into the, the justification for this being a paved area. The paved area or the ongoing long-term paving of the area and a long-term maintenance of it should be based on, on the long-term needs of that site, for maintenance equipment and that sort of thing.

**Katz:** But you don't know what the long-term needs are going to be, so what you are doing is you are preparing the, the place for some future, and it's easier to prepare it with, with cement than it is paved than it is to prepare it with gravel, correct?

**Brown:** Okay --

**Katz:** That way you have the ability to do whatever you want to do because you have got the surface paved already.

**Brown:** For trying to justify based on the construction, actual construction of the, of the reservoir and stuff, I would like to defer that to, to the water bureau folks, if you don't mind. [ laughter ]

**Katz:** All right.

**Brown:** What I would say would simply be a second hand from what --

**Katz:** Fair enough.

**Brown:** From what they told me.

**Katz:** All right, water bureau.

**Francesconi:** Could we also, I hate to put jim inside position but could we have parks come up here, too? Jim?

**Katz:** This is, wouldn't it be nice so let's do it this way. Because who knows what we are going to need tomorrow.

\*\*\*\*\*: I think that --

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

**Hanaway:** Montgomery watson -- first of all, we have done our best to identify the kinds of uses that would be needed long-term regardless of construction requirements and construction activities at the park, and what your code requires is a paved parking lot. So, for that sort of use, your code requires paving. That's why we have, that's why, why -- that's one of the main reasons that we requested paving. We have also discussed construction period uses, and that's because once construction of these water facilities starts at the butte, it's going to last for a long time.

Construction of, of the reservoir is probably a 2.5 to 3-year process. That's the first one, and then there is a second reservoir that includes a pump station, so you are looking at once the, once the water facility construction starts, for the duration of the master plan and potentially beyond as we

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look out to phase ii uses, there will be construction activity up there and paving -- citing those uses on a paved area just manages them better. So, the two are independent but they also compliment each other. I will let the other, the bureaus add onto that.

**Bob Willis, Water Bureau:** Hi. I am bob willis from the water bureau, and I am the project manager for this project. I guess one of the things that, what we are trying to do with the maintenance yard and the paving in a sense is part of that, we are trying to do is ly take a verge piece of water bureau property and make multiple uses out of it, and get as much use as we can for the water bureau but make it as much as a community value as we can, and part of that is, quite frankly, developing what we would like to say is like a world class nature park up there. Something that is really an amenity or really a positive thing for the city, and we know that we are going to have, to have -- that it's going to take work to do that. There's nothing, even though it's a nature park, there's nothing natural about it. It's in the middle of an urban area, it has primary forest cover is doug fur, not big open meadow. So to maintain that, it's going to take a lot of work to do that. A lot more work than we are doing right now, and what we want -- what we are trying to do with the maintenance yard is to set up a spot where we can take the work and at this times for both the construction and a long-term maintenance of that butte and make it -- take it out of the visual scene of the butte so it doesn't detract from the park. What we are trying to do is identify a spot where we can go in and preplant screening for it so that we can plant the trees and the screenings so when we do come in, in the next four or five years, and start construction, the screening is already there and this piece simply doesn't become an, you know, a further eyesore in the middle of our park. The paving issue, specifically, though, is simply one where you know in the long-term, you have -- there's a lot of things happening in the construction yards, or not construction yards but in maintenance. We have materials and gravel and bark dust and pieces of wood and poles and stuff, and equipment park there, long-term sitting out in the rain, and things happen over the long-term, and in the paved parking lot you have a way to capture that stuff. It doesn't spread around and make a mess and get tracked out into the park. And we don't have to, have groundwater contamination issues and stuff that can be -- come out of there. It can all go into a, be collected and put into an appropriate, appropriate retention basin and cleaned and discharged appropriately. With the gravel parking lot, you know be they just spread and get -- it's hard to control the mess and the dust and the noise out of them, and paving, you know, if you can hide it, hide it from public view, which we certainly are going to do here, is simply just a way to control it and make it quiet and make it more useful, and that's really what we are trying to do here.

**Francesconi:** So that was very helpful. Now, what do you lose by having a 30,000 square feet versus 40,000?

**Willis:** Well, as duncan said, actually, it is about 30,000 square feet because we have so much screening trees and stuff on the outside of it, or on the outer piece of it. That's really what you have left, by the time you do that.

**Francesconi:** But functionally, what do you lose by reducing it further?

**\*\*\*\*\*:** Um, -- by reduce it go further?

**Willis:** The more you reduce it, the more stuff you have to put outside there.

**Francesconi:** What stuff? That's what I am getting at, what is "stuff."

**Willis:** Parking or storage or, you know, if you can't fit it in there, you have got to fit it some place else. And the idea here was to get a big enough area and get it screened so that we can handle, you know, whatever is going to go on up there. You know, there's bound to be equipment. We are bound -- we had a fire up there this last year, you know, fire is a natural succession mode for doug fur. There's forests on that hill and sooner or later somebody will set some of that stuff on fire and we will have -- we will have to come in and do something to clean it up and reforest and replant.

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All that stuff -- all that equipment and mess from that has to go some place. And we prefer to have a controlled area where we can do that, to control, you know, control what's going on, control what the visual impact onto the butte is, and the smaller we make it, the more it stiffens up outside of that screening, some place else on the butte.

**Jim Sjulín, Natural Resources Manager, Parks Bureau:** My name is jim sjulin, the natural resource manager for Portland parks. I've been thinking about, you know, the scale that we need here and sort of as a noted of comparison, we have an east side field office out at 86th and foster. It's a leased space, it used to be the lens auto body place, and it is about 15,000 square feet. And in totally, and we have a small former residential structure that serves as the office and then the old auto body place is where we park our, our couple of trucks -- "stuff," yes. Our trucks and some of our, our equipment.

**Katz:** How much? How much stuff are you leaving there?

**Sjulín:** Everything from, from, you know, lumber that we need for trail repair. We would have gravel for other trail projects. At powell butte, actually, we probably have more of a need for staging, stage and gravel and trail stuff because 86 and foster is not an natural resource site, just an office site. But in terms of scale, we have three full-time staff people reporting to that site. Our master plan that we brought forth in '96 identified that powell butte some day should have about that level of staffing. It doesn't right now. But, that's what the plan said. It said that we needed to provide some security, maintenance, and environmental education or interpretive staff at powell butte. That would -- those would be a, would be good addition to say take advantage of the city's second largest nature park, so from the park side, the equation for me looks like yes, we could consume, and will use about half of 30,000 square feet, or similar to the east side field office where we have a similar size right now.

**Francesconi:** For the park's side.

**Sjulín:** For the park's side.

**Francesconi:** You spent so much time there and you love the place. You have taken so much care of it. Do you think that the water bureau's request is reasonable?

**Sjulín:** I think it's reasonable.

**Francesconi:** And why do you think that?

**Sjulín:** First of all I am trying to understand what the water bureau's ongoing needs are, and I am learning that as we go. But, I think that, that whereas now, the system is pretty benign. Everything is gravity. Gravity-fed and so forth, but if you start bringing in an active pumping facility, that's going to need a lot more attention, I think, than the gravity system that we have in place right now. And so i'm speculating that water needs to be present at the site are going to be similar to parks, and so what I am guessing is, is that a facility that is about one-half parks and one-half water feels about right to me.

**Francesconi:** Okay. Thank you.

**Katz:** Further questions?

**Saltzman:** I am still confused on the pedestrian trail now. The hearings officer put this condition in? On his own volition or did somebody --

**Hanway:** Kevin hanway, it was an issue that first came to our attention in the staff report. Which, of course, we received about a week before the hearings. And we, we objected at the time that this is the kind of path that's going to come out. We don't think that that's really going to be something that anyone will have any use for, and in fact, will create a hazard because it will attract bikers and skateboarders and various people who, who will try to careen down the hill on it but we didn't have any evidence illustrating, illustrative evidence to contradict it so, since then we developed it, and yes don't think that, that it is a feasible project. If it were built, it would never be used. There was



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a suggestion of improving the path along the roadway. Not meeting ada standards, and the bureau's have indicated that if there were made a condition, that that would be acceptable.

**Saltzman:** So there is a path currently along the roadway?

**Sjulin:** Yeah. It's not in the best shape. I just want to point out that we do have an ada trail up on the butte already, and in fact, it's a beautiful paved trail that runs about .6 of a mile. It's the 5% grade guideline, and it's one of our better ada facilities.

**Katz:** So you think that we can get rid of that?

**Sjulin:** Yeah. I agree that it would be very difficult to use for the intended purpose.

**Saltzman:** We should do improvements to the existing path along the side of the road?

**Sjulin:** I think that would be a good thing, absolutely.

**Katz:** Further questions? Thank you. All right. I will take a motion, clearly, understand unless you make -- well, I don't know what kind of a motion it is, whether it's tentative or not.

**Saltzman:** We have special supplemental findings, too.

**Francesconi:** Who has the water bureau --

**Saltzman:** That's why that person shouldn't make the motion, probably. [ laughter ]

**Francesconi:** I am going to -- we want any conditions on this thing?

**Saltzman:** There's been some submitted by the applicant.

**Francesconi:** Do you want any discussion?

**Katz:** Yeah, let's, let's --

**Francesconi:** I don't know what you want.

**Saltzman:** I think first of all we need to modify the condition about the trail and eliminate the proposed one and call for upgrading the existing road path. I also think that the, the additional findings that have been submitted by the applicant make sense.

**Katz:** Do you want to make that as a motion?

**Francesconi:** Which one?

**Saltzman:** Supplemental materials applicant in the right hand corner. Talks about the -- [ inaudible ]

**Francesconi:** Okay. I guess I am going to move to approve the hearings officer's decision, affirm it with the additional conditions listed here in the applicant's supplemental materials dated october 2nd, as well as the modification on the pedestrian path.

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

**Saltzman:** I will second.

**Katz:** Any discussions?

**Sten:** I am still thinking about the 40,000 fee. I think they made a good case that it would be better. I didn't think it quite got there. I -- I hate to open this can of worms, but, you know, if, it's a big if, but if we do approve a treatment facility and it does go on powell butte, you are going to have a massive rethinking of everything. Which leads me towards being a little more cautious on how much space I give on this. On the other hand if there's not a treatment plant, this would be what is there for, forever, there forever, but, this is reality, and its going to be before this council, so, I mean, that's the one I am struggling with. I think the case has been made, I am just trying to decide if we should have it a little bit smaller. It should be paved rather than gravel for environmental reasons.

**Francesconi:** What I was going to do in this, since its such worthy applicants, that I was really going to ask, and when I voted on this, the water bureau and parks bureau, but the water bureau try to think I wasn't going to mandate it because I don't know how to pick a number out of the air, but you heard commissioner Sten, and I really agree with that. The problem is I can't pick out a number because I just don't understand your plans. I certainly don't want any water treatment

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facility and I trust you, folks, that you are not basing it on that. Just as an aside, so I don't repeat it later, i'm skeptical on this water treatment plant, period. That doesn't mean my mind can't be changed on that, but that's, for another day. I just -- the parks bureau, you know, we partnered with the water bureau. You have been terrific for a whole lot of years, and you wanted to develop what we want a world class nature park. You are allowing us to do it, so I don't want to hamstring you because you are so -- you have been so terrific, and then you are going to let parks use some of this facility, but I would like it smaller, if you can do it smaller. I just don't want to pick a number out of the air here. So, that's why, what I was going to say, and then I was going to trust the bureaus. And the reason that I am also doing this, is jim and how much regard I have for him in terms of -- just because I don't know you, as well, but I know how much he cares for the park, and if jim thinks it's all right, frankly, I am going to trust jim on this. So that's my rationale for why I made the motion.

**Katz:** Roll call.

**Francesconi:** I've said it, aye.

**Saltzman:** I do think that all the discussion about the treatment plant, if it's going there, it's going to require a whole new process, a whole new master plan, approval process, and I think that that's fair and that should be the focus. I don't think that anything in here facility-wise prejudices the existence of a treatment plant here. I also think that, that some of the concerns raised by, by centennial and pleasant valley have been responded to in the additional findings, supplemental findings by the city, not all of your concerns, but some of those have. And I think that we should, we should go ahead and approve this plan. Aye.

**Sten:** Aye.

**Katz:** This is, this is a tentative decision, and we will have to come back. I am going to vote aye, but I would hope that the two commissioners who were in charge of these two bureaus sit down and really think through the issues of the size of the maintenance and the materials used because we really don't know what the future is going to look like, and the neighborhood association is right. Once you pave it, it's going to stay paved. And we always talk about impervious surface and we always take great pride in the fact that we focus on those kinds of environmental issues, and here we are paving thousands and thousands of feet, square feet of service, which we may not need.

So, my hope is that the two commissioners who have these bureaus, are very concerned about the same issues, and hopefully they can sit down and rethink these decisions. Aye.

**Saltzman:** A point of clarification?

**Katz:** Yeah.

**Saltzman:** There will be a revised finding about improving the pathway along the road?

**Katz:** When do you think you will be ready? [ inaudible ]

**Francesconi:** I think we are fine at this point. It's really up to the water bureau.

**Katz:** 30th of october. I also want to flag, Karla, will you send out a memo to all the council members and all the bureaus about the fact that for two weeks in a row, we won't have, have a quorum.

**\*\*\*\*\*:** In november?

**Katz:** It's in november. I just want -- that reminded me we are getting close to november. Okay.

October 30th, all right. And as I was saying to, to commissioner Francesconi, that just because we have given you the approval for that, doesn't mean that you have to do it, so I am going to ask all of you to, to think through this. Yes, it would be nice for you, but it's, it may not be nice for the area.

All right. We stand adjourned until next week.

At 4:17 p.m., Council adjourned.

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