



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11<sup>th</sup> DAY OF OCTOBER, 2000 AT 9:30 A.M.

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

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Ben Walters, Senior Deputy City Attorney; and Officer Peter Hurley, Sergeant at Arms.

Item No.1471 was pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

- 1446**     **TIME CERTAIN: 9:30 AM** - Hear appeal of Raymond E. Wendell (PIIAC #00-13/IAD #00-152) to the Police Internal Investigations Auditing Committee, per City Code 3.21.085(4)(d) (Previous Agenda 1339)

**Motion to uphold the PIIAC findings:** Moved by Commissioner Hales and seconded by Commissioner Francesconi.

**Disposition:** Appeal Denied. (Y-5)

- 1447**     Hear appeal of Patrick Dinan (PIIAC # 99-13/IAD # 00-044) to the Police Internal Investigations Auditing Committee, per City Code 3.21.085(4)(d) (Report introduced by Mayor Katz)

**Motion to uphold the PIIAC findings:** Moved by Commissioner Hales and seconded by Commissioner Saltzman.

**Disposition:** Appeal Denied. (Y-5)

- \*1448**     **TIME CERTAIN: 11:00 AM** - Authorize acquisition of property at SW Beaverton-Hillsdale Highway at SW Shattuck Road for the Bureau of Fire and Rescue (Ordinance introduced by Mayor Katz)

**Disposition:** Ordinance No. 174973. (Y-5)

**CONSENT AGENDA - NO DISCUSSION**

- 1449**     Cash investment balances August 31 through September 27, 2000 (Report; Treasurer)

**Disposition:** Accepted. (Y-5)

- 1450**     Accept bid of N.T.A. Contracting, Inc. to furnish Stark Basin Combined Sewer Overflow sump project Unit 7 storm sewer for \$380,250 (Purchasing Report - Bid 100171)

**OCTOBER 11, 2000**

**Disposition:** Accepted; Prepare Contract. (Y-5)

- 1451** Vacate a portion of SE Platt Avenue north of SE McKinley Road, under certain conditions (Ordinance by Order of Council; C-9969)

**Disposition:** Passed to Second Reading October 18, 2000 at 9:30 a.m.

**Mayor Vera Katz**

- \*1452** Amend agreement with Elcon Associates, Inc. for electrical engineering services at three Smart Park garages (Ordinance; amend Contract No. 32318)

**Disposition:** Ordinance No. 174944. (Y-5)

- \*1453** Amend agreement with McBride Architects, PC for professional architectural services to re-roof The Portland Building 2nd and 3rd floor loggia and provide for payment (Ordinance; amend Contract No. 32068)

**Disposition:** Ordinance No. 174945. (Y-5)

- \*1454** Authorize a contract with CHR Solutions to provide services for voice and data network architectures and provide for payment (Ordinance)

**Disposition:** Ordinance No. 174946. (Y-5)

- \*1455** Authorize an agreement between Multnomah County Department of Community and Family Services and the City for use of COPS methamphetamine grant funds (Ordinance)

**Disposition:** Ordinance No. 174947. (Y-5)

- \*1456** Accept a \$30,000 grant from the Oregon Association Chiefs of Police and Oregon Department of Transportation (Ordinance)

**Disposition:** Ordinance No. 174948. (Y-5)

- \*1457** Accept a \$25,000 grant from the Oregon Association Chiefs of Police and Oregon Department of Transportation (Ordinance)

**Disposition:** Ordinance No. 174949. (Y-5)

- \*1458** Accept an Interstate Station area revitalization strategy Transportation and Growth Management Grant in the amount of \$180,000 to be administered by the Portland Development Commission (Ordinance)

**Disposition:** Ordinance No. 174950. (Y-5)

**OCTOBER 11, 2000**

- \*1459** Accept a Transportation and Growth Management Grant from the Oregon Department of Transportation in the amount of \$93,340 for the design of streets within the Gateway Regional Center (Ordinance)

**Disposition:** Ordinance No. 174951. (Y-5)

- \*1460** Authorize acceptance of real property on West Burnside Street for the Office of Transportation (Ordinance)

**Disposition:** Ordinance No. 174952. (Y-5)

- \*1461** Create one Community Relations Assistant position in the Office of Neighborhood Involvement (Ordinance)

**Disposition:** Ordinance No. 174953. (Y-5)

- \*1462** Create one Planner and one Senior Planner position in the Office of Planning and Development Review (Ordinance)

**Disposition:** Ordinance No. 174954. (Y-5)

- \*1463** Authorize South Park Blocks Urban Renewal and Redevelopment Bonds (Ordinance)

**Disposition:** Ordinance No. 174955. (Y-5)

- \*1464** Extend legal services agreement with Beery & Elsner, LLP for Outside Counsel (Ordinance; amend Contract No. 33069)

**Disposition:** Ordinance No. 174956. (Y-5)

- \*1465** Authorize a four year contract with Northwest Outdoor Equipment and provide for payment for golf turf maintenance equipment (Ordinance)

**Disposition:** Ordinance No. 174957. (Y-5)

- \*1466** Pay claim of Tamara Meyer (Ordinance)

**Disposition:** Ordinance No. 174958. (Y-5)

**Commissioner Jim Francesconi**

- 1467** Accept completion of fencing of Columbia Slough at Portland International Raceway project and release final payment (Report; Contract No. 32711)

**Disposition:** Accepted. (Y-5)

**OCTOBER 11, 2000**

- \*1468** Accept a grant from the Oregon Economic and Community Development Department in the amount of \$45,000 for FY 2000-2001 to develop a business portal web site and business information and referral database (Ordinance)

**Disposition:** Ordinance No. 174959. (Y-5)

- \*1469** Authorize agreement for acquisition of one lot and amendment to agreement for acquisition of 42 lots in the MacGregor Heights Subdivision on Clatsop Butte in the Pleasant Valley Neighborhood for park purposes (Ordinance)

**Disposition:** Ordinance No. 174960. (Y-5)

- \*1470** Amend contract retroactively to July 1, 1999 to provide compensation to Hank Childs Golf Shop to 14 percent of greens fees revenues (Ordinance; amend Contract No. 50202)

**Disposition:** Ordinance No. 174961. (Y-5)

**Commissioner Charlie Hales**

- 1471** Authorize the City Attorney's Office to file a Petition for Review in the Oregon Supreme Court requesting the Oregon Supreme Court to review Tirumaili v. City of Portland, 169 Or.App. 241, 7 P.3d 761 (2000), to determine whether the Oregon Court of Appeals erred by ruling that the Land Use Board of Appeals had jurisdiction to review a City of Portland building permit decision (Resolution)

**Disposition:** Resolution No. 35931. (Y-5)

- 1472** Declare the purpose and intention of the City to construct speed bumps in the NW Westover Road Local Improvement District (Resolution)

**Disposition:** Resolution No. 35929. (Y-5)

- \*1473** Grant a revocable permit to Tigard Triangle I, LLC to construct, use and maintain a parking structure under the NW Couch Street, and NW 12th and 13th Avenues, right-of-way (Ordinance)

**Disposition:** Ordinance No. 174962. (Y-5)

**Commissioner Dan Saltzman**

- \*1474** Authorize the Director of the Bureau of Environmental Services to execute agreements between private parties and the bureau's Watershed Revegetation Program not to exceed \$50,000 per agreement (Ordinance)

**Disposition:** Ordinance No. 174963. (Y-5)



**OCTOBER 11, 2000**

- \*1475** Accept a modified grant agreement for an additional \$28,500 from Federal Emergency Management Agency through Oregon Emergency Management for the Johnson Creek Floodway Hazard Mitigation Program (Ordinance)

**Disposition:** Ordinance No. 174964. (Y-5)

- \*1476** Contract with Counterpoint Consulting for NPDES Stormwater Program Assistance (Ordinance)

**Disposition:** Ordinance No. 174965. (Y-5)

**Commissioner Erik Sten**

- 1477** Authorize final payment to Oregon Excavation, Inc. for impervious liner, spillway approach canal, Bull Run Dam No. 2 (Report; Contract No. 33034)

**Disposition:** Accepted. (Y-5)

- 1478** Authorize the City Attorney to file a request with the Oregon Public Utility Commission regarding utility restructuring (Resolution)

**Disposition:** Resolution No. 35930. (Y-5)

- \*1479** Contract with Northeast Coalition of Neighborhoods for \$52,200 for the Mississippi Historic District Target Area project and provide for payment (Ordinance)

**Disposition:** Ordinance No. 174966. (Y-5)

- \*1480** Contract with REACH Community Development Corporation, Inc. for \$80,371 for the Community Builders Program and provide for payment (Ordinance)

**Disposition:** Ordinance No. 174967. (Y-5)

- \*1481** Agreement with Portland School District for \$29,100 for Coordination of the Outer Southeast Caring Community and to provide for payment (Ordinance)

**Disposition:** Ordinance No. 174968. (Y-5)

- \*1482** Authorize a contract with Portland State University for \$97,000 for the PSU Business Outreach Program and provide for payment (Ordinance)

**Disposition:** Ordinance No. 174969. (Y-5)

- \*1483** Agreement to consolidate the community lead education and outreach programs between the Portland Water Bureau and the Bureau of Housing and Community Development and create three limited term staff positions to oversee the program (Ordinance)

**Disposition:** Ordinance No. 174970. (Y-5)

**OCTOBER 11, 2000**

- \*1484** Amend contract with Ant Hill Marketing increasing scope of work and compensation and extend dates (Ordinance; amend Contract No. 32282)

**Disposition:** Ordinance No. 174971. (Y-5)

**REGULAR AGENDA**

**Mayor Vera Katz**

- 1485** Accept the Portland Development Commission's Annual Urban Renewal Report covering FY 1999-2000 and FY 2000-2001 (Report)

**Disposition:** Accepted. (Y-5)

- \*1486** Authorize a contract with Pinnell-Busch to provide technical assistance program services to state-certified disadvantaged, minority, women, emerging small businesses and intergovernmental agreements with Multnomah County and Tri-Met for funding (Ordinance)

**Disposition:** Ordinance No. 174972. (Y-5)

- \*1487** Authorize the Purchasing Agent to sign purchase orders as contracts with selected vendors up to the amount of \$250,000 for 800 MHz radio system equipment and services without advertising for bids and provide for payment (Ordinance)

**Disposition:** Ordinance No. 174974. (Y-5)

- 1488** Amend City Code to exempt expert witnesses and outside legal counsel from provisions of the professional, technical and expert services requirements (Ordinance; amend City Code Chapter 5.68.020)

**Disposition:** Passed to Second Reading October 18, 2000 at 9:30 a.m.

- S - 1489** Amend Planning and Zoning Code to establish minimum and maximum parking ratios as required by Title 2 of the region's Urban Growth Management Functional Plan (Previous Agenda 1399; amend Title 33)

**Motion to accept the Substitute:** Moved by Commissioner Hales and seconded by Commissioner Sten.

**Disposition:** Substitute Ordinance No. 174980. (Y-4; N-Katz)

**Commissioner Charlie Hales**

- \*1490** Amend contract with Inekon Group for the construction of one additional streetcar vehicle for the Portland Streetcar Project (Ordinance; amend Contract No. 32210)

**Disposition:** Ordinance No. 174975. (Y-5)

**OCTOBER 11, 2000**

**Commissioner Erik Sten**

- 1491** Grant a franchise to Broadwing Communications Services, Inc. for a period of ten years (Second Reading Agenda 1441)

**Disposition:** Rescheduled to November 8, 2000 at 9:30 a.m. per City Attorney's Office.

- 1492** Grant a franchise to McLeodUSA Telecommunications Services, Inc. (Second Reading Agenda 1442)

**Disposition:** Rescheduled to November 8, 2000 at 9:30 a.m. per City Attorney's Office.

- 1493** Grant a franchise to NEXTLINK Oregon, Inc. (Second Reading Agenda 1443)

**Disposition:** Rescheduled to November 8, 2000 at 9:30 a.m. per City Attorney's Office.

- 1494** Grant a franchise to Williams Communications, Inc. for a period of ten years (Second Reading Agenda 1444)

**Disposition:** Rescheduled to November 8, 2000 at 9:30 a.m. per City Attorney's Office.

At 12:20 p.m., Council recessed.

**OCTOBER 11, 2000**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,  
OREGON WAS HELD THIS 11<sup>th</sup> DAY OF OCTOBER, 2000 AT 2:00 P.M.

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

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

**1495      TIME CERTAIN: 2:00 PM** – Presentation: " Safety Recognition Day " (Report  
introduced by Mayor Katz)

**Disposition:** Placed on File.

**1496      TIME CERTAIN: 2:30 PM** - Adopt updated action charts for the Albina Community  
Plan (Resolution introduced by Mayor Katz)

**Motion to accept updated action charts:** Moved by Commissioner Hales and seconded  
by Commissioner Saltzman.

**Disposition:** Resolution No. 35932. (Y-5)

At 4:50 p.m., Council recessed.

**OCTOBER 12, 2000**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,  
OREGON WAS HELD THIS 12<sup>th</sup> DAY OF OCTOBER, 2000 AT 3:00 P.M.

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

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Frank Hudson,  
Deputy City Attorney; and Officer Peter Hurley, Sergeant at Arms.

- 1497** Appeal of Lois Wakelin, James Boehm and Phillip Moran against Hearings Officer's decision to approve the application of EJS Properties for a zone change from R5 to CN2 in order to build a 45-unit or less multi-dwelling residential development at 1636 and 1616 SE 39th Avenue (Previous Agenda 1311; LUR 99-01022 ZC)

**Disposition:** Rescheduled to November 1, 2000 at 2:00 p.m.

- 1498** **TIME CERTAIN: 3:00 PM** - Appeal of Amanda Schueler against Hearings Officer's Decision to approve the application of Donald S. Dindia for a conditional use review to install a wireless telecommunications facility consisting of an 80-foot tall monopole and an associated electronic equipment shelter with an adjustment at 3582 SE Powell Boulevard (Hearing; LUR 00-00186 CU AD)

**Motion to uphold the Hearings Officer's decision, tentatively deny the appeal with the condition to reposition the equipment shelter.** Moved by Commissioner Hales and seconded by Commissioner Francesconi.

**Disposition:** Tentatively Deny Appeal with Condition. Prepare Findings for October 25, 2000 at 2:00 p.m.

At 5:00 p.m., Council adjourned.

**GARY BLACKMER**  
Auditor of the City of Portland



By Britta Olson  
Clerk of the Council

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

OCTOBER 11, 2000

**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 11, 2000 9:30 AM**

\*\*\*\*\*: Good morning, mayor Katz.

**Katz:** Good morning.

\*\*\*\*\*: Commissioners. Would you like some background or did you have some specific?

**Katz:** Yes, why don't you, I don't think that you have ever been in front of us.

\*\*\*\*\*: I have on some small issues, but --

**Item 1471.**

**Katz:** Okay. Why don't you identify yourself and give us a little bit of background.

**Frank Hudson, Deputy City Attorney:** I am frank hudson. I am with the Portland city attorney's office. And I have had the responsibility of defending the city's position before the land use board of appeals, and the court of appeals. This case arises out of the city's issuance of a building permit to some folks over in southwest Portland. Linda gates and steven. The permit was issued in august of 1999. During construction of the house. Some neighbors complained that they thought that the house was too tall. The commissioner -- excuse me, the director of opdr, margaret mahoney, wrote a letter in response to the complaints explaining the basis of the city's approval of the building permit. That letter was appealed to the land use board of appeals. And the city took the position that building permits were accepted from luba review jurisdiction, and luba agreed with the city's position and they dismissed the appeal. The petitioner's then appealed to the court of appeals, and the court of appeals disagreed with the land use board of appeals, and stated that luba did, in this case, have jurisdiction over the building permit. And that decision, that luba has jurisdiction over building permits, is unprecedented. And has some far-reaching consequences and I can discuss some of those possible consequences, if you would like.

**Katz:** Does anybody want to hear those or.

**Hales:** I am familiar with it, so.

**Katz:** Does anybody else want to hear them?

\*\*\*\*\*: There was just a summary for the public, just three lines.

\*\*\*\*\*: Three lines, okay.

**Katz:** You are asking him -- you are asking an attorney. They are three lines? [ laughter ]

**Hudson:** Well, one problem that we are facing is that if luba, in fact, has jurisdiction of building permits, then that's going to require us to change how we do business because we approved nearly 8,000 building permits during '98 and '99. Secondly, because of the very broad decision that the court of appeals wrote, I think that the decision also would require that we require notice in a hearing -- that we provide notice in a hearing for building permits. So, those are the two problems that we are facing. With this decision.

**Katz:** We might, depending, commissioner Hales and frank, we might want to draft some legislation.

**Hudson:** We have done that.

**Katz:** You have done that already?

**Hudson:** Yes. We are trying to attack it on as many places as we can.

OCTOBER 11, 2000

**Hales:** Hopefully we won't need the legislation.

**Katz:** But just in case.

**Hudson:** Yes.

**Katz:** Anybody else want to discuss this issue with us? Thanks, frank, and roll call.

**Francesconi:** It is important to have due process, but if -- and we do in our system under the current system before the court of appeals kind of changed the rules. If we go this far, it will be so expensive to the taxpayers for the amount of notice required, and it will absolutely paralyze us as we try to protect our neighborhoods in this place. So, there is a lot of reasons to overturn the court of appeals' decision, aye.

**Hales:** I agree and I appreciate your good work on this, frank. This is a key case, not just for Portland, but for every city in the state. If building permits are a land use decisions, and you have to have notice and hearings in order to issue a routine building permit, we will have a big problem, but so will 237 other cities around the state, and it will not be a pretty sight. So we need to win this case. Good luck, aye.

**Katz:** I just want to say that this goes beyond the fulton case, in the terwilliger area. This is a big issue for all local jurisdictions. And for the citizens of this community and we are going to take it up as high as we can go and then figure out if, if they rule against us, what we do in the legislature.

**Item 1446.**

**Mike Hess, Police Internal Investigations Auditing Committee (PIIAC) Examiner:** I am myself hess, the piiac examiner, and to present the case, we have our citizen advisor, robert wells, and the appellant is present.

**Katz:** Okay.

**Robert Wells, PIIAC advisor:** Good morning, your honor, commissioners. I would just like to briefly summarize what occurred. mr. Hales's appointee -- Okay, ma'am. On -- the appellant alleges that a central precinct officer and two police desk clerks did not file a citizen crime report listed with items that he believed to have been stolen from his car. And looking at this case very, very closely, I found that the citizen crime report was turned in by the appellant. It was filed, and not only was it filed, but it was also delivered to the detective division the day after it was filed. And as an aside, given the large number of documents, which I personally inspected in the records division, that must be processed into the Portland police bureau records system by computer, it is not unusual for the records division to have a delay of two to three days, considering the voluminous amounts of crime reports, auto thefts, whatever, reports that come into the records division. And so my point being mainly is that this gentleman was taken care of. His report was flagged. His alleged loss of goods from his car, whoever it might have been, it was turned into the detectives the next day, and that is -- I don't know how more timely you can get on this. I just wanted to briefly summarize the situation.

**Katz:** Okay. Questions of bob? All right. Would you move the mike? Are you the appellant? Okay. Why don't you get close to the mike, and we will give you ten minutes, no more than that.

**Raymond Wendell, appellant:** I am raymond wendell, I am a citizen and a resident of northwest Portland. To get to the heart of the matter about this filing of the police report, what is missing from the statement you just heard was the fact that I went back a week later, one week later, and went up to the records' division and they looked stunned because they had no idea what this thing was. The first time I actually saw this police report was six weeks later. When it was -- I went up to the internal affairs division, and they had a stack of papers, and they listened to my story, as you are listening to now, and all of a sudden, oh, is this what you are looking for, mr. Wendell? I said that's exactly what I am looking for. Where's it been? Well, no one seems to know. No one. It is one of those situations like, um, where you had, down in los alamos, where you had the missing

OCTOBER 11, 2000

hard drives and all of a sudden they appear mysteriously, you know, in the back of a copy machine. As I said, the other day, I was born on tuesday but I wasn't born last tuesday. It is the oldest trick in the book. In any case, I appreciate your hearing what I have to say. But, I would like to add one more thing, my problem is a tiny one. It is a pimple. That pimple is resting on a boil which is in turn resting on a cyst, which is a cancer that's eating the heart of the police department. I had the pleasure of being a resident at the detention center right across the street here on march 16th. It was near midnight, and I watched a deputy sheriff pummell a youth that wouldn't get up. He was passed out. This was before they started turning up there. The guy -- his eyes were bulging out. It is called roid raids, the steroids, my problem with the police department is simply this, they are casting a wide net, bringing the more cops on the street --

**Katz:** You are now moving away from your case, and let me just remind you -- let me just remind you that the officers who are in the jail are Multnomah county --

**Wendell:** I understand that.

**Katz:** Okay.

**Wendell:** But it is a wider problem the recruit be problem, when this cast the net far and wide, they are bringing people from honolulu and arkansas to fill up the ranks. I understand that, but when I was growing up, I was a safety patrol boy --

**Katz:** Sir, we are not here to have you lecture us on every issue facing this community. We want to hear your particular case.

**Wendell:** Yeah. My case is a tiny blip on the radar. And I was trying to communicate to you, madam mayor, and it is your responsibility, I believe, that this problem -- this kind of problems don't get out of hand, and I believe it is getting out of hand.

**Katz:** Thank you.

**Wendell:** End of statement.

**Katz:** Questions?

**Hess:** Mayor Katz, I forgot to mention captain brett smith is here if you have any questions from him.

**Katz:** Captain, did you want to add anything? Come on up.

**Captain Brett Smith, Internal Affairs Division, Police Bureau:** Madam mayor, I also wished, at least to show the commissioners the circled times that they were entered into the record. The bottom one reflects the day after the occurrence, and it was sent to detective division to put on the, the ncic, as well as pawn broke detail.

**Katz:** Captain, move the mike and identify yourself.

**Smith:** Captain brett smith, and I don't know that I really have a lot really more to add other than the fact that we attempted to obtain the information to document a complaint. There was one. We were unable to do so, and as a result of that, we declined the complaint. The reports, the police report was filed, and it was in the records' division. We sought it and found it in the records' division and were able to supply it.

**Katz:** Have any of the stolen items been discovered in any pawnshops or --

**Smith:** I don't have that information.

**Wells:** Madam mayor? The only thing that I have to add on that is that not only does the pawn detail, if you will, know, and the other aspects of the detective division, know about this, but also as I pointed out during our piac advisor's meeting, that all of the equipment listed on there is put on ncic, to the national crime information center, and so if somebody attempts to hock or pawn it in another state, Oregon will be notified.

**Katz:** Okay. Questions by the council? Thank you. Thank you.

**Hales:** Could we uphold the findings of the volunteer citizen examiners?



OCTOBER 11, 2000

**Francesconi:** Second.

**Katz:** Roll call.

**Francesconi:** Sir, this is not the right kind of case to bring to piiac. This is more of a -- my only personal view, as your testimony reflected, you were concerned about other issues. This is a processing kind of issue. My view is when you bring these kind of cases, you actually weaken the kind of points that you are trying to make.

**Wendell:** I have weakened what?

**Francesconi:** You weaken the process and the kinds of cases that you want to bring. This wasn't the right kind of case, in my opinion. Piiac wasn't built and isn't -- his purpose is not processing kinds of mistakes or delays that could happen. So, I think that you weaken your cause, sir.

**Wendell:** I what?

**Katz:** We are not -- we are in the voting -- one second. **Francesconi:** Aye. **Hales:** Aye.

**Saltzman:** Aye. **Sten:** Aye. **Katz:** Mayor votes aye 1447.

**Item 1447.**

**Hess:** I am mike hess, the piiac examiner. And the citizen advisor, robert yuland, will be presenting this case.

**Katz:** Let me refresh my memory. I think that I was at the piiac hearing --

**Hess:** Yes, you were, ma'am.

**Katz:** That's what I wanted to make sure, all right.

**Bob Ueland, PIIAC:** Good morning, mayor, and commissioners. And president of the council. I reviewed this case. My name is bob and I am a member of piiac sent from central northeast neighbor's coalition. I reviewed this case in its entirety. There are some 13 tapes, which I listened to, also. The first incident occurred in the northeast precinct lobby. Let me set the physical scene for you. It is about the size of this room, maybe a tiny bit smaller. Up front where you folks are seated, there are two desks at which sit the intake clerks, nonsworn clerks, at the, directly at the back of the room is the door, which opens into it. On the day of the event, before the appellant arrived, two citizens from the neighborhood had come in. One lady who wanted to make a complaint about a neighbor. And her next door neighbor, a gentleman who accompanied her for moral support and to validate her statements. At this time, the two sergeants, assigned to the precinct were out on administrative duties, and of course, all patrol officers were out on patrol. So, they were asked to seat themselves and wait until the sergeant came back to hear her complaints. The appellant had entered into an agreement to videotape the lobby of the northeast precinct pursuant to a legal case that his client was involved in. So, on the day of the incident, the appellant opened the door and advanced into the lobby with his video camera, and was asked by one of the desk clerks not to film until it was cleared by the sergeant in charge. Who was not there at the time, of course. The appellant then began to verbally contest this. The desk clerk put out a radio call for assistance, based on the, the protest and the manner of the appellant. And now while during this period of time while the appellant was being, quote, being belligerent, confrontational and argumentative with the desk clerk, the lady who was there and seated, spoke up and said, hey, sir, why don't you calm down and sit down. I was here first. I am going to talk, you know, you are out of turn. You are out of line, and I am going to speak to the sergeant first. It is my turn. So, then the appellant engaged in an argument with the citizen. About this time, two officers responding to the call arrived. They came in. And attempted to diffuse the situation with the appellant, but he continued his arguing. And they advised him that his behavior would be grounds for exclusion from the precinct lobby. By this time, also at this stage of the game, the two precinct sergeants had arrived and witnessed what was going on. The appellant continued his behavior, refused to leave, and was eventually, after many warnings, arrested for criminal trespass ii, which is a city

OCTOBER 11, 2000

ordinance, and handcuffed and placed in a holding cell. The appellant feels that he asked for double cuffing at the time of the arrest, which was not done. Listening to the tapes, none of the witnesses recalled that particular request, although they witnessed the entire incident. The arresting officer was not clear in his mind that there had been a request at the time of the arrest, but within the hour, at least, after he pulled out his report, he went into the holding cell and did place double cuffs on the appellant. The appellant was then released from custody and warned that he could be arrested for trespass if he returned to the lobby of northeast precinct. Eight days later the appellant faxed a request to the sergeant at northeast precinct in the morning, asking for permission to videotape the lobby. Sergeant a was not in that day. But, sergeant b of northeast precinct read the facts and then faxed a reply to the appellant at 3:35 p.m. That day, stating that his request was denied due to his previous arrest for criminal trespass ii, and further, that he would be subject to arrest if he entered the lobby. Upon receipt of the fax, the appellant phoned northeast precinct and left a message for sergeant b to call him, but received no return call from sergeant b. Three days later, the appellant saw sergeant b at the Multnomah county courthouse where both happened to be, coincidentally, and went up to them and asked why he had not responded to his phone call. Sergeant b replied, and I quote, "i had no reason to call you." Unquote, and turned around and walked away. 12 of 9 people were in that lobby during the first incident, there were two nonsponsor desk clerks, two precinct patrol officers and two precinct sergeants and the appellant. Eight of the nine witnesses whose tapes I listened to and whose reports that I read told the same story regarding the incident. The appellant stands alone with his account. The charges that came out of this were number one, that there was a false arrest. And that finding on that was exonerated, and I agree -- we agree with that finding. Allegation ii was that sergeant b wrongfully denied access to the lobby eight days later in his fax. And again, the finding on that is exonerated, and I agree that the trespass ordinance clearly states that they cannot return. Allegation iii was that there was infliction of physical harm by denying a request for double handcuffing. On that, the finding is exonerated. And I agree, the appellants made no claim of any physical harm resulting from him by his own statement, preexisting nerve damage is what caused his discomfort, and he was accommodated in his request for a second set of handcuffs. The arresting officers make judgments regarding the type of handcuffing that they apply at the time. And are not required to do it the way that the person being arrested desires it done. And allegation iv is that sergeant b was rude and discourteous when he said that he had no reason to call the appellant back. And again, this was the finding is unfounded, and I agree that the sergeant replied to the appellant in the same form, the facts that the appellant made his request, and it might be construed that sergeant b did the appellant a favor by warning him away from a situation which could have placed him in jeopardy of arrest. The appellant acknowledges receipt of this fax, so no discourtesy took place in this transaction. Sergeant b was not obligated to enter into any discussion of the trespass arrest or its consequences, but simply to state the fact. Thank you. Questions?

**Katz:** Questions of bob? Sir, you are the attorney for the appellant.

**Patrick Dinan, appellant:** No.

**Katz:** You are the appellant?

**Dinan:** I am the appellant.

**Katz:** Okay. Fine. Last time, I heard your case, you went on for quite a length of time. I am going to give you ten minutes to make --

**Dinan:** Well, for your clarification, I have a copy of the tape. I had --

**Katz:** Once --

OCTOBER 11, 2000

**Dinan:** I just want you to be aware that I had less than ten minutes to take care of a situation where your police force took 11 months to investigate. I understand and I want to do it as fast as possible, but I do ask that I am able to ask directly to captain smith or --

**Katz:** We are not going to do it this way.

**Dinan:** Excuse me, ma'am.

**Katz:** Excuse me. You have ten minutes. If the council would like to extend the time, they will do so. Why don't you start making your case to the council.

**Dinan:** Well, I thank you for allowing plea to come, I am patrick. Thank you for allowing me to come before you. The issues to cover are very important for both our cities and our citizens. I find myself before you today in a request to assure community policing and police accountability are alive, that's what the piiac committee is to do. Quoting from your page 14 of the goals of community policing book, says "accountable citizens are involved in their community far beyond their living and working in the area. These citizens participate as members of the electoral and form elected officials of their expectations and hold them accountable for their expectations. They refuse to be passing bystanders in any manner impacting their community. Accountability -- accountable citizens get involved and offer solutions to community problems." Before I go, I really get into that, I want to make sure that we understand where we are coming from. Are the police -- the Portland police community and members of the bureau as well as you on the council, sworn to support and uphold the laws and not only at the city level, but at the law of the state and the federal level? Is that correct?

**Katz:** Go ahead.

**Dinan:** I need to be confirmed, is that correct?

**Katz:** This is not a dialogue between us.

**Dinan:** Again, we are talking about the law here. Do the citizens have the right to go into any public access area of our community police, having been instructed by an officer of the courts? It is necessary that we understand the law because what we are talking about here is under the 6th amendment, everybody has the right to get and uphold the right to defend themselves in a criminal case. I was asked by an officer of the court to go in there. I had no reason to have a confrontation. Your instructions here from mr. Ewing states that the clerk asked me, as I walked into the -- that room, the clerk yelled over my shoulder and created an incident trying to tell the individual that I was getting at, richard, to get out of the building. And if you will look at your laws on the books, he was not legally trespassing at that time. Your clerk didn't know that. Once I did that, the woman came up to me and the court -- and the records showed, she came to me. I said, I am not here to get in your way. I am here to legally gather evidence, and that's all I was going to do. When the officers came to me, I pointed out that I had the right to be in there, to video for defense evidence in a criminal case. The 6th amendment and the constitution states that. Am I allowed to ask the --

**Katz:** The council will do the questioning.

**Dinan:** Well, can I bring a witness forth then since the city will not bring their employees here to be questioned directly?

**Katz:** Why don't you just identify for us exactly what happened without bringing -- without playing lawyer here.

**Dinan:** Well, it is not being lawyer. It is knowing your rights. My rights state that I have the right to go in there and bring he did for a fellow citizen. The police do not have the right to violate my constitutional rights. I identified at both times when I -- my constitutional rights. I identified at both tiles times, on the second time that I came in, I was not legally trespassing. You cannot not show me where I illegally trespassed. My request to the officer, and I wonder if you, as

OCTOBER 11, 2000

individuals, are aware of the sergeant b was the same sergeant that arrested the client, so therefore, there is a question of credibility in why that sergeant would be involved, and a confrontation with me, when he was involved with a case in court. Doesn't look good in the eyes of the police or in the public. But, I wrote them, and I identified that I was in there for evidence only. That was the only reason that I was going in there. If we can't defend ourselves in court, then are we citizens? Are we community partners? My question to you is -- show where I was legally trespassed or excluded. Your charter has no exclusion paperwork or law on excluding individuals from the city police. You have it on your drug-free and your prostitution area and your parks, to be excluded I have to have a written report, there is no written report ever been filed or able to be shown to me where I was trespassed. If that's the case, then the police -- the question is, are they using their office? Are they using their position to deny a citizen the right to gain evidence to defend himself? And it is kind of interesting because if you look at those two questions, why was it when he was judged innocent by his peers in court, my case was dropped by the da. If I was such a terrible person, so belligerent, and belligerent can be standing up to your rights, if an officer doesn't like what you are doing, but if I was so bad, why didn't I get to go to court and have my time? They dropped it. My question to you is -- is there enough facts there to show that my rights were not impended illegally? If there is an influence of an officer to refrain me from getting evidence or a witness from getting evidence or to intimidate evidence? Those are criminal cases. Those are charges. I requested and under your general orders, if you go before -- where is it. If you go before the -- if you ask the -- I don't have them. If you ask for the case to be criminally investigated, they are supposed to do that. They denied that there was any criminal charges. My request for you is to find out why didn't they do that if it shows that sergeant b was the same sergeant arrested that arrested the individual and denied me access? Did he provide that information to the, the piii people? Did the captain or the sergeant doing the investigation make the piii aware of these questions? That's their responsibility, if they are working as a neutral party. I don't think that you can find where they acted in the scope of being neutral, and protecting my rights or the rights of the citizens in this state. Or city. I am sorry, one more thing. You were there. I have the video, and I am sure that mr. Hess will agree, or chairman ford, if you asked him, at the end of that meeting, he was in a confused state. If you remember right, he says, don't say anything more, you have got me totally confused, I don't know what I am doing. And then what did he do? He didn't vote, did he? He abstained. But, he was confused and he stated that on the record. Again, if you are chairman of the piii -- citizen committee is confused, how do you think that the other individuals on that committee are? And without, with the new law of senate, I come before you without one, one ounce of information of the 11-month investigation. I find that there not being a community partner, I find that to be an area that you need to address and allow the appellants to be able to view or to question the id of the officers involved or the, the sergeant, or whoever does the investigation. We need to be able to ask to make sure that certain questions were asked. Thank you.

**Katz:** Thank you. Questions by the council?

**Francesconi:** Well, sir, which time are you focused on the may 2nd episode or the may 10th episode when you say rights to gather evidence were interfered with?

**Dinan:** Both of them, sir. I want them, as a courtesy, I walked into -- I walked into there, and he said in his testimony, that I looked at him, and out of courtesy, I am going to go over and tell the clerk what I am doing. I didn't have to tell them, I had called the pio. I had correctly found out that I can go in there and I can video it. I did it as a courtesy. That individual didn't know the rules. He violated general orders, because it says members of the bureau are supposed to be aware of the laws.

OCTOBER 11, 2000

**Francesconi:** But if, and you deny this, but if you were confrontational, belligerent and argumentative, if you were, would the police then have a right to exclude you?

**Dinan:** They would have the right to exclude me if they weren't asking me to do something that was not lawful. I was doing something lawful. As a lawful act, I have the right as a citizen, to stand up to an unlawful request of our public employees.

**Francesconi:** Wait. Let me see if understand that. So, are you saying that lawfully, you can be confrontational, belligerent and argumentative?

**Dinan:** That's a judgment call, sir. I went in there, and as a courtesy, went over to the clerk. I did not have to. I made a fourth right effort to share with him what I was doing so that there was no question. He was the one that questioned me. He created, and richard will back this up, and I will do it under a sworn oath. I walked in there. Before I got to the window, the clerk raised his voice. He basically yelled over my shoulder, to richard to get out of the building. At that moment, is when the, the other two individuals got up and came to the window. When they came to the window, sir, I backed away from the woman and said, I am not here to get in your way. It would have taken me less than a minute to do the video and leave the premises. But, I am not going to stand down to an illegal request to leave when I identified what I was doing. I was there at the request of an officer of the court. I had the legal right to be there. Show me that I didn't have the legal right to be there, and yes, being belligerent, whatever you want to say, is wrong and you should be arrested.

**Francesconi:** Okay.

**Hales:** Maybe a couple of basic or common sense questions, I hope that they are common sense. Are you an attorney?

**Dinan:** No.

**Hales:** So, are you a videographer? What was your professional role here?

**Dinan:** My professional role was as a citizen, to be involved and to come and help and assist the fellow citizens --

**Hales:** Were you being paid to do this videographer?

**Dinan:** I didn't get paid because I didn't get the job done.

**Hales:** But you could have --

**Dinan:** The courts could have paid me, yes.

**Hales:** So you are a videographer.

**Dinan:** I am an amateur.

**Hales:** And without compromising the case involved, could you give me a basic understanding of why one would need to videotape a police precinct in order to put on a legal case?

**Dinan:** It is the defense evidence and the attorney involved for the defendant stated a picture says a thousand words, and to see where he was, to make sure that the jury understood that he was not in a restricted area, but in a public access area, and it was an environment that encouraged people to come in there. It was nothing other than that.

**Hales:** Okay. Thank you.

**Katz:** Further questions? Captain? And captain, there are a couple of monitoring issues that were also identified by piiac in terms of length, the length of the trespass citation that was -- that wasn't mentioned but it is in our report. Go ahead.

**Captain Brett Smith:** Ken smith here, and I will see if I can address a few issues here. First of all, to address the first issue, I don't think that the video was ever an issue, as we understood it from our investigation. The desk -- the desk at the time at the time said that he was caught off guard and asked for some assistance. It was during this time that the behavior, of mr. Dinan became an issue and he gave up his right as a result of disruptive behavior that took place in that lobby between him

OCTOBER 11, 2000

and other people, and also the police when they arrived. He was arrested for trespass. And that's what that arrest stemmed from, not because he wanted to video a lobby and we told him no. Second, about no written report, there is a written report. There is a police report that documents that, and the conversations that took place, as well as the trespass, and the, the notifications that were given. One of the things, also, that needs to be mentioned, that there is a city ordinance that does give the Portland police bureau exclusionary powers. There is a city ordinance on the file. It was an exclusionary ordinance that had not been fully enforced or used. As a result of this particular case, we are updating the general order that deals with arrests and trespass of lobbying issues to make sure that that exclusionary power is written and there is a process that is fully understood, but exclusionary power of authority was, is, is on the books, and recently, that has been put in writing to make sure to firm -- affirm that the officers have that authority at the lowest level in that regard. So, that's all that I have to respond in those three areas.

**Katz:** One second, I will let you respond.

**Hales:** A question, why did it take from may to march to process this?

**Smith:** Some of them are issues based on back-log, some of it is that this case went to the northeast precinct to be investigated. They had some problems, as far as personnel, to deal with it, it was shipped back to iad to get investigated again. And those account for some of the time of the delays.

**Katz:** Captain, why was the desk clerk concerned about the presence, I think, on the second time?

**Smith:** The video.

**Katz:** The first time with the video.

**Smith:** Well, I think it was from a security point of view. The individual working the desk was not a police officer. They are looking at an area, where you have that, is a police facility, and if, someone bringing video cameras in, they were not aware of it, and it wasn't no. It was, will you please wait until I can have a sergeant help you? I think that that needs to be really clearly understood there that he was not denied. He was asked to wait, not told to leave, and he will get somebody to help him respond but I think it was because uncertainty on the desk person's part.

**Katz:** Do you want to add anything?

**Sergeant Jones:** I --

**Katz:** Identify yourself.

**Sergeant Jones:** I was just here to answer any questions.

**Katz:** Okay.

**Sergeant Jones:** I am sergeant jones and I did the investigation.

**Katz:** Okay. Before I let you respond, sir, any other questions by the council?

**Francesconi:** Remind me what constitutes trespass, I have forgotten.

**Smith:** Well, we have signs that are in the lobby. Those signs to, to speak specifically to behavior that's not going to be allowed or condoned. And if, in that particular case, in this particular case, if that behavior were to continue, you are asked to stop. If you don't stop, you are asked to leave. And if you don't leave, then at that point in time, you are in violation of the trespass law.

**Francesconi:** And what kind of behavior?

**Smith:** It would be obnoxious, obstructive, argumentative, could be threatening behavior. And it is -- I don't have the list of things that are there, but those would be the type of things that would be documented on this board. And that board was posted and was brought to the attention of mr. Dinan at the time of the incident.

**Francesconi:** See, there is a difference between argumentative and threatening, in my view. But, let's talk about this. So could you just refresh me on which facts were threatening? On the investigation?

OCTOBER 11, 2000

**Smith:** I am sorry?

**Francesconi:** Which were the threatening kind versus the argumentative or obnoxious?

**Smith:** Well, I don't have the whole report here. I do have the files. Persons engaged in allowed, loud, profane conduct, and continuing in such conduct. Rude and obnoxious physical and/or verbal behavior and to continue such conduct after being asked to leave. A person engaged -- there is some other things here, as well, sleeping in the lobby and et cetera, as far as conduct, and I think at this point in time, there was --

**Francesconi:** What are you reading from? I am sorry.

**Smith:** There is a general order, 830.

**Francesconi:** Okay.

**Smith:** And I think at this particular time, the officer responded to the scene. There was a confrontation, and a pretty heated argument going on between a citizen and mr. Dinan at this time, and this argument was continuing. They arrived, and they tried to stop that argument, and one of the ways to do that is to break people apart, but that behavior did not stop. Even after the request to stop. And then they went into the trespass warning and then eventually the arrest.

**Hales:** So, they did go through that whole sequence, the warning --

**Smith:** Yes, in fact numerous times.

**Hales:** The requests to leave?

**Smith:** Numerous times.

**Katz:** Further questions? Do you want to comment on that?

**Dinan:** Well, again, I guess the question is, the arrest without warrant, trespassing in the lobby, it does say on those occasions when the person or persons cannot reasonably said to have legitimate business left to transact, may be subject to arrest. I had business there. I had legitimate business there. I was there on the instructions of an officer of the court. The officers seemed to have an inadequate knowledge of the law. That's not my problem as a citizen. That's the problem of training within the police department. I am saying that I stood up to the right of being able to do it. I am looking at a two-minute issue and they became very argumentative. The transaction started to go bad when the clerk, not myself, and I have a sworn witness who will come before you and tell you, he yelled out to him, get out. You are trespassing. The individual, again, I challenge the police to show where he was legally trespassed at the time. He was not. Your city codes, and they are saying right here, it doesn't help when, when the case happened, it is when it happens are the laws that we have to deal with. There is no exclusion order. If you have an exclusion order, your charter says that you have to give it to the individual. And in private property, it is different than public property. Public property, if you are excluded, you are required as a government agency to give the individual that's been excluded or trespassed avenues of recourse.

**Katz:** Thank you.

**Dinan:** I never received any written trespass. Either on the second or on the 10th. The 10th, I wrote, it identifies, I asked and identified what I was doing. There is nothing illegal with that act, yet he stated that I would be arrested.

**Katz:** Thank you. Council? Okay. Thank you, gentlemen. Thank you.

**Hales:** Do we uphold the citizen volunteer examiner's --

**Katz:** All right. Do I hear a second?

**Saltzman:** Second.

**Katz:** Roll call.

**Francesconi:** Well, on the evidence in front of me, sir, on the issue of, could you be convicted beyond a reasonable doubt for trespass, I think that the answer is no, on the evidence that I have in front of me. But, that's not the issue in front of the council. The issue is, is there a violation of the

OCTOBER 11, 2000

code of conduct of the police, which isn't the same, and you are making a persuasive case on the conviction, on the trespass case, but on this one, I am going to support the motion because that's -- it is not -- the case isn't on the trespass charge, it is whether an order was violated. Now, I do think that the investigation is correct, that we have got to do more on trespass citations. To alert people on the notification piece, as you suggest. I also think 11 months is not acceptable and I know that chief kroeker and the police are working on this, by putting personnel five officers assigned to this division. I know that there is a goal of reducing it to three months within six months. And I heartily support that, so I think that there is other issues that have been raised here that we need to deal with. But, I am going to support the motion. Aye.

**Hales:** Well, I think that people who watched more than one piiac case here might have noticed that I am pretty tough on officer behavior when it comes to courtesy. I think that the officers have to bend over backwards when they deal with citizens to be courteous and to give people the benefit of the doubt. But, there are a couple of things here that I think just sort of blow the other way. One, is, you know, every day is a gift. We have got to use our time wisely, and I can't imagine that those officers weren't frustrated at being called off the street for legitimate police work to deal with a disturbance in their own lobby. And secondly, just trying to think of what it would feel like if somebody showed up in my office, which they might do now with a video camera and say, I want to film, and you know, maybe there is a right to do that, but, and maybe I am just suffering sort of a hard time, but I think that there is a way to do that, and I think you failed to do that in a way that is acceptable and this escalated and this happened, I am sorry it happened, but, you know, frankly, I think that the responsibility for that escalation -- the piiac examiner's findings was that it was your responsibility, and I agree with them, aye.

**Dinan:** And on the 10th, too?

**Saltzman:** Aye.

**Sten:** It is clear to me that something escalated. It is impossible to know for sure exactly what happened. I don't get sense that you were there to kind of talk this through with them and it also looks to me that they didn't have enough evidence to take you to court. So, you know, there is some gray area in this, but it looks to me like a confrontation ensued in the lobby, you don't argue, you weren't confrontational. They took steps that they thought that they had to take, and I can't see it any other way. Aye.

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

**Dinan:** To work with the law, not with the motions and you just violated the lawsuit. Thank you for your time.

**Katz:** Thank you.

**Dinan:** And understand that --.

**Katz:** This is a piiac case. And we treat those -- the only one that we have prime ministered in the past is cop watch, and when dan feels that he needs to share something with us because of his role, attending every -- almost, probably every piiac meeting and being somewhat of a partner with us, and I -- somewhat, but I consider him a partner with us even though he doesn't agree with me on everything or I with him. On this particular case, he chose not to speak. So, all right. We have 11:00, is it time certain? It is not 11:00 yet, so why don't we move on to the regular agenda.

**Katz:** Okay. I asked felicia to come here and make some introductions, and so before she talks about the report, she will do that.

**Item 14585.**

**Felicia Trader, Director, Portland Development Commission (PDC):** Mayor Katz, members of the council, thank you for this opportunity. This is a report that we filed with you on an annual



OCTOBER 11, 2000

basis, and george will explain that, but I wanted to have this opportunity to introduce george shelly to you. We haven't had the time yet to bring him around to your offices --

**Katz:** Just one second.

**Trader:** To make personal introductions, and we will, but I just wanted to mention that george is a former finance director for the city of salem and for Washington county. And we are very, very pleased to have him join the staff. We are very excited about the improvements that we are going to make in our finance operation and that george will lead that effort, and I couldn't be more pleased and I ask that you warmly welcome him because I am very, very happy to have him there.

**Katz:** I am -- if you are happy, we are happy. Sir, why don't you say a few words and -- I am sure that we are going to be hearing from you again. But, go ahead.

**George Shelley, PDC:** Okay. Well, it is -- madam mayor and members of the council, it is my pleasure to be here. With regard to the report that's in front of you, this is an annual report. It reports after the fact the events, activities that have gone on in the development commission in the urban renewal areas. The state law requires it be published and presented prior to closing the financial records of the government. In that case, the numbers that you are looking at are unaudited and subject to change. Other than that, it is a routine report and you have seen it annually in the past.

\*\*\*\*\*: Michelle and I am here to answer any questions on the report.

**Trader:** I also would like to acknowledge for you, michelle's work over the last several months, as she stepped in prior to us hiring george, and just want to acknowledge what terrific work that she has done, and how, how much, how much problems that we would have had if she hadn't been willing to step in and help us so, thank you very much, michelle.

**Katz:** Okay. Thank you. Thank you. Questions by the council? Go ahead.

\*\*\*\*\*: Did the executive director tell you that she might be leaving when she hired you? [ laughter ]

**Shelley:** Actually, she did.

**Trader:** I was going to claim the 5th. [ laughter ]

**Saltzman:** I just wanted to ask you a question since I have the opportunity and you are here. A couple of weeks ago we had a council briefing on developing green building standards based upon the lead standard, which is something developed by the u.s. Green building council, lead stands for leadership and environmental energy design. We are in the process of bringing it forward to council adoption probably in december, a Portlandized version of that standard, and pursuant to the green building initiative, the council adopted last december a -- this policy will, basically, detail criteria of the construction projects, should comply with, in order to qualify for city funding. It is my intention, and I hope that it is the council's intention that that apply to all tax increment projects where the lead standard is relevant, my question to you is I know on october 18th we are going to be having amendments to all your renewal agreements. Is it your feeling that I need to have an amendment ready to go into each one of those urban renewal agreements that so states what I just said, that it will be a policy of the city? The lead standard will apply to the appropriate capital funding projects financed by tax dollars?

**Trader:** Commissioner Saltzman I would need to check with our attorney to see whether or not that's the kind of, of, of policy direction that is anticipated by state law to be included in urban renewal amendments? Certainly, we do -- we implement city policy and implement it through the five-year plan and our budget process. I would think that there is plenty of opportunity there to exercise that policy, and within the, the documents that you review. So, I would say that it is not just intuitively, I would say it is not necessary, but I would be happy to check and see --

**Saltzman:** I would appreciate that, if you would.

OCTOBER 11, 2000

**Trader:** If it is in the context of the law.

**Saltzman:** To further clarify, I am still trying to figure my way around here, particularly with pdc, and how the council interacts. It is your belief, and I think that we have talked about this before, the council adopts the policy of what I just stated, that basically governs the actions of the pdc commission, as well?

**Trader:** If -- certainly if it is specific to urban renewal areas, the commission has always acted on that and respected that.

**Saltzman:** Okay. Great, thanks, but I would appreciate if you could check with the attorneys on that. Thank you.

**Katz:** Thank you. Further questions? All right. Does anybody want to testify? All right. Roll call.

**Francesconi:** Well, welcome to a very good organization. I guess that the only thing that I want to say is that the commission does a lot in certain parts of our city. And they are to be commended for that, and I feel badly about some comments that I made that implied otherwise. I've been frustrated that there was certain parts of our city that seemed to be left out. But, that's how I phrased it, was inappropriate, so I guess that I want to tell you that you are coming to a good organization that does a lot, and in fact, I asked to do a lot. On the terms of this plan, this is a very good plan, aye.

**Hales:** Welcome. Aye.

**Saltzman:** Aye.

**Sten:** Welcome aboard, and michelle, thank for all your hard work, aye.

**Katz:** Mayor votes aye. Thank you. All right. We are going to move ahead with the regular calendar, so folks, if you are waiting for somebody to testify to come to testify and we are moving too quickly, just let me know. Item 1486.

**Item 1486.**

**Karen Primeau, Bureau of Purchases:** Good morning, madam mayor and commission. I am karen primo, I am a contractor division development manager with the bureau of purchases, and I am joined by madeleine westa from the city attorney's office and bruce watts from tri-met. We are here to ask you to approve a contract to pinnel bush to provide technical assistance for emerging small business, and minorities on business, and to approve the intergovernmental agreements between tri-met and pdc and Multnomah county, to provide the transfer of funds to pay for this contract. We -- we sent out a request for proposals and received four proposals, for technical assistance. Put me glasses on here. We received proposals from riverbend engineering incorporated. And pinnel bush, incorporated, we have reviewed those proposals. And selected two consultants to interview capital project consultants and pinnel bush in the findings of the selection committee, that we chose to award to pinnel bush that had previously had the contract. The selection committee members are repped here today in the room. Tyrone henry for contract appliance officer from pdc. Sheila mcdaniel, contract administrator for Multnomah county. The manager of the civil rights division of tri-met, who is not with us today. Myself, the dv program manager for interstate max project. The deputy city attorney for the city of Portland, and loretta young, the program coordinator for the city of Portland. And I think that both madeleine and bruce have some comments that they would like to make regarding the process.

**Katz:** Okay. Who wants to go first? Identify yourself for the record.

**Madelyn Wessel, Chief Deputy City Attorney:** I should be an old hand at this by now, madeleine, the city attorney's office. The council is probably aware that a dispute has arisen surrounding the inclusion of vernell west in the proposal that was submitted initially by pinnel bush, inc. The dispute involved a real contested question of fact, namely whether or not

OCTOBER 11, 2000

appropriate and sufficient contacts were made prior to the listing of the firm as one of the alliances that pinnel bush included. They listed a number of key subcontractors in their proposal. They also listed about 20 alliances, which were different community-based groups and organizations. Who were noted to be available to provide services of different types to pinnel bush, depending on the need. The dispute is very unfortunate. I suspect that you are going to hear more about it today. I just want you to know that on hearing of the dispute, the contractor, development division staff, asked pinnel bush to take a written position responding to the written concerns that were expressed to the city. Pinnel bush told city staff that they had made, in fact, the appropriate efforts to clear the listing of this firm prior to listing the firm, that in the course of trying to talk with them, subsequently about what pinnel viewed as a misunderstanding or miscommunication, it had become clear that the working relationship on this particular project was not going to work out. Pinnel bush informed the city about that. And in terms of the Oregon state statutes, which govern the listing and inclusion of certified firms, we are comfortable that pinnel bush has taken the appropriate steps so that the contract award at this time is fully consistent with the state law requirements. The state law looks to whether there is a mistake of some sort or other, or dishonesty in the inclusion at contract award time. Which is now, a particular -- of particular consultants, and there is certainly no confusion at this time as to who is included in the pinnel bush team and who you would be awarding directly and indirectly funds to. Staff reviewing the situation came to the conclusion that there really was not a way for the city to make a decision as to who was accurate on the particular communication issues that were contested here. However, the city staff also came to the conclusion that whether or not there was a miscommunication or some form of dishonesty, was really immaterial to the contract award to pinnel bush for that reason, and in order to make sure that that was the full understanding of the entire selection committee, we have brought most of them here today. Bruce is a representative of the group, and we do want you to know that although there was respect and appreciation for the work that mr. West has done in the community, the selection of pinnel bush was not made because of this potentially inadvertent or inappropriate listing. The selection of pinnel bush was made based on the very fine team of subconsultants that were clearly identified that are very happy and willing to be part of the team, and there was no mistaken award here that influenced the selection committee's decision. For that reason, we really decided that it was not appropriate or necessary to try to delve further into the issues because it was not something which influenced the selection decision. If you have other questions, bruce or I can try to answer them. It is an unfortunate situation that we have this kind of dispute at this time.

**Katz:** All right. Let's hear from bruce and then we will open it up for questions.

**Bruce Watts, Metro:** Good morning, madam mayor and council, I am bruce watts, I am a workforce manager for the north interstate light rail project of tri-met. I was a member of the selection committee and I can verify what madeleine just said that, at no time was the consideration of the pinnel bush proposal based on the inclusion of v west. I am not quite sure how it got to this point, but I can tell you from being an active part of the, the selection committee, that that was not part of what we considered. We saw the reference to v west, as being an ancillary addition to the overall proposal, and not a direct subcontractor to the proposal.

**Katz:** Questions by the council?

**Francesconi:** Just two questions, madeleine, one more legal, and the other maybe not so legal. On the -- so what appropriate steps need to be taken that were taken?

**Wessel:** When the contractor development division was made aware of a dispute about whether the v west firm had been properly listed, the appropriate thing to do was to contact pinnel bush and to ask for a written response because staff had received a written complaint. And that was done immediately. The staff received a written response in which pinnel bush confirmed in writing that

OCTOBER 11, 2000

they had made the contacts that they thought were appropriate. Expressed pinnel bush's regret over an apparent miscommunication, but also, expressed to the city that v west would not be included because of the, the discussions that had then ensued in the proposal. As a technical, legal matter at the point in time where we were informed, that the v west firm was not a subconsultant, the chapter 279 issues about erroneous or dishonest listing of subconsultants were really, at that point, completely removed.

**Francesconi:** Which gets my second question, the importance of a working relationship, you alluded to that. Tell me why that -- you think that that's essential?

**Wessel:** A working relationship --

**Francesconi:** I think you just said that the working relationship was severed between them.

**Wessel:** Well, what --

**Francesconi:** What significance does that have, if any?

**Wessel:** It is unfortunate that apparently what had been a working relationship between pinnel bush and v west, along with many, many other community-based consultants and contractors, has devolved at this point, but we are very pleased with the kinds of subcontracting and other alliances that pinnel bush has formed. Jeff will be up in a minute to talk about that just a little bit but we have cliff shipell, peggy ross, tony jones and a host of other people with enormous skills and credibility who are in a position to provide very good services to local and minority women and emerging businesses.

**Francesconi:** Okay.

**Saltzman:** Pinnel west did apply or propose as a prime contractor, as a matter of fact?

**Wessel:** That's correct.

**Saltzman:** And there is nothing wrong, per se, with someone, a company applying their prime contractor but also being identified as a subconsultant with another team, is that correct?

**Wessel:** Absolutely not.

**Saltzman:** Okay.

**Wessel:** No.

**Saltzman:** Okay, thanks.

**Katz:** Further questions? Did you want to bring somebody else up?

**Wessel:** We do. We would like to provide jeff bush with an opportunity to come up and talk about the program that he's going to continue to deliver. One point that we probably should have made is that pinnel bush has, in fact, been providing these services for the last three years. To support the shelter's -- sheltered market program and other efforts for the city and other governmental bodies have had. So they have been pleased with their work, and we are excited that they are going to be able to continue to perform the work for the city. .

**Jeff Busch, Pinnell-Busch:** Madam mayor, counselors. My name is jeff and I am with pinnel bush, I am one of the principals of that firm, and I want to thank you for the opportunity to be able to be present here today for this contract, as well as to address any concerns that you may have. We've been involved in the, sort of, so-called technical assistance, support of services type of contracts for a number of years, we've been in business in the local Portland community for 25 years. We are very much a part of the this community, as well as the city in a number of -- and a number of the different agencies. Through the years, there's been a number of elements and perceptions that have evolved, and have altered the approaches of how technical assistance, support of services and so forth are offered to the dmwesb communities and so forth. And we feel that we've been a very contributing participant in that. That is sort of led us to some of the very outstanding programs that are in existence today. We have learned a lot from a lot of agencies, and we have contributed a lot. We still work with practically all these agencies that we have started

OCTOBER 11, 2000

out with over ten years ago. The agencies have learned and we have learned from the past programs and the experiences, as a result the city has basically come up with what we believe is a very strong program, the sheltered market program, that is really putting back out into the community and into the dmwesb community what it is asking for. Granted, there are, perhaps, some weaknesses and things that can always be enhanced, but that's sort of the challenge of taking on program like this to really make a difference, and I am a strong believer that it is making a difference, and we support that program. We support the effort, and we are very excited about being able to continue this. Our approach in our proposal is that it is a collaborative effort. We have never felt, nor do I believe that the city has ever felt that this can be a sole task that one entity can take on by itself. Our approach and our proposal was to form collaboration. We continually work with a number of other agencies and have alliances with a number of other contractors that are providing technical assistance. We, alone, work for the port of Portland, and we have done work with the housing development center, tony jones and so forth, and in the past we have worked with odot. We felt that more of a uniformed approach, collaborative approach, where I would have a number of key subconsultants working directly with us as real support team members providing technical assistance, along with a whole array of alliances. That if we can do this more on a unified approach, where we are talking good about the program, and we are make being differences, not where we have interagency pointing, well, hey, we do it this way or no, you should do it that way. That doesn't blend well with the community and the dmwesb's because they get mixed messages. We need a strong fore-front of how we want to do this to make a difference because we want to meet the needs. That is our very sincere intent, to make this difference, and which is why we formed these alliances and have very strong alliances. When madeleine mentioned that the relationship with vernell west is severed. The only severance there that I view, and we talked about this, is that primarily for this contract, we have very good intentions. We want to continue the relationship because it is important to what goes on in the industry, especially with the city of Portland.

**Katz:** Okay. Questions?

**Francesconi:** Maybe it is not directly related to this dispute, but it is related to your contract, so, technical assistance services, what is that? What do you do for the \$180,000 that you get?

**Busch:** We provide technical expertise and support to contractors. Whether they be a concrete contractor, a trucking firm, someone who does janitorial support, there are also professional services in there if there are some architectural engineering services that the city or tri-met may want, where those individuals can also come to us, and request help and we provide assistance to them. We cannot do the work for them. But, we provide one-on-one assistance helping them provide a bid, meet all the contract requirements, the city requirements and so forth, and we work with them one-on-one, we attempt prebid meetings. We help them understand some of the qualifications. We do outreach to have them solicit other subcontract proposals and bids. We help them interpret contracts. And it is a whole variety of project management, bidding process, marketing efforts towards bidding projects, as well as acting as a go-between and even sometimes mediating between subcontractors, contractors, as well as agencies and contractors. It is a variety of what is termed, "technical assistance" even though that sometimes is a little narrow. It is much broader than that. It is really acting as a right hand or left-hand to that contractor to help them do better, help them improve and become more competitive because we all know that programs like this, they will be around forever unless we can really help the advancement of the contractors to compete competitively outside of these programs. And to make a better business of themselves. And that's really the intent.

OCTOBER 11, 2000

**Francesconi:** Which kind of leads me to the second question. I want to come back to the first one in a minute, but let me go to the second one, so of your 350 clients that you served, I think that's -- is that you, since 1997? How many of them have advanced to that next stage where they don't need you?

**Busch:** I do not know the exact numbers. The city has the exact numbers that have sort of graduated out of the program either because of their gross income per that year has exceeded a certain level, or they have made enough accomplishments and enhancements to where they are picking up bids on the private sector and not necessarily needing a lot of technical support --

**Francesconi:** You don't know how many have gone onto that level? If you find out, can you let us know?

**Busch:** The primary number we are working with is probably in the range of around 90 contractors that are in the program. We have had 350 or so contacts of -- because there is a lot of contractors out there that maybe just come in for one thing and then they do their own thing.

**Katz:** Let me interrupt because that is a very critical question. Madeleine, do we have any information on that at all? Because I know you folks meet on a regular basis and I am sure that this was a question that the group has asked.

**Wessel:** Right now, the sheltered market program team is engaged in a case-by-case -- well, first of all, we are trying to define the criteria to formally graduate companies from the program. And when that process is done, you will be able to see what number of firms are formally moving out of the sheltered market program and into a less structured contracting system. Now, the monitoring of the technical --

\*\*\*\*\*: There is a timeline, isn't there?

**Wessel:** There is a three-year time line which, for some firms, is going to be expanded because the city or other agencies did not have projects to deliver to them in that time frame. For actual real work opportunities. Remember, the key concept of the sheltered market program was technical assistance and work. Simply providing technical assistance to the mwbe community is not enough. Companies need to work to survive. They need to work to learn some of the skills that are critical to moving on and to moving into an independent mode that can provide private and public sector opportunities without a sheltered market approach. Jeff has been asked over the last three years, though, and has provided pretty consistently to the c-3 group, data on issues like bonding, for example, a very substantial number of contractors in the program receiving this targeted technical assistance have either received bonding for the first time ever or have substantially increased the amount of their bonding. So, some of them were subtle performance measures like bondability, like successful completion of the prompt, have been routinely presented to the c-3 group, which includes staff from your offices. And that data is something that loreta, or others, can provide to you, if you would like to see more of those details. Karen may have some other comments about this, as well.

**Primeau:** Well, I think that one of the things that I had like -- I would like to add is typically small businesses lack the number of staff that large companies do to cover all the bases and one of the things that pinnell bush has successfully done is fill the gap for some of the businesses. If you are the person in the field who is actually digging the dig or doing the framing and you go home at night and do the bookkeeping and the personnel work, all of that is very daunting to keep up on all of the details and all of the things that are required. And that's part of the project-by-project assistance that pinnell bush has provided for these small businesses. So, as they grow, as they have more contracts and they are able to employ additional people, they have less need for this kind of assistance, but the program is coming to its three -- 3-year review period and we are in the middle of that now.

OCTOBER 11, 2000

**Katz:** I was going to say that I don't think that the council has had a work session on where are we today on all of the work that's been going on, and maybe at the right time, both of you make that decision, and set a time to respond to the questions of the council but also to share with them, what have you learned and how many barriers are there still that we need to work through? Okay.

**Francesconi:** And I may be wrong, but you thought from a conversation that I have had with Bruce Watts that we couldn't give general business kind of assistance that often is needed by some of these businesses in terms of how they manage their business. It was limited to more technical construction type of advice, and there was a line that we weren't supposed to cross. Which doesn't make sense to me, frankly. I have to tell you. I know it means more money but it doesn't make sense. And in your last answer, led me to believe that there isn't a line, that we can give all kinds of business advice, which I frankly think that we probably need to do. Am I wrong? What am I missing here?

**Wessel:** Let me jump in for a minute here. Council, with a very tight fiscal environment, made a policy decision several years ago that general business assistance should not be formally included in this program. What you were looking at that time was a regional system where there were business assistance programs and opportunities that were available generally to contractors, and therefore, that was not explicitly included as a component of this program. Now, you are right, Commissioner Francesconi, it is needed and the stuff that's out there is probably not completely adequate. Bruce, on behalf of Tri-Met, and the community, has been quite eloquent about the need to include this piece in. Because of Tri-Met's inclusion in the program, and because he's right, and because it has been a reality of the needs' package, Pinnel Bush has done a lot to try, especially through Peggy Ross, and others in his firm, to provide some of these services. We don't have the funds to provide comprehensive business assistance to the certified contracting community. What this program is doing is providing as much as they possibly can and then a bit. I think that one other point that I should probably make is that Pinnel Bush has had provided vastly more hours and more time than we have ever paid them for in the last three years. And this has been one of the key areas where that's been occurring.

**Busch:** If I can just add one thing on there, is that we are allowed to provide referrals, and when businesses come to us, where they really have a business need, we have our alliances that we will refer them to, and we can give them some suggestions, like here's some legal council, this looks like this direction. Here's some people to contact, and we have alliances with those people. One thing that we try to avoid is overlap of all of the different programs within the community because then there is conflicts, as well as, as far as who is doing what and whatever, so we referred to other consultants that are out there in the industry that can provide these services to these individuals.

**Saltzman:** That includes businesses not in the sheltered market program, as well?

**Busch:** Yes.

**Katz:** All right.

**Wessel:** If they are bidding to the city or one of the city's governmental partners, that's the key criteria. They need to be involved directly in a consortium-member project.

**Saltzman:** So, one last question, if somebody -- if a business is interested in bidding on a city project or whatever, but they are not part of our sheltered market program, then they can approach us and we can refer them to you? Is that correct?

**Wessel:** That's correct.

**Katz:** Okay. I think that it is time for a work session on this.

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

OCTOBER 11, 2000

**Katz:** At some point. Fairly soon. Okay. Now, the reason for doing this, in addition to the contract before us, is that there has been a protest, so would whoever wants to protest this come on up and talk to us?

**West:** I prepared my written response.

**Katz:** Okay. Why don't you just hand it to us, we will hand it out. Britta will hand it out, you come and talk to us.

**Vernell West, West Contracting and Consulting:** Good morning. I am vernell west, I am the owner of v west contracting and consulting services inc. I have come here today to ask council not to accept the recommendation of contract award to pinnel bush. For construction contracting and technical assistance services. As you may know, I filed a protest of award. On the basis of which was the proposed misrepresented use of my company in the contract. I am including with my testimony today on october 10th fax to the city outlining my concerns with the criteria used to determine the outcome of my protest. I had hoped that it would be sufficient to give the city pause and to prompt the city to reevaluate the recommendation. To avoid having to discuss this matter before council today. Today I am here to discuss not the factual details or the legal implications of my protest, but rather, to let you know the city did not respond to my protest appropriately. Rather than conduct a fact-finding investigation in which information would be gathered from both parties, the party in protest, as well as the accused party, the city simply told the accused to fix it, so it could be -- so it could move forward to the contract award. There was a dialogue on the subject with the city, between the city and pinnel bush, written and oral, as documented in the city files. While on the other hand, there was absolutely none with me regarding the concerns that I raised to the city. I believe that the city was obligated to fully investigate and impartially evaluate the protest. I do not believe that the city could either fully investigator impartially evaluate without interviewing the party in protest. Nobody from the city ever asked me any questions regarding the complaint. It would seem that the city would want to know, one, why I was protesting. Two, what kind of information, if any, could I provide to substantiate the protests. Pertinent questions like, a, did I have any communication with pinnel bush? B, when and where did these communications occur? And c, what was discussed? D, who was present during the discussions? E, did I document or record any of these discussions? Not a single question has ever been asked of me. The city's result to move forward with the contract award by stating that it cannot get into the middle of a factual dispute between parties is simply unacceptable and contrary to statutory contract administration in public contracting. It is clear from the documentation in the city's file that the city made a conscious effort to accept the explanation of pinnel bush in order to recommend an award. This unilateral explanation and award determination afforded me not even due process, and that's why I and so many others find it difficult to do business with the city. The question is, will we be treated fairly? In this case, the answer is a resounding no. I did not come here today, more did I file my protest to get the contract. Or a subconsulting agreement. The issue is bigger than that. It is about integrity, and public contracting, particularly as it relates to groups that have been historically shut out. It is about fairness, compliance, equity, and credibility. If you accept this recommendation of contract award, none of these things are important. Not compliance, not fairness, not equity, not credibility, and certainly not integrity. You can declare that these are important values in city contracting by directly staff to do the right thing. The right thing is to guarantee due process by not awarding the contract.

**Katz:** Thank you. Let me ask you a question, what outcome did you really want?

**West:** It is -- that question is very interesting in that it comes now, as opposed to earlier. The outcome is I wanted the law to be applied appropriately and fairly. There was -- there's been some discussion about the c-3 committee, I believe that's the committee that has this issue that I have



OCTOBER 11, 2000

raised today. Right now. That's a topic being discussed. It is discussed in depth. Either the -- the 3-c committee.

**Katz:** Probably that committee.

**West:** This occurrence that I have alleged here is occurring throughout city contracting, throughout by public contracting as it relates to minority women, business enterprise participation on the projects. You make a promise, there is no, no performance and there is no payment.

**Katz:** That -- that's a whole other issue. I think that it is, but correct me if I am wrong. Your name was used by a competitor. And that's the issue that you, you feel that you were wrong because of that. Am I correct?

**West:** The issue precisely is that there is a statute which prohibits a, the listing of my company's name for purposes of utilization. Without my knowledge or consent.

**Katz:** Okay.

**West:** For which there is a substantial case law on. I didn't go into my background, but I am not new to these programs. I administered these programs with the Oregon department of transportation for seven years and prior to that I was involved in drafting legislation to this effect with senator bill mccoey. It is not a foreign subject to me.

**Katz:** Okay. All right. So, for you, it is a legal issue.

**West:** It is both legal and practical. The practical -- it is practical from the standpoint, the city could have done a full investigation. This matter would have been resolved.

**\*\*\*\*\*:** What do you think that they would be investigating?

**West:** Let me see if I can answer the question. If I am an offended party, say i've been brutalized by the police and I am in the hospital and I say that police "x" brutalized me. The body that's investigating my complaint of police brutality, they talk to the police officer without speaking to me. This is the effect of what has occurred here. No one has spoken to me or asked me any details regarding the specifics of my allegation. And that's what we have, as my biggest concern here.

**Katz:** So it was a communication issue?

**West:** I don't believe it to be a communication issue. I believe it to be a process and procedural compliance issue.

**Katz:** Okay. All right. Madeleine? We may probably need you or loretta or anybody else. Go ahead.

**Saltzman:** I was going to ask, have you worked as a subconsultant with pinnel bush in the past and specifically on this past contract?

**West:** I have not. I have --

**Saltzman:** How about other --

**West:** We have done a little business over the past five, six years, particularly as it relates to, I believe, it was another project, that I did business with them, and maybe one other project, one or two other projects where we have done a little business together, but we have a working knowledge and understanding that should services -- should either of us encounter services that would be beneficial to bring in the other, then we would do that. That's been generally the way that it is. But

**Saltzman:** You do have an understanding?

**West:** We have had an understanding on specific projects, okay. This is very different. No one has asked -- like I said, I don't really want to come here today and go into the details that should have been gathered much earlier. Concerning communications when those communications occurred, what was said, and so on and so forth. But, to answer your question directly, we have done a little business in the past.

OCTOBER 11, 2000

**Sten:** Do you have a critique of the overall contract in process, aside from the protest, for this contract? I mean, do we -- do we treat it fairly as a proposer for this?

**West:** I chose not to get into that. I reviewed the file at length in detail and to my dismay, and surprise, I found I was listed as a subconsultant to the tune of about \$3,000. As far as other things that were involved that I may or may not have objections to, I didn't believe that that was germane for this discussion. There are some other issues but they are not germane to this. I do have some other, like I said, some other concerns. But, I don't wish to bring them forth in this, in any way related to this.

**Sten:** Well, I was trying to figure out what you thought. I was trying to figure out what you thought about this but this may not be appropriate. Maybe if we have an informal, I can invite to you that, because I would like to get a sense of the overall program, but understand that this is --

**West:** I don't want to muddy the issue.

**Sten:** No, I think that's honorable on your part so maybe I will ask you at another forum to share that with me.

**Katz:** And I hope that that is shared with c-3 committee, if there are other issues that you haven't heard. I think that you have almost heard every issue under the sun but maybe not. Okay. Thank you. There are no further questions. Yeah, bruce, come on up. Before -- come on up and then madeleine needs to -- you need to clarify -- no, no, go ahead. Because she might want to clarify or we may want her to clarify something that he might say in terms of what the law is.

**Bruce Broussard, Broussard Consultants:** Thank you. I am bruce from brasard and associates. I am also, probably here today speaking as a member of the naacp. What that means is that under my responsibility, I am chairman of the legal redress committee, besides being the vice president of the naacp and also chairman of the gentrification task force. And specifically, I am talking from the legal redress committee. And what that process is, is that this is a fact-finding situation, and we have been looking at this situation with mr., Mr. West, and then after I have looked at the facts, I will then make my findings to the executive committee of the naacp, and in turn, go before the full body of the naacp and make a presentation because that's where the decisions will be made as to what amount that we will follow up on this issue or not. I might add, also, to, is that as a private consultant, I also am a consultant to mr. West's business. He has a contract for placing ojt, basically women and minorities on highway-related work, and I am doing some business with mr. West in that capacity. I just want to make that very clear. However, I am not and more was I -- nor was I mort of the, the proposal that he had made to the city, in this other venture, I want to make sure that I clarify that. I think that the thing that I would like to say is that one, I have known pinnel bush for a number of years, too. I, too, have been working in this whole business of, from this action for both -- this affirmative action for both men and women for the last 25 years, it has been a rocky situation. And I didn't think that I was going to be doing this at 61-year-olds today but here I am and getting more involved in other processes, and I am sure that the mayor and by the way, I apologize for not recognizing the mayor and the city council. I should have done that at the start of this. But, I think in many respects, I think that what I would like to see is that -- I would like to make my job easy. In reference to making a presentation, following up on this issue with the naacp. I think that also, there are issues here in regards to pinnel bush who I have known for a and a half years, I know vernal west, I respect him, I respect pinnel, we have been in situations where we have tried to develop these women and minority contractors throughout the state of Oregon. I can remember the krosen decision and things of that nature that we have had to deal with and here we are today and we are still trying to find ways to try to involve minorities and women and now emerging small businesses, in construction work, and contracting work. Well, I think that maybe a way of not getting into the details of this thing, because I don't want to get into the details

OCTOBER 11, 2000

too, because I am very familiar with the lot of the issues and I don't want to go through the embarrassment one way or the other, I would like to just stop right here, and I think that maybe a way of solving this issue with all of us, that we all would benefit because the bottom line is to make sure that we get women and minorities in emerging small business in, hopefully, to try to do everything that they can to compete, if you will, and at the same time, at the same time, benefit the citizens of Portland, those taxpayers, to make sure that they are performing on the job. That's the bottom line. And I think that maybe a way of doing this at this particular time, I would say, and I am saying, I am just suggest this, that this is where I am at right at this point this time, I plan to make the presentation to the naacp. I think it would be better off if we did not award the contract at this point in time. I think that, and, I think it should go back out to bid. I think that we can maybe extend the contract with pinnel bush. And parties would have the opportunity to come back. We had sort of a lull in construction at this point in time. We had three or four jobs coming up, the late on -- the light rail on the interstate and some of the big jobs on the highway here roll, and I think that we have a little time, if you will, to maybe go out and go to another consultant to discuss this issue. Also, too, is that in the selection committee, I do understand that there was some funding sources from tri-met, from Multnomah county, et cetera, et cetera, but when I looked at the makeup of the, the selection committee, I saw no people from the industry. I didn't see the agc, for instance, or the willy people from the other parts, but to make sure that, that when the questions are being asked of folks who are trying to get the contract, that, in fact, they are going to be responding to some of the issues that commissioner Francesconi was asking about and being very specific. All, are we doing the right thing and are we picking the right person to make sure that we have got results at the end, and that is folks who are going to be getting off that roll and being able to provide for themselves. Also I would say that the other point is that --

**Katz:** Your time is way off, so.

**Broussard:** The other issue, as you know, they have been running a lot of the concerns of african-american contractors, like mr. Posey, and there was some issues between the, about that issue, and so I think that it would help us all out if we just go back out to bid, and just go through the process again, but make sure that we have got folks from the industry on the selection committee, and in addition to the folks that are there. Thank you. Are there any questions?

**Katz:** Questions of bruce? Thank you. Anybody else want to testify? Madeleine, so a couple of issues have come up. One, the -- bruce's suggestion, the issue on, who is on the selection committee. Two is, the issue of, did this -- did the fact that mr. West was mentioned in pinnel bush's contract, prejudice the group and your answer to that was no. Talk a little more about that.

**Saltzman:** Also, is there an obligation when, informed of that fact of the city, to investigate.

**Katz:** And then if that's the case, what would you investigate?

**Wessel:** Let me start there, commissioner Saltzman. When the city receives a written protest asserting that there is some problem in a bid process or some issue that's come up that would influence the contract award, it depends on what the nature of the assertion is, and in this case, the city got a letter saying that I am not protesting the selection but I want to raise concerns and issues about the fact that I was listed as a subcontractor without my knowledge and consent. What the city staff did at that point was what they routinely should do and we do, which is to take that letter, review it, and forward it on with a demand that the contractor, who was accused of that conduct, mainly pinnel bush, respond in writing. It is not at all necessarily routine for the city to convene a hearing or to engage in meetings with people if we have gotten that kind of written protest, we respond, and say that we want something in writing clarifying what the situation is. I will point out that --

**Saltzman:** Prior to the contract award?

OCTOBER 11, 2000

**Wessel:** Oh, absolutely, prior to the contract award. Prior to moving forward with a decision about the contract award. Now, the -- there could be a bid dispute where the kinds of assertions or problems that have been raised would warrant having that kind of in person meeting, there could be a dispute so significant and pertaining to such a critical path matter in the contract that, that staff would definitely suggest going back out to bid. So, that could happen. In this particular instance, what appeared to be the case to staff was that there was a very unfortunate misunderstanding or factual dispute but it was not on a matter that, in any way, was central to the award decision or the resulting contract that staff is proposing that you go ahead and award today. The principal subconsultants of pinnel bush were clearly onboard, informed and structured formally into the agreement. In fact, they were present at the oral presentation to the selection committee. And so, those were the critical partners. If there had been this kind of issue raised, why one of the principal subconsultants, then we would, in all likelihood, have embarked on a different kind of path because that would have been a critical kind of piece of the decision. As bruce, also, commented here just before bruce watts, the honest reality was the inclusion of v-west as one of the alliances simply wasn't on that order of magnitude, and for that reason, staff did not go down that sort of heightened level of investigative track.

**Sten:** I mean, and I mean, no offense, madeleine, but the heightened level of investigative track, a lot of words there, but couldn't somebody pick up the phone and call, vernell is a person that has worked with this partner for many years, and is a very respected person in this field, I know that from third party fields, and I lost in that response that nobody talked to him.

**Wessel:** People have talked with vernell. Bruce watts has talked with him. A letter went to all of the people that bid, including v-west, saying please come in and we would be happy to do a briefing with you on the selection process, v-west or a representative of his company has been into purchasing several times, and has been given ready and open access to the files. There has not been a door closed in any way. I think that people understood quite well what the issues were. So, I mean, I don't manage or run the contractor development division. I am a staff to them in a legal capacity. Certainly, you could recommend that more be done in the future or that more could have been done in this instance. I think that people did what they thought that they could do and what was best.

**Sten:** I don't want to knit-pick this, but you just said two different things.

**Wessel:** I said that the door was open and a lot of contacts were made and direct conversations were held. But, not that the director of purchasing convened a more formal process to do the kind of investigation that I think vernell would likely have wished.

**Saltzman:** Maybe just -- what I am hearing you say, and this is persuasive to me, is vernell west notified us that they were inappropriately included and we notified pinnel bush and said, get them off. So, there is no -- we took --

**Wessel:** Said what's going on here. We've been told that you made misstatements in your bid. You need to explain what's happened here. And based on that information, we will then take --

**Saltzman:** So we took their claim on faith. We accepted it as truth. And what you are saying is this did not -- there was no need for us to necessarily contact v-west to dwell into how this happened. We accept it on the face that it happened and it was wrong and we asked pinnel bush to explain why?

**Wessel:** That's correct.

**Saltzman:** Okay. Now, mayor, I don't know --

**Wessel:** Now, mayor, I don't know if there were other issues that you may have raised, I may have gotten lost.

OCTOBER 11, 2000

**Katz:** I think the real issue is, did he lose out on the contract because he was included in somebody else's contract. And I think that you stated upfront that that particular issue was not the case. That's what I heard.

**Wessel:** That's correct.

**Katz:** I think that mr. West raised some legal issues and I just wanted to make sure that we were not in violation of state contracting law.

**Wessel:** Well, mayor, we certainly have taken a very close look at that. And our offices and mine and other's assessment is that there is no legal violation at all here. There is concern and real distress, frankly, over the dispute that's arisen here. I am not going to sit here and say that people are happy that there's been this kind of breakdown. At all. But, there is a difference between that and finding that there is a legal basis to not award to pinnel bush or to have a concern about city and legal liability if the award --

**Katz:** Let me ask you another question. Are the issues that haven't been talked about this morning issues that might be driving this, this dispute?

**Wessel:** Mayor, I am not aware of what any other issues --

**Katz:** Well, my suggestion, mr. West, again, is that if there are other issues, or bruce, if there are other issues with regard to what's happening or what's not happening in the community, then c-3, if they are not dealing with that, ought to be dealing with it and you ought to have the opportunity to share that. Did you want to add something? Come on up, quickly. Thank you, madeleine.

**West:** I am vernell west with v-west contract and go consulting. The statement made that people have spoken to me regarding this complaint or made offers to talk with me regarding this complaint. Never in any instances, has anyone spoken to me regarding this complaint prior to having made their decisions. Informed me of their decisions, then they said that you can come in and speak with us regarding there. So that is not what I am looking for after the fact. So --

**Katz:** Nobody called you before they made the decision on awarding the contract is what you are saying?

**West:** No, I am -- well, what I am saying is specifically, when I raised my concern, they made a decision without so much as talking to me about the facts of my protest. Whereas if you look at your file, there's evidence that there is dialogue. There is dialogue. As a conscious decision to accept the union lateral explanation of what went on. Without -- unilateral explanation of what went on, without ascertaining whether or not those are the real facts.

**Katz:** Thank you. Questions? All right. Anybody else want to testify on this issue? All right, roll call then.

**Francesconi:** Sir, I don't think that there is a legal reason to overturn the contract. So, I am going to support it, number one. Number two, is you probably should look at the process question so that people feel like they have direct input before a decision is made, so I think that that committee should relook at that question, number two. Number three, the larger question, though is, what are we going to do to be more effective in this arena. These contracts, as understand it, are \$100,000 and above, so there is a whole gap on the small business -- the microbusiness contracts and what are we going to do to address that. Secondly, there is the question of expanding the technical assistance to businesses. So that we can do this, and the mayor is looking at these questions. We are looking at it with her under this small business group, and so there is a lot more work to do in this arena, so I would like us to spend a little more -- to stay a little more focused on that, which we all can agree on, as opposed to this. Aye. The real litmus test isn't how we handle this one thing, the counsel puts thousands of dollars into this, the real test will be can we come together and collectively do better than we are currently doing? That's the real litmus test, not what happens on this contract. Aye.

OCTOBER 11, 2000

**Hales:** I agree with those comments, the only thing that I would add is seems this program, we are trying to accomplish something difficult and trying to be effective and trying to be just, and be perceived as both, and that's hard. And we haven't reached that lofty goal, it doesn't still mean that we don't have work to do, but I think that we are on the right track philosophically, we still do have work to do in terms of the programs -- the program's performance and its perceived effectiveness in the community, in fairness, so it is one of those things that we maybe never get to the ideal that we are seeking but we are not quite there yet, but that doesn't mean that we have to overturn this contract, means that we have to work on what we are doing already.

**Saltzman:** I believe the misrepresentation of your company and the pinnel bush contract was -- your word was taken at face value. The city contact with pinnel bush, pinnel bush remedied it, and that on the head-to-head matchup between pinnel bush and your own firm, that pinnel bush still was deemed to be more qualified for this particular contract. So, and that there was no obligation in this particular instance to contact you to get into the wheres and why-fors, your name showed up on their bid or their proposal. So I am going to support the award of this contract. Aye.

**Sten:** Well, I don't -- it is very rare that I will find myself in a position that I want to second-guess a panel that's looked at things properly and I know that most of the people on this panel to be honest people who are experts in the area so I suspect that the panel came to what they thought was the right decision. I don't feel qualified to second-guess that. I do think that the issue has been raised and I don't think it is enough legally to overturn the contract. That being said, I think that we need to dig into this a little bit harder, folks. This is really sloppy work. You know, I know vernell properly to be a very admirable person and I know that he doesn't sake these things lightly so something is going on here that concerns me that I don't think is proper to address on the contract, and I look at this contract, and it has existed for three years and there isn't a single piece of information about what's been accomplished in the ordinance asking us to pay another \$180,000 to do it again. And in fact, the only number is it says it served over 350 clients with the contractor immediately backed off from when commissioner Francesconi asked him about it and said no, we haven't serve 350 but 90, so I think that, you know, when heir contractors are out here saying, you know, we can do a better job, and we ought to get this contract you know, I don't want to second-guess the folks, and I am not saying that you were wrong but I am saying when this gets to council, we are going to air it out with, a minority contractor who is qualified and a majority firm who also is qualified, I would like to see a little better work done in explaining why this is the way to go, because frankly, you look at the ordinance and it doesn't say a thing so I am going to vote to turn down the protest, but I think that we have got a lot of work to show this program is doing what people are implying that it is doing because I don't see -- I don't see the argument being made explicitly. Aye.

**Katz:** I am going to vote aye but I think madeleine, it is time for all of you to come to a work session with the council and talk to us about what's been happening and what are the problems that you are working on. Aye. All right. It is time certain in 1448. 11:00.

**Item 1448.**

**Francesconi:** This will be quick. It won't take long. This came before the council and commissioner Hales suggested that we do some additional work in terms of another location for a fire station. We actually did that work with the parking lot, but the store owner didn't want to give it up, but something better even happened, which was that we were able to find some property at ground zero, which means an even better location from a fire response standpoint. And the most important thing that held it up before was the price, at the prior location, it had been \$900,000. They were willing to subdivide and so it went to \$400,000, so we were able to create a situation that's better for the fire bureau, and better for the, the, some neighbors, who were upset about the

OCTOBER 11, 2000

location. And I think that some of the neighbors are here. I know that ty walters is here from the fire bureau, and ron bergman is here, as well. I have sorry, I forgot your name.

**Ron Bergman, Interim Director, Bureau of General Services (BGS):** Ron bergman, director for general services, and I think that commissioner Francesconi summed up the issue completely. We came before you, and you said keep looking. Even though we wanted to buy that property on hamilton, to have an ace in the hole, but we did and we came up with a preferred site. We can manage it within the budget for the site and we will be coming back later to dispose of that other property.

**Ty Walthers:** 2424 SW Richardson St., 97201. I am ty walters and I am president of southwest Portland station number five and i've been a member of the station advisory committee from the outset. I think in ron's memo october 11th, he summed up all of the reasons why I support this site. The location, location, location. It is the best location. It is a site where a station should be situated. It is a good piece of property, flat. Has a lot of design options. Most important, from our standpoint, along the beaverton-hillstale quarter. Station five presently, that's our most common response route, it will be a course for the new station 21. The most important aspect of this location, is that it will meet the fire bureau's needs and more importantly, the public's needs for quicker response times to this portion of southwest Portland in the future.

**Jenny O'Connor:** 4777 SW Hamilton, 97221. I am jenny o'connor, and I am a member of the station advisory committee on the -- I am the community member. And I am here to support the recommendation to you that you approve the acquisition of this property. As you know, the committee looked at sites for over a year, and this site was -- is looked at as the prime location, and was rated top in terms of all of the criteria, and it is hard to explain why, the central location, on a major road, the response time is expected to be the best because it is in the center of the area to serve. So, we, we are very fortunate. The community, that it's going to serve is very fortunate. The property is now affordable to the city. And I want to thank all of the city staff that continued to look for the best property and to all of you that are, are flexible in considering the purchase of this property, and I whole heartedly recommend it.

**Katz:** Thank you. Anybody else want to come in and testify on this?

**Olson:** I have a couple of people signed up.

**Katz:** You don't need to if you don't want to but since you have been working on this, and recall the conversation if last time.

**Saltzman:** I have one question.

**Keturah Pennington:** 3066 SW Flower Terr., 97201. Last time I had a lot to say, so. [ laughter ] I am katrina, and I am one of the members of the station's advisory committee, thank you for hearing us again. Last time I was very much in favor of the hamilton site because it seemed our very best bet but something has changed. And we now have an even better bet. The whole committee is delighted about it. We have all worked very hard, but we are really happy to come around to having our first choice now once again available to us, and we urge you to take advantage of that fact.

**John Neiheisel:** 4403 SW 47<sup>th</sup> Dr., 97221. I am john, station advisory committee and community member. I just want to commend everybody for an admirable job in coming up with an ideal location.

**Phil Pennington:** 3066 SW Flower Terr., 97201. And I am phil pennington, station advisory board, one of the original members, almost a year and a half ago and also a member of the emergency team for hillside and I wanted to point out that our searching for this site was unusually thorough because we were also working on a project to make running maps and walking maps and by designing maps for the neighborhood, which are partly now posted on the web. These

OCTOBER 11, 2000

happen to be from the community center. We are also working on one for the southwest community center, and we really did discover all of the various walking routes, paths, stairs, and the like. The ideas were getting together things that people can use, perhaps, to download off the internet in order to get to know the neighborhood better. The emergency team, when we did this, and we walked the neighborhood, we found that it was very popular and something which really is delightful for cohesiveness and also, mayor Katz, we did talk with one of our crime prevention meetings, the recent one that you weren't able to come to, and it was felt, there, too, that getting people to know the neighborhood better and getting to know the neighbors better was a worthwhile project.

**Katz:** You fit in three issues all in one.

**Pennington:** We did. Yeah.

**Katz:** You did a great job. [ laughter ]

**Pennington:** It is long but it is thin.

**Katz:** Thank you. Anybody else? If not, roll call.

**Francesconi:** So, folks, this means that we have two sites in southwest for fire stations for \$650,000 and at the hearing, the argument was to have one site for \$900,000, which the bureau and station advisory committee said that we cannot do. Now, if anybody is wondering, we are going to now sell that other site, and we are not going to lose to lose money on it so, we are going to be back to the top recommendation of the citizen advisory committee for \$400,000, save \$500,000 and sell the other. The only other thing that I want to say is that now we are going to be 3-3 on successful sitings of new fire station locations. One on the east and two on the west. And this is terrific and the bureau and the citizens' advisory committees help us do that. Council, I don't expect that we are always going to have 100% rating where everybody is happy on these so I am just giving you some advanced warning here. Finally, I want to thank ty walters for his work on this. Jenny o'connor, who was a terrific advocate, who it is good to have on our side. Here at the end. [ laughter ] And also the citizen's advisory committee, ms. Pennington and everything everyone else, thank you, aye.

**Hales:** Horray, bravo to the commissioner's office and the committee for getting this resolved. I am pleased that you were able to make this work and I am glad that we are going to be temporarily in the real estate business selling that other parcel, and I guess the lesson I take from this, I think that you are right, jim, you don't always get to get to the ideal like this, but it seems to me that given the fact that we are 3-3 in this effort, and that this happy ending came to this particular process, that we really should push hard for the best site and not settle for just okay, and again, I will signal the outrageous here, I am willing to go up to condemnation to get to the right site. So, I think that the real estate community needs to know that we are serious about this. Obviously, this seller figured that out after you bought another piece of real estate. But, I think that the real estate community, in general, needs to know that we are going to go and buy the appropriate sites for 50-year buildings and not settle for just okay and have to replace it in 25. So, again, bravo for just a blate great job on this, I am real pleased. Aye.

**Saltzman:** This is great work and I am very happy that it is -- we finally have come to a successful site, and as commissioner Hales said when we were talking about 50-year buildings, we have to make sure those buildings are as energy efficient, resource efficient and as green as possible and I look forward to continuing to work with commissioner Francesconi to make that happen. [ laughter ] To make that happen. Aye.

**Sten:** Good work, commissioner Francesconi and the bureaus and the citizens. It is really competing to see something turn out this nicely. Aye.

**Katz:** Thank you, everyone. He is on message, aye.



OCTOBER 11, 2000

**Saltzman:** Start charging.

**Katz:** Right. 1487. Let me do this, 1489, one of our favorite subject matters will be the last item that we are going to deal with. I have got too many high-paid city officials here waiting for their items, and we will dispose of it and then we will do -- we will finish up with our favorite. All right. 1487.

**Item 1487.**

**Nancy Jesuale, Director, Communications and Networking (C&N), BGS:** Good morning, council, mayor. I am nancy, I am a division manager of communications and networking. And with me is mark gray, who is our director of engineering. This ordinance will allow us to make some very badly needed repairs and accomplish some enhancements to the radio system, and hopefully, prior to the winter weather, which will keeps us out of our tower locations. That's the recent it is brought before you as an emergency. Because of the winter weather and because we have some equipment failures currently. Mark can answer any questions that you have about the radio system performance or what the impacts of this will be.

**Katz:** Okay. Mark, why don't you let us know right now what this actually will do and what it will correct.

**Gray:** Certainly.

**Katz:** Why don't you move the mike closer to you.

**Mark Gray, C&N, BGS:** I am mark gray and I am the manager of engineering for communications.

**Katz:** Excuse me, mark, susan, it will not take that long. Go ahead.

**Gray:** There are too many things that will be corrected by this project. The main issue is a piece of equipment called a multicutler or a combiner. We have found through some complaints that we received some real inconsistencies in performance. And in investigating that, what we found was a piece of equipment that was placed in the network when it was originally built, as degraded to the point that it is beyond repair, and it is no longer supported by the original vendor that created it. And that piece of equipment is, is basically responsible for making the rf signal on the street inconsistent from one transmission to another.

**Katz:** Rf signal?

**Gray:** The radio frequency signal, the actual signal that's received by the radios that the officers and the emergency responders are using. Part of this project will be -- will replace that equipment with some higher performing, more dependable and frankly, less automated equipment, which will, in our opinion, make it much more reliable and more importantly, much more consistent. The second piece of the project is to replace some antennas that are in place in the system that were, at the time that they were put into the network, they were the best thing on the market, but since they have become something that you really can't even obtain, we found through some engineering design that some new antennas are available and that by implementing those, we will see a considerable increase in our, in rf on the street, and I brought with me some, some diagrams showing an rf model of our existing coverage and what we have perceived to be the coverage that we will receive.

**Katz:** Why don't you quickly show it to us.

**Gray:** This first model is actually a model that is not 100% accurate but it is a model that represents what we would call optimum coverage in the radio system. The blue indicates areas where the signal will be at a level where the radios will be very content with the signal and will not be searching for any better coverage. So, this is ideally what you would like to see throughout the coverage area. Throughout the entire city. And this is a representation of what the existing coverage is today. By replacing the antennas, because they both have some properties that will

OCTOBER 11, 2000

increase coverage, we have done some modeling that indicates that we will see something that looks much more like this. What you see is, is one and a half to two times increase in that coverage area. And really, what this means is that at a much higher percentage of the time, the user's equipment will be content with coverage -- it is not going to be off looking for other areas and other sites to switch to. What we really see is about a two to three times increase in the amount of radio frequency coverage, the actual level of it on the street. To generalize over the entire coverage area. We believe it will be a large increase in performance, but at the same time, it will get us past our hurdle where the existing equipment that we have is not supported and in the event that it would fail, it would be very difficult to continue to provide the services that we have currently -- we currently do.

**Katz:** Are we still left with areas that are not covered? Is this the prune-hill discussion?

**Jesuale:** Let me jump in on that one, we think so, but this is going to make a substantial difference in areas that are having coverage problems right now, and especially mark can point to you on that diagram, like out i-84 toward the gorge, and in the eastern parts of the city. But, we can't tell you right now that this project, when it is completed, is going to negate the need for more towers. We want to study that and give you the real answer in a few months.

**Katz:** Questions?

**Francesconi:** Maybe just one. Can you give kind of a practical sense of what the problem is when there isn't coverage? I would guess that law enforcement would go a good example. Can you give us a few live examples of the problem that you are trying to correct?

**Jesuale:** Well, the problem that we are trying to correct is the combiner's malfunctioning, and what happens is, you can be standing somewhere, use your radio and get a completely clear transmission. And then the next time that you key it up, not have coverage. That's, that's a repair that we need to make right away. But, what mark's team of engineers have discovered is we -- we also have an opportunity to make a significant impact on our coverage problem. And that means that in certain areas of the city where it is predictable that your radio isn't going to get optimal coverage, it will become predictable that it is.

**Katz:** Further questions? Does anybody else want to testify? I am sorry?

\*\*\*\*\*: I am on a different --

**Katz:** You are on a different one, oh, okay. Well, sorry about that. All right. Roll call.

**Francesconi:** It is just very important from a public safety standpoint that we do this. As an aside, we have got a terrific team of people here that, you know, in this market, it is hard to hang onto these folks, so we need to do that. Aye.

**Katz:** I have had several complaints, and appreciate the work that you have done, and waiting for you to come back on prune-hill and seeing if we can have some partners joining us so that we can reduce the substantial cost that we would incur, aye. All right. 1488.

**Item 1488.**

**Jeff Rogers, City Attorney:** Good morning, jeff rogers, city attorney. This ordinance would not change current practice, but would amend the code as to recognize the nature of the hiring process that, that is involved in hiring outside lawyers. It would do -- I will get back to that in a second. The ordinance would do a sec thing, too, and that would be to direct the city attorney's office to establish a legal services pool, which we are in the process of doing. Very briefly, I will summarize what's in the ordinance, itself. And then answer any questions. The hiring of outside council, which is required in a number of situations, in the city, involves certain factors which are somewhat unusual to the hiring of the outside council or expert witnesses. Those are listed in the ordinance here, but they include the fact that the need for outside council, expert witness, often arises on an emergency basis. We can't predict when it is going to occur. When it does occur, we

OCTOBER 11, 2000

need to hire somebody very quickly often because of court deadlines and other requirements that are beyond our control. We can't predict usually the scope or amount of those services because of the unpredictable nature of legal proceedings. We don't know if a case will settle. We don't know if it will go to trial, and if it does go to trial, what the court will do, et cetera. There is limitations on what we can disclose to people that we contact for potential contracts because of attorney/client privilege and other issues of confidentiality. So, for those kinds of reasons, we find that we have had to rely on the exceptions in the current code which provide for hiring without following the full procedures in emergency situations, or in situations in which there is only a sole source. This change in city code would recognize those realities. These would not be the only exemptions in city code. Already, the hiring of professional technical or expert assistance is exempted, if it is for worker's compensation cases or return to work cases, or reasonable accommodation situations. As to the establishing a pool, we have been doing -- we have started doing that anyway because we think that it is a good idea regardless of whether the code is amended. We have gotten a good response from the legal community to our requests for qualifications, what we are going to do is establish a pool, which will not be an exclusive pool. We may still have to go outside of that pool on occasion because of the specialized nature of the work that's needed, but at least we would have a prequalified pool and we have set it up for about a three-year period. Even within that pool, we have made it clear that we wouldn't always -- we wouldn't be able to hire just on a rotational basis. We would have to continue to utilize a lot of discretion in would we hire because hiring of council involves not only the factors that I mentioned but a lot of subjective judgment about whether the attorney or firm will be compatible with the particular client, whether they have the kind of approach that's needed on the particular case, et cetera. So, that's the overview and of course, I am glad to answer questions.

**Katz:** Questions? Anybody else want to testify on this item? Fine, it passes on to second reading.  
**Item 1490.**

**Hales:** The people are here to talk to the council about this. I don't think that frankly, there is much to discuss or much concern or dissent about the plan in front of us, which is to purchase the 6th streetcar. Though, obviously, again, they are here as resources for that discussion. But, we really wanted to take just a few minutes and engage the council as, you know, as the corporate transportation entity here to think a little further about the question of should we go further than the 6th vehicle, basically the question is, do we want to get to north mcadam district any time soon, and it seems to me with the increased interest by the Oregon health sciences university, the city's biggest employer in expanding either here or in hillsboro, that we have a pretty significant interest in that question, and we can help ohsu expand here if we have excellent transit service in the north mcadam district sometime soon, if we can't assure ohsu that there is going to be excellent transit service in that district any time soon, i, frankly, have a hard time blaming them for going elsewhere. But, I would have a hard time not blaming us for letting that happen. So, really, this is a corporate question for us about how aggressive do we want to be beyond getting streetcars on the tracks that have already been built and vik is prepared to take a few minutes and walk us through those questions.

**Katz:** Okay.

**Vic Rhodes, Director, Portland Department of Transportation (PDOT):** Vik rhodes, office of transportation much I think the key question is the accessibility of the river places that exist now and the struggles of pgt and other areas. How do we provide transportation to that district. We have an option with inekon to purchase cars at 2 \$2.2 million, they offered us a price of \$1.7 per vehicle, based on the strengths of the dollar against the area. That's a savings of over \$500,000 if we could find a way to purchase the 7th car which could serve to riverplace. It is a pretty good

OCTOBER 11, 2000

deal. With respect to time, this order would be tagged onto tacoma streetcar order and be delivered at the end of fall next year. Otherwise, what we are up against is a new procurement process and at least a two-year delay in acquisition of a car from the day that we decide to actually go forward with it. And probably a more significant issue is ordering one car will get no one's attention, and in fact, I question the ability of inekon or anyone else to deliver one vehicle. We are having to already struggle with five in terms of subsuppliers and other contracts. It is an opportunity for council, if you want to take some time to really set -- do a statement of intent about getting to riverplace and looking at that issue. Because it is successful and as commissioner Hales said, I think it sends a message to our friends at health sciences that we are serious to providing service to mcadam.

**Katz:** Why don't you spell out the financing proposal for the 6th car, and then commissioner Hales and I have had a conversation and have basically have identified the three key players to sit down together and figure out what we can and can't do, as soon as possible. Assuming that the council supports that direction. But start with the financing of this one, because it is very interesting.

**Rhodes:** Well, as I told the commissioner this is the last rabbit out of the hat, we killed the breeding stock in order to do this. [ laughter ] But, basically, we have got a 1.7 million dollars price tag. We partnered with tacoma sound transit and they used our specks and our design work to do their acquisition of cars. Our friend, mr. Shields, sent them a bill and they paid, and that meant \$162,000. We are very comfortable at this point in time reducing the project -- it is over 90% complete, we stand at about 3/1061 percent increase in project costs and that's not bad on 33 million dollars, we were up about \$90,000. Most of most of those are owner instigated, so a couple of drawing down contingencies at this point. The third source of funds would be to partner with tri-met and we have a draft mou on our hands, but when they go out on tax advantage lease for the interstate tax cars and the airport cars, we can partner with them and tag our six streetcars on that, and that will net us cash of about \$850,000 or 8% of the value. That's out two years and in the meantime, we do an inner front borrowing with transportation where we drawdown from the transit restoration account for the time being, and timely we have interest earnings on cash transfers that are unaccounted for. Cash transfers from pdc in the amount of \$7.5 million and cash transfers from tri-met, if you recall, got a \$5 million grant from senator hatfield on an earmark to federalize the project and we switched that with tri-met and they gave us local earning capital, so that adds up to the \$1.7 million, that's the end.

**Katz:** Scott, did you get all of that? [ laughter ] And one of the issues that, that I raised, and you and your memo have responded, was I really did want the work on the mall, but you said that the amount of money that we set aside for it really wasn't going to get you very far?

**Rhodes:** We are currently doing some work in the north portion of the mall and we will be very soon, we awarded a contract to rehab some of the intersections on a demonstration basis, but frankly, the gestation period on a full mall restoration project would probably exceed the time limit of the loan that we are going to make.

**Hales:** And viks description of the rabbit out of the hat is really right, we are accustomed to looking at him and felicia and jim and saying, doing your magic and figure out how to pay for it, and they have done it, but as you can tell from that complicated scheme that he just described you know, we really have gone about as far as that team can go, in manipulating existing money for pay for this stuff. The question for us as a council, is are we committed to going further with the streetcar and should we, therefore, make an advanced commitment to buy one of the vehicles that will run on that expanded line, even though we don't know today how we will finance its construction, and shouldn't we task this group with both of those challenges? Figure out how to pay for the 7th car and figure out how to get to river place, and I think that we should, but it has got to

OCTOBER 11, 2000

be a corporate commitment by the five of us, rather than something that the transportation agency wants to do.

**Katz:** Let me ask, and we will get do that, commissioner Hales, you didn't double count anywhere, did you?

**Hales:** I am no I am aware of. [ laughter ] I hope not.

\*\*\*\*\*: Not this time. [ laughter ]

**Katz:** That's why I asked. [ laughter ] Let me just, don't go away. Does anybody else want to testify on this? All right. The question that commissioner Hales asked is, is a very legitimate one. I have to tell you, it makes me nervous but I also understand that time really is, is an issue, and it makes me nervous because this council has already spent money that we don't have today on other things. But, what I think that we probably can do and you need to give us a thumb's up or a thumb's down, is task tim grew and vic rhodes and felicia to put their heads together and if, and see if there is another rabbit with sound genes that we can resurrect, other than going and asking one of them to go and redo their entire budget for fund another streetcar, which I really don't want them to do, but I want them to see if the three of them, within a, a time frame that works for everybody whether you can make, come back and make a recommendation to us. So that's the council. How do you feel about that?

**Hales:** That's what I hope that we can do but I want to hear from others because if we want to buy the car, we obviously mean that we want to get to river place so it really goes together. And again, we need to come up with the cash to buy the car, sooner rather than later but he also need to task these folks with figuring out how to get us to river place.

**Saltzman:** I think that we should shoot for river place, and I was doing some brainstorming here, if there is any way that we could get a bill's compartment where we could transport wastewater, we could get sewer repair costs to help. [ laughter ]

**Katz:** And get sued. [ laughter ]

**Hales:** That's creative.

**Katz:** There may be creative ideas, maybe not exactly that, but some creative idea close to that.

**Sten:** I am interested in seeing the plan, I think it would be well worth it to get to river place, well worth to get to north mcadam. Not to put too much caution into this. You haven't come up with a plan yet so I am not ready to sign off on buying the 7th car until I see there is a plan that hasn't come up in years of work that we need to get in the next couple of weeks, and so if we can get something that's -- I am willing to gamble but not willing to gamble on, we will find something, in order to spend the 1.7 million, but if we can find something that looks promising, I am interested, so I think that we need another, maybe informal on this, or something quickly to really pull it together. Because I am not ready to go with what we have got. But I am not ready to say no, either.

**Hales:** I like the suggestion of an informal. We hadn't talked about that but I was hoping that we could we could get these three to come back in 30 days with some plans or options, but doing that in a less formal setting than this might make some sense and those informals are supposed to be strategy sessions, not briefings, and not substitutes for formal decision-making here, and it seems like a classic use of that format, to me. I like that, erik, and I think it is a good idea.

**Francesconi:** Well, a couple of things. First, on the item in front of us. I think that vic, you have done a terrific job on pulling rabbits out of the hat and breeding some rabbits for a long time, and you are to be commended this the 6th program, the car, is sound. It is a little unusual to be, well, just process-wise but talking about the 7th car now. I do think that the idea of asking felicia and tim and others to come back with the plan is what we should do. I can't, because for a custom things, I do believe that ohsu at mcadam is important and we need more transit to have that happen.

OCTOBER 11, 2000

And I do believe that the streetcar is important to get to mcadam. I also kind of need to know in the discussions with felicia later, where we are with ohsu and what they are willing to do in order to get there because this has got to be a two-way deal and I also know that that tram is as important to them as the streetcar so I need to be up to speed on what's happening with that, so that's something I need to understand in the next 30 days. The other thing, there is some other issues in addition to just the streetcar that we have to address so I want to have some discussions in the next 30 days about that, too, because it is more than just a streetcar that we are talking about here. I guess the last thing that I want to say, and this is back to the council, I don't know if we are going to do this in the next 30 days but I also need a clear understanding as to what we are going to say no to, folks, because it is important to get to mcadam. With the streetcar and ohsu. But that might mean saying no to some other things. So, at some point, we have got to have that discussion. We also have to have a discussion as to where we go beyond mcadam with the streetcar or if we do, and what the conditions have to be. We cannot continue to have this approach beyond mcadam. So, that's what I think.

**Katz:** Okay. Let me see if I can summarize what I think that I heard. A general interest to go ahead and see what you can do in terms of a financial plan, scheme, whatever you want to call it, to river place. I also heard that not everybody on the council is ready to sign off with something that they haven't heard yet, so I can appreciate it. But, I think that the council is saying, go and work at it and then come and show it to us. I think that commissioner Francesconi is raising a legitimate issue in relationship to ohsu and their commitment to work with us in bringing down some of their expanded facilities down in north mcadam. My personal feeling is that ohsu is going to be our first partner on north mcadam, so the question is, what are the trade-offs and what is it that they are going to do, what is it that we are going to do in life all -- in light of all of this, because in addition to the tram, they need some infrastructure, transportation infrastructure, as well. That, then, leads to the question of the greenway and what is it that we are going to provide first and what is our priority in north mcadam. All those are very legitimate questions. They are adjuncts to the main question, but I think raised some issues that you, vic, part of your responsibility is to address those transportation issues, the rest really belong to other bureaus that I think need to sit down together and make a presentation to the council. So, I am trying to gather up everything that I heard here. All of it makes perfectly good sense. Okay. Anybody else want to testify? Roll call.

**Francesconi:** I think the other compliment that I want to give you is i've been trying to pay more attention to our employees and how they are feeling right now, and you have done -- there is a lot of uncertainty in pdot, in the bureaus, and they really see you, from what I have gathered at their champion who is trying to take them through a difficult period and I think that you are to be commended for that. Aye.

**Hales:** By pure scheduling, vic and I are going to go and meet with folks from seattle wore down here to study our streetcar, and that's great. We love being able to brag about Portland, especially to seattle, but I think that this is one more example of how we, as a community, keep trying to stretch to do the right thing, and then other people wonder how we did that. And I think that if we are able to put a plan together and get to river place, it is going to lead to all kinds of good things. I do believe it is going to lead to ohsu staying in the city and expanding its administrative and research facilities here, rather than out on some freeway interchange in suburbia, and that's a good thing, you it is also going to lead to better access to waterfront park. We just had a symphony park down there, imagine what it will be like when there is people living there and they can do that because of the streetcar but when people can go to the symphony or event, and have the transit to get to river place. We developed this transit oriented district without any transit and it is time. So I think we will look back on this one and say, yeah, that was a stretch but boy was it the right thing

OCTOBER 11, 2000

to do. And I hope that we can get to that happy ending, in that case, too, so thanks, everybody.  
Aye.

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

**Katz:** It is a slight stretch, but I think this is what this community is known for. And I am willing to take those risks. I want to thank vic. Vic has been a wonderful partner much he's not within my bureau assignment or jurisdiction, but when we come and ask him to solve a problem, he usually, without double counting, he usually comes in and gives us an idea that then we can really review and work with. So vic, really appreciate it. I don't know where all three of you are going to go next on the 7th car, but commissioner Hales is right, the infrared for north mcadam needs to be built and then the council needs to figure out whether we are serious about taking the streetcar over the bridge and into the neighborhoods. Aye. All right. We skip over our favorite. And we go to second reading of **1491, 1492, 1493, 1494.**

**Item 1489.**

**Katz:** Mayor votes aye. All right. 1489. Where are they?

**Susan Hartnett, Bureau of Planning:** Who?

**Katz:** There is not a controversy.

**Hartnett:** There is not a controversy, they talked it out.

**Katz:** No, they were here. Susan, was there another -- you wrote us a memo, and so I want to make sure that everybody is clear on the content of the memo.

**Hartnett:** Yes. Thank you. For the record, susan, bureau of planning. I think that you have all received copies of a letter that was sent to me from central eastside industrial council following the september 27th hearing. Requests written confirmation of some information that was given at that hearing. And it turned out after conferring with a whole slough of people at the office of planning and development review, as commissioner Hales says, in the past, the cctmp regulations are very complex. Turns out the information that rich cassidy and I gave you was incorrect. I think the information that we gave you was information commissioner Francesconi was relying on, on putting aside a discussion about the 60 space ccpr trigger for the central eastside 1, 4, 5, and 6 sectors, so I wanted to make sure that you were all aware that that information was incorrect, and I wanted to -- I believe that commissioner Francesconi had some concern, then, based on that fact.

**Hales:** I am looking for the letters and I don't think that I have them.

**Hartnett:** I have copies of them, if you need.

**Katz:** First of all, I want to thank susan and everybody, in a lot of cases, when people make errors, they deny they make them, and in this particular case, susan was, was forth coming and with mr. Cassidy, to come in and say, that they made one. Now, explain, explain what -- how it really works?

**Hartnett:** Sure. Okay, let me back up a little bit. I think that I have explained this before. But let me explain it again. Currently, the central eastside sectors 1, 4, 5, and 6, the central city sector lower albina, and river district one and two, are in a section of the central city plan. It is 51033267. The only other section that's in there, or the only other parking sector that's in there is north mcadam, and those are the sectors right now that have no parking maximums for any uses. We are moving, certain eastside, 1, 4, 5, and 6, and river district one and two and albina into 510265, and that is a section that has existing parking maximums that currently apply to goose hollow and central east side 2 and 3. In doing that, we make the regulations of 33, 510265-a-3, apply to nonoffice uses, and within that section, there is a trigger that says that for nonoffice uses, if you have more than 60 spaces, you mug through a central city parking review. There is another section in there, which is a four, which applies to office, mixed office, and nonoffice uses. I am trying to do this with a straight face. In that section, if you have a development that is a

OCTOBER 11, 2000

combination of office and nonoffice uses, you have a choice, you can either stay within the maximum for all of the uses on the site, nonoffice and office uses or you can stay below 60 parking spaces in order to avoid ccpr review. What we told you on the 27th was that a development, a warehouse, for example, that had access over office to it would fall into that section a-4. That is incorrect. They would fall into section a-3. Nonoffice use. The accessory office would not push them into a mixed use category. So in that case, they no longer have the choice of being within the maximum or the ccpr 60 trigger. They are strictly regulated by the 60 space trigger. The two additional pieces of information that I shared with you, were one, that that 60-space trigger has not been triggered. Once, in five years, in any of the sectors it currently applies to. And that is still correct. That one was correct. The other issue that the central eastside raised about the ccpr review was the automatic five-year review for, for surface lots, and I explained that they brought, the example, of good will to your attention. I explained that one did not apply because it is in an industrial zone, so those were the sort of three pieces of information that got discussed in conjunction with the ccpr review.

**Francesconi:** So, I got involved again and I wished -- to try to work out a compromise and I think that we have. Although, here's what -- some people in the central east side wanted to continue to have an exemption completely from the ccpr. Just to say that that district has an exception, some people on the central east side still want that. The compromise, which I recommend, and that I think that susan, and I may be overspeaking, that maybe you can recommend, can you recommend this compromise? Well, let me tell what it is, is that nonoffice use, in industrial zone could either meet the maximum stated for office, 3.4 or stay under the 60 spaces in order to avoid the ccpr. That was the language that susan prepared for me as a compromise. Some folks in the central east side can live with that. Some cannot.

\*\*\*\*\*: Does somebody have an amendment in front of us?

**Francesconi:** The reason you don't is that susan prefers we not do this.

**Hartnett:** It is a little complex code language so I would rather get direction from council. There is two choices, you can go the straight exemption --. [ laughter ]

\*\*\*\*\*: Let's end it and free the Portland five. It is over. Let's vote: [ laughter ]

**Hales:** I move to substitute. [ laughter ]

**Sten:** I will second it. [ laughter ]

\*\*\*\*\*: Let's substitute.

\*\*\*\*\*: I thought you meant substitute the amendment.

\*\*\*\*\*: Revised revised code.

**Katz:** Commissioner Francesconi, let me step in, I know that you have a concern about it, and so does the central eastside. But, I think that were we deal with these bigger policy issues, we ought to be looking at what the implications of those are.

**Francesconi:** I am, but I think that there are other people now that are concerned because they didn't understand the consequences of this. So, what's wrong with voting this through like you told me, and then dealing with this amendment in a month? Just like I think that we talked about before there meeting. Is there something wrong with that?

**Hartnett:** Well, no, I don't think that there is anything wrong with it. I mean, I think that there is a policy question, I would rather have the council hear the policy issue and make a decision, give staff some direction, I will bring you back the amended language in a month.

**Katz:** Do you want us to deal with it then now? What is the policy issue?

**Hartnett:** We can do it either way. I can bring you back two optional amendments and we could have discussion about it when I bring the actual amendment language back. Or, we could discuss



OCTOBER 11, 2000

the policy implications of the two choices right now and you can tell me the right -- to write one amendment.

**Katz:** Later?

**Hartnett:** Later, much later after they revise the plan for the place. Then we can talk about the regulation. I mean, jim, let me be blunt, we have a partner here who is engaged in disfunctional behavior. [ laughter ]

**Hales:** Which is to continue to rangle over regulatory stuff rather than figure out what the districts is, by being a nice guy and trying to help them, you are aiding and abetting that disfunctional behavior. It is time to tell our partner, stop it and figure out what you want to be and we will right regulations to get there. The more we do this, the less that they think about the big picture and we need them to think about the big picture.

**Sten:** I don't care. I am prepared to make a decision today, sounds like people are getting antsy and they want to leave but I am respectfully disagree, when we misrepresent what the code says, to people in the chambers testifying on the issue and make a decision, at least the three of us made the decision based on what staff had told us to be the case, I think that we owe it to the people. I was actively debated that issue last week and relied on what turned out to be untrue information. I don't think that that's disfunctional behavior to --

**Katz:** We got untrue information from everybody.

**Sten:** That may, I may or may not be convinced but I think that we need to address it and move on.

**Katz:** Let's do this. Let's amend this and vote on this today. I don't think that it is going to be unanimous but the majority has the votes on this one. And then let's you and I and anybody else discuss what the policy issues really are on moving ahead and doing something else with the trigger if it makes any sense at some future time. Is that all right with everybody?

**Francesconi:** I am not clear on what you said, you don't want to talk about the trigger now?

**Katz:** Do you want to talk about the trigger now? I don't want to talk about the trigger now.

**Francesconi:** Let me ask one other question. Is there anybody on the council that wants to have them have no trigger or is it okay if they just prepare an amendment with this modification that --

**Katz:** I will turn to commissioner Hales because this is within his bailey wick and he probably understands this better than any of us.

**Hales:** I do not within the central city, the cctmp's, bad enough, it is byzantine enough and that's why one of our best planners made a mistake in front of us because there is only about three people who understand this and you are half of one of those three. [ laughter ] And the other half left already.

**Hales:** Yeah. To make it worse to start giving special deals to this district, you don't have that trigger, this thing is a mess. It is hard to administer but it gets easier the more consistent that we are, and if the central eastside is going to be subject to the central city parking regulations then everybody can get clear about that over time. But if they have they have got one trigger and somebody else has another one, arggg.

**Sten:** I am sorry, but I am hungry, myself, but it seems to me that you have commissioner Hales who knows where he stands on this. You and commissioner Saltzman who don't want to discuss it, today, and which seems to be two different positions, and all I am saying is I don't know where I stand. I just at some point need the briefing, I might agree with Hales but the fact of the matter is last week we misrepresented the position and I was very comfortable with what we told the public that we were at. And I might be okay with what the code is, I don't understand it.

**Francesconi:** Just so I am clear, the amendment I am proposing, am I right? It is across all, not just the central eastside. We are not just exempting the central east side.

OCTOBER 11, 2000

**Hartnett:** You have two choices. You can go one route, which exempts just central east side, 1, 4, 5, and 6, or you can apply the option of meeting the maximum or staying on under 60, that would apply to goose hollow, central east side, 1, 2, 3, 4, 5, 6, lower albina and district 1 and 2. The way that the amendments in front of you are written a further amendment to section a-3 would have that effect on all of those subsectors.

**Francesconi:** That's what I was trying to take into consideration.

\*\*\*\*\*: In all districts?

**Hartnett:** All the ones I just listed. So it wouldn't apply to the core, which includes downtown and river district four and five or to lloyd.

**Francesconi:** Let's deal with it later.

**Katz:** We don't understand the impact of it, one. Two, I am very nervous about doing it if it applies to other districts without them being represented here and having them understand what we might be doing. I want to honor commissioner Francesconi's request and commissioner Sten in terms of understanding the issues, and we will do that. I commit to you that either susan will come in with three options and she can visit with you and we can make a decision whether we go ahead or not, but right now, --

**Francesconi:** So after -- thank you, that will be perfect, after your vacation, which you deserve. [ laughter ] If you could outline the two options, I think there might be two --

**Hales:** Careful, we want her to come back.

**Francesconi:** With pros and cons.

**Katz:** If I lose this woman because of you, commissioner Francesconi, okay. Okay. I think that you understand.

**Hartnett:** Yes. I want to clarify, you are not going to vote the whole package today, right?

**Katz:** We are going to vote --

**Hartnett:** Well, I actually --

**Katz:** You don't want us to vote on it?

**Hartnett:** It is going to be -- there is a fairly major zoning code amendment, we are going to make one more change item point in the future, I will rather hole the whole package and vote the whole thing, it is a major change.

**Katz:** We are going to vote. Okay. Roll call.

**Hartnett:** Actually, can I -- I am really concerned about this now because the ordinance in front of you has an implementation date of november 20th. I can't come back with the changes, with the discussion you want until later than that.

\*\*\*\*\*: We will use that provision for the rest of our natural lives.

**Hartnett:** All right, then we will go through a cycle of amending all of these code pages and then come back and do it one more time. Okay. If that's, that's fine. I can do that. [ laughter ]

**Katz:** Susan, help me here.

**Hartnett:** Yes, I am done.

**Katz:** Roll call.

**Hales:** Aye.

**Francesconi:** I want to repeat that I don't think that the central eastside, the entire central eastside should be 3.4 forever. And we need to do some other things as we look at that to get it down further. I told them that and I am telling you all that again. Aye.

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

**Katz:** Am I the only one that's going to vote no on this? I don't think that this is what we should have done. No. Thank you everybody.

**Hales:** Maybe you have forgotten but there is a big document here, good work.

**OCTOBER 11, 2000**

**Katz:** Yes, susan thank you. Go on vacation and come back and we are adjourned until 2:00.  
At 12:20 p.m., Council recessed.

OCTOBER 11, 2000

OCTOBER 11, 2000 2:00 PM

**Item 1495.**

**Katz:** Here you are, a part of our important family. And we have tried to keep you safe during the hours that you work here for us. And we have asked you, over the years, to begin thinking about what kinds of conditions you can improve and what you can do with your colleagues to make your place of work safer for you, your friends, and your co-workers, and you have done it, and we honor you for that today. So, this is a day of thanks and a day of celebration. And we will do a little honoring and shaking hands and thanking everybody. What we are going to do is ask the leader of the team to come and get their award, but I want the whole team to stand up, and to be honored. And then usually, we let you say a few words or you can ask somebody on your team to say a few words about what you learned about this or why this was important to you. Okay. And if you don't want to say a few words, you don't have to do that, either. It is up to you, but we would like to hear from you, since you did work this year on these projects. Okay? I am going to start. This is awards for safety excellence for the bureau of police, and the first award is for the non-sworn committee in recognition of achieving plea of four focus areas in the 1999/2000 safety incentive plan. Who is here from the police? They are not here. Oh, there you are. Okay.

\*\*\*\*\*: My name is joel, and I am the chair of the safety committee for the police bureau. And we have been undergoing some ongoing training and incident analysis and accident analysis and been doing some good inspections of facilities throughout the bureau, as far as the property evidence and the precinct buildings and we have had some really good progress with the recommendations as to how to improve the safety throughout the buildings, so we are very happy about that.

**Katz:** Well, thank you and congratulations, and I will come down and give you the award. [ applause ] We are not supposed to come down. Are you going to take --

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

**Katz:** Okay. The next one that I have -- this is a non-sworn safety committee from the bureau of police, partnership and prevention. In recognition of the ongoing efforts of the safety committee to promote awareness in the area of occupational safety and health. And who is coming up for that? You are again.

\*\*\*\*\*: Just echo the comments that joel had earlier. One of the other issues that we work on from the sworn perspective, too, is looking at the traffic collisions that we have had. I think we kind of actually got the two mixed up a little bit, but our incentive program also works on reductions in the collisions, specifically, and analysis of the protective equipment that we have for the officers out on the streets, too. One thing we didn't cover, we have two separate committees, one that handles the sworn issues and one to the non-sworn issues.

**Katz:** Okay. Come on up. This may be the wrong one because this is --

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

**Katz:** Thank you. [ applause ] I just need to add to that that I was briefed on the collisions that the police bureau has and what they are doing to identify and to analyze why the collisions are occurring and you are making changes in your policy, so really, thank you for that. Okay. Mr. Francesconi, you are next.

**Francesconi:** Okay. Our other public safety bureau, the fire bureau. So first, we would like to recognize the ongoing efforts of the safety committee to promote awareness in the area of occupational safety and health. So, to the safety committee of the Portland fire bureau, you get an award. Could the safety committee stand? And congratulations to all three of you. Could one of you -- your leader, come up here and accept this? [ applause ]

OCTOBER 11, 2000

**Katz:** Come back, come back, come back here:

\*\*\*\*\*: Could I have to?

**Katz:** You don't don't have to, but it will be nice.

\*\*\*\*\*: I want to thank particularly, everyone here. There is a lot of work throughout the year, and we have had a great deal of success, and -- reducing our losses in all three categories and duties, so I want to thank them.

**Katz:** Thank you.

**Francesconi:** Thank you. [ applause ]

**Francesconi:** Our next award is to firefighter alan oswald for the creative solutions award. Can you come forward? Then let me read what you did and then you can comment on it if you would like. Firefighter and haz-mat team member, he has recognized that the patients had to be moved under difficult circumstances. The confined conditions often left room for only one firefighter to lift the patient, and therefore, that was a dangerous condition. Because they were offering -- they were often in awkward conditions. This resulted in back injuries often to firefighters and potential injury to the patient being lifted. There firefighter offered an idea for an easy to use advice that helped crew members to assist lifting the patient and the patient would be more comfortable. He developed a prototype design of a patient lifting tarp that allowed several personnel to assist in moving the patient. The prototype was tested and improved at this firefighter's home station. The result is a moving device that is carried in all first line engines and trucks in the city. As a result of his creativity to solve a problem, he has made a significant impact on the health and safety of firefighters in the Portland fire bureau. Congratulations. [ applause ]

**Francesconi:** He chose to pass. [ laughter ]

**Francesconi:** His actions, he prefers to speak for him, okay, the safety leadership award.

Lieutenant dan rossoso. Lieutenant, are you here? Why don't you come forward and let me read about you. A training lieutenant dan rossoso, demonstrated leadership in his efforts of identifying solutions to safety hazards. This involve the potentially serious safety issue regarding a piece of rescue equipment used by the fire bureau. The piece of equipment is the rescue air supply. The rescue air supply is used under truly emergency conditions to provide life-saving air to civilians or firefighters who were physically trapped in a burning structure and cannot be removed by regular means. Firefighting is an extremely hazardous occupation. The unit allows the person to continue breathing safely in the toxic environment while the rescue effort continues. Using his own initiative and extensive research and testing, lieutenant rossoso found that under certain specific conditions, the unit could actually malfunction in a way that results in a sudden loss of air to the trapped individual. This could occur under the worst possible conditions and would be catastrophic. After identifying this problem, he took the lead in following through to develop and implement corrective modifications. He helped provide a short-term solution to keep the units in service, as well as a long-term solution, which provides continual reliability to this vital piece of equipment. Through his conscientious effort in leadership, a potentially serious safety hazard was identified and corrected. This allowed one of the most critical fire fighting tasks to be performed in a safer manner. Congratulations, lieutenant. [ applause ]

**Francesconi:** Go ahead, say something. [ laughter ]

\*\*\*\*\*: I want to thank everybody for --

**Katz:** Come closer to the mike.

\*\*\*\*\*: I would like to thank everybody for the recognition. It truly goes to a number of other people, as well. We were given the freedom to do whatever we needed to do to fix this issue that was a very, very serious issue. We had an item that was malfunctioning and we tried to develop a system that gives us one hour of air, but the systems that we wear are half hour systems so when

OCTOBER 11, 2000

we tried to make the itch mention, we were virtually destroying our systems. On paper it worked good. We actually used them, in training, we started destroying them. And we were given the opportunity and the freedom to kind of do whatever we needed to do to fix it, and a lot of people behind me were able to come up with ideas and we could find the solution. That's it.

**Katz:** Terrific. Okay. [ applause ]

**Francesconi:** Now the safety excellence award, and this goes to the entire bureau, to the bureau of fire, rescue and emergency services for 100% achievement of required loss prevention activity and is reduction of claims in the areas of worker injury, vehicle accidents and general liability as agreed to in the fiscal year 1999 to 2000 incentive plan, so this is to the entire bureau, so why don't the -- why doesn't the entire bureau stand up. This is good. I will stand up with you. [ applause ]

\*\*\*\*\*: I know I won't get passed this, so I want to thank the commissioners. Once again, I think this is -- this demonstrates the bureau's commitment of the safety committee. We set a goal and we made it. We have got to have something to shoot for this year. Thank you.

**Katz:** Thank you. All right. [ applause ]

**Katz:** Parks.

**Francesconi:** So mayor, do you want me to continue?

**Katz:** Yeah, continue.

**Francesconi:** I don't want to make the rest of the bureaus feel bad.

**Katz:** Okay.

**Francesconi:** Partnership and prevention. This goes, again, now this is to the whole parks bureau. It -- actually, take that back, it goes to the operation's workplace safety committee of the park's bureau. In recognition of the ongoing efforts of the safety committee to promote awareness in the area of occupational safety and health. So, could the workplace safety committee -- or the operation's workplace safety committee of parks please stand? Okay. Good. You can all come forward, that's good. What the heck. Who would like to get the award?

**Katz:** Congratulations.

\*\*\*\*\*: Thank you, sir.

**Francesconi:** You can say a word, go ahead. Would you come closer?

\*\*\*\*\*: We have made a lot of changes in the last couple of years, and I think that we have seen a lot of improvement in the results. And there's been a wonderful response to making the corrections and changes that we have observed the need for, and I just appreciate all those who have been involved in that, and encouraging us. Thanks.

**Katz:** Thank you. [ applause ]

**Francesconi:** The next award goes to the mt. Scott community center. It now had that not only the best pool in the state of Oregon, but it also is ergonomically the most correct. So, they get the award for the ergonomic improvement, and it goes to the mt. Scott community center in recognition of efforts to provide a safe, healthy, and productive work environment through the process of work station assessments in intervention. So, to the mt. Scott community center. [ applause ]

**Katz:** Congratulations.

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

\*\*\*\*\*: This is just -- excuse me, another step where we have integrated work station and is chairs as we use the buildings, so just to continue to use the process, and proper posture for people so that they can continue working with less fatigue, so thank you. [ applause ]

**Francesconi:** And parks also has a creative solutions award to barbara agulon. Aggen?

**Katz:** Oggen?

**Francesconi:** Okay. Now I get it, I am sorry. I am in close touch with you, aren't he. [ laughter ]

OCTOBER 11, 2000

**Francesconi:** And she gets it for improved ergonomic work station design by collect and go installing furnishings that remained as other bureaus received new furnishings thus improving employee safety and health. Thank you. [ applause ]

\*\*\*\*\*: I would like to thank all the other bureaus who let us work with the furniture. So it gave us it at a reduced cost for us. [ inaudible ]

\*\*\*\*\*: The city is working together to make a difference for everybody, so thank you all.

**Katz:** Good.

**Francesconi:** Well, in addition to being two of the most popular bureaus with the public, they are also two of the safest so the bureau of parks and recreation also gets a safety excellence award in recognition of achieving a 15% reduction goal in general liability claims and completing three or four focus areas in 1999/2000 safety incentive plan, so the entire bureau of parks and recreation, if you could stand. [ applause ]

\*\*\*\*\*: This is an award, obviously, that's earned really by our staff, who were dedicated to safety and our role in management is to continuously support that effort. The park's people can do it safely, as well. Thank you.

**Francesconi:** Thank you. [ applause ]

**Katz:** Hero of environmental services, commissioner Saltzman.

**Saltzman:** Okay. The first award, safety of leadership award to dan bush. Dan here? Come on up, dan. Although dan is not a city employee, he was hired to manage crux contracts. He's extremely active in our program safety activities and it is a valued part of our construction safety steering committee. Dan has been a champion over the safety -- over safety awareness and many significantly hazardous crux projects. -- construction projects. [ applause ]

**Saltzman:** Did you want to say a word?

\*\*\*\*\*: I would just like to say that the pro active efforts, obviously, of the subcontractors and with the cooperation of others, that's where the real emphasis is, so thanks.

**Saltzman:** Thanks. [ applause ]

**Saltzman:** We have another safety leadership award for neil chote? Come on up, neil. As a senior inspector, neil was assigned to the columbia slough consolidation conduit. This is one of the most hazardous projects our bureau has undertaken taken, it involved excavations 50 feet deep, boring under railroad tracks and columbia boulevard. Work along the columbia, one of the busiest industrial roadways in Portland. Among these other operations was the construction of underground 12-foot diameter tunnel and all this was accomplished with safety as the number one priority. Congratulations, neil. [ applause ]

\*\*\*\*\*: Well, I would like to say that this is our first project that we -- we were a little leery of it at the beginning, as far as the inspections and maintenance of the projects, but it all worked out and I think that the safety culture was adopted by the contractors who were involved in this project, besides all the people that worked with us, with the bureau.

**Katz:** Thank you. [ applause ]

**Saltzman:** Our next award is creative solutions, the vermont trunk sewer project, and the team includes fahima, chuck chambers, and rob bondy. Are they here? Come on up. Thanks for a job well done on the Olson road project. The team's creativity resulted in timely completion of the Olson crossing with minimal impact on area traffic. It resulted in the opportunity for hundreds of children to get to school safely, improve safety for thousands of motorists and greatly reduced hazards for contract employees. Thank you. [ applause ]

\*\*\*\*\*: I am chuck chambers, and I am the project engineer on this. But the real credit belongs to the construction people that were able to pull this off, and that's tom meyer and tom bianki because they were out in the field working with the contractor. This intersection was a major concern of

OCTOBER 11, 2000

ours throughout the design process, how to pull this off before school started, and we were able to do that, and we finished labor day. So thank you.

**Saltzman:** Just in time. Thanks. [ applause ]

**Saltzman:** The next award is for safety management and it goes to our construction inspection team. The team includes tom halway, mike lombardi, brian butler and fin fortunea. Are they here? Come on up. This team has a difficult task of front-line management of several contractors, working at one of the busiest facilities maintained by the city. Their knowledge of the various operations of the facility, coupled with the concern for the health and safety of all that access the columbia boulevard sewer plant, exemplifies some of the finest practices in total quality safety management. Jim took a lead role in preventing a potential fatality by electrocution by a subcontractor's employee that pulled an energized pole down his truck, a dangerous thing to do. Jim protected the employees and others until the power was deenergized. Come on up.

Congratulations. [ applause ]

\*\*\*\*\*: I would like to thank the city for being pro active in the safety and keeping all of us healthy. Thank you.

**Katz:** Thank you. [ applause ]

**Saltzman:** The next award is also for safety leadership, and it is for lynn sandresky. Is lynn here? She's not here but I will read the award. Lynn has been a driving force for safety and health at the columbia boulevard wastewater stream plant. She served on several bureau leadership committees which were strong advocates of safety and health. Lynn has very broad knowledge of safety and health issues relative to our workforce, she's very dedicated to providing service, as demonstrated by her response to safety and health inquiries in an accurate, well researched, friendly, and above all, professional manner. We are very proud of lynn at the plant and also of her many contributions. We will make sure that she gets her award. [ applause ]

\*\*\*\*\*: On behalf of lynn, my name is paul, and I am the manager at the wastewater treatment plant and I would like to accept the award on her behalf and just say a few brief words. Lynn was unable to be here today due to an illness of her grandmother, but it is really a pleasure to accept this honor on her behalf. Lynn is quite a remarkable individual. She's our administrative supervisor at the wastewater treatment plant and has been involved in a lot of safety activities, has had her hand in just about everybody policy and procedure, and is one of those individuals that really stresses accountability and monitors the safety activities of the wastewater treatment plant. So I will -- send her an e-mail, and tell her congratulations. Thank you.

**Saltzman:** Thank you. [ applause ]

**Saltzman:** The next award is the safety excellence for our incentive plan, and this is in recognition of continuous success in maintaining low losses in fleet liability, general liability, and employ the injury and fulfilling of four focus areas in the 1999/2000 safety incentive plan. Do we have somebody here to accept this for the bureau? Okay. Why don't you come on up again. I will give you the award and then you can say a few words.

\*\*\*\*\*: It is a pleasure to receive this award on behalf of the bureau of environmental services in completing all of the areas of our incentive program which was a combination of activities and reducing the number of incidents and you know, talked a minute ago about lynn and monitoring activities and accountability, and I think that that's what makes everything happen in terms of the good things that happens with safety at the bureau of environmental services, thank you. [ applause ]

**Saltzman:** And our last award is a safety excellence award and this goes to our water pollution control lab, and it speaks for itself. No recordable accidents, calendar year 1999. That's great. Do we have somebody here? Oh, great. That's a good achievement -- we always like that. Thanks.



OCTOBER 11, 2000

\*\*\*\*\*: I am tom and I am the --

**Katz:** Come to the mike. So your mother can hear you. [ laughter ]

\*\*\*\*\*: I am bob and I am the manager of the environmental investigations division with des. We have more than 60 employees who are exposed to many different risks. People in the lab, people in the sewers. People in traffic, and people who visit industries on a regular basis where we don't have control being you know, over their safety. And so this really is meaningful because there is lots of exposure and we have done real well. I think that we have done well because of the help that we have gotten from mike and paul of the treatment plant. We share expertise from the treatment plant and also lynn has helped us in scheduling training and at the water pollution control, jim cook is here, and he has organized an excellent safety committee that has worked within the bureau to achieve this. Thank you very much.

**Katz:** Congratulations. Thank you.

**Katz:** Maintenance bureau, commissioner Hales.

**Hales:** We have a big batch of awards for the bureau of maintenance. First I have four awards for the four different safety committees, within the bureau. The street system's safety committee. The environmental systems safety committee, and street cleaning safety committee. And in all cases, recognizing their ongoing efforts to promote awareness in the area of occupational safety and health, so we have someone who is going to accept each of them or all four of them, but of the committees -- good work. Here you go. Thank you.

\*\*\*\*\*: Are you getting environmental assistance?

\*\*\*\*\*: No, he's getting that. [ laughter ]

**Hales:** Thank you. [ applause ]

**Hales:** Nobody is going to take us up on the offer there. Well, maybe -- I am sure that we have got some speeches here later in this agenda. The next one is a good illustration, creative solutions ordinance, or in this case, it is going to a committee called the coverall committee, and it is a good reminder, this is a good occasion for us to recognize good work that's going on in the bureaus but it is also a reminder, and tom alluded to this earlier, there is such a diversity of work in the city. We have people working in office environments and there are safety issues there but we have people literally walking the streets or driving around in vehicles or working in trenches or doing construction work at night on steep slopes or working with heavy equipment, like lawn mowers and chain saws and paving machines, and there is a lot of different risks out there, and the risk of the coverall committee was addressing was the physical clothing and whether or not it will have an effect on trip and fall injuries or get caught in the machinery. So, they realized not only a substantial cost saving in implementing the program but also a reduction and risk for those kinds of injuries. So, I want to recognize tom, craig, and becky from the bureau of maintenance, coverall office. Is one or more of them here? Good. [ applause ]

**Hales:** Good work. This time you can talk. [ laughter ] or both of you can.

\*\*\*\*\*: Actually, the coverall committee was formed after we decided that the paper cutter was not the proper tool to adjust the coveralls. [ laughter ] but, we custom sized them and labeled them, and the program has been working quite successfully with approximately \$30,000 annual savings, and this actually has spun off to a safety apparel, 15 percent of savings, to subsidize the safety apparel program with the bureau of maintenance, and you might see the orange sweat shirts here that carry our logo, or our old logo. And that's one of the programs that has helped us.

**Katz:** Thank you. [ applause ]

**Hales:** The next award is for safety leadership that goes to pete, who is solely responsible for developing the bureau's hazardous communications data base which contains all of the material safety data sheets for chemicals that employees use in the workplace. Under osha, we have to be

OCTOBER 11, 2000

informed of the hazardous and protective needs with chemicals in the workplace. Pete has done an excellent job in promoting aspects of occupational safety and health in his 28 years with the city of Portland. So pete -- well, he's not here but you are going to accept it for him. Congratulations to pete and good work. [ applause ]

**Hales:** I haven't seen jeannie here but maybe she is. I hope that she is here because she's going to get recognized for safety leadership. Under her direction, the bureau of maintenance has made great stride insist reducing the number of worker injuries in vehicle accidents, she's mandated that all bureau employees pay particular attention to safety in performing their jobs. She's committed to the notion that safety and productivity are not mutually exclusive. So a special recognition to jeannie, but she's not here and you will take it.

\*\*\*\*\*: She's not here today.

**Hales:** Thanks. [ applause ]

**Hales:** Okay. Now I have three here together. I have a safety leadership award to russ gilbert and gordon bean. Russ is the public senior works manager and george is the public supervisor and they have demonstrated exemplary leadership in promoting occupational safety and health at the bureau of maintenance. Under their leadership the sidewalk department has gone 16 months without a worker injury or vehicle accident. A remarkable accomplishment given the physical demands of the work. Both george and russ have set an example for all of the management team to follow. As well, we have an individual award to george and to the sidewalk department for that accomplishment, so somebody here to take both of those? Good. Congratulations. [ applause ]

**Hales:** Why don't you say something about how you did that. 16 months without an accident?

\*\*\*\*\*: I am really happy to represent all of those 22 people that are supposed to be standing up out there.

**Katz:** Those of you, stand up. [ applause ]

\*\*\*\*\*: The sidewalk department is probably the worst place in a maintenance bureau to work as far as safety. We are always in traffic. We are working with concrete, underneath back-hoes, and you look around and these guys that teamed together, and after we went the first six months, without having an accident, we got some recognition and some safety jackets, and then there was competition that these guys all, all work together to get through the rest of the year, which is really difficult, and jeannie is part of how we got through it. We mentioned equipment, we used to break out -- with the equipment now, we don't use the heavy pounded jackhammers any more. We have another program that really helped us, and I had one other thing written in, and I can't remember was it was, oh, the most important one, our safety community -- committee, we had two members that were in the sidewalk department that are not afraid to speak up. When we are doing something wrong. And that really helps us out.

**Katz:** Thank you very much. [ applause ]

\*\*\*\*\*: I just would like to say on behalf of jeannie and myself and the rest of the management team, and our safety leader over there --

**Katz:** Sam, stand up.

\*\*\*\*\*: And his staff. [ applause ]

\*\*\*\*\*: We have 400 plus employees at the bureau, and in the last fiscal year, save over half a million dollars, so we are very proud of that. That's great, keep up the good work. Thank you. [ applause ]

**Hales:** Next award for safety leadership is to richard, he's demonstrated exemplary leadership in managing the bureau of safety and transportation program. Under his leadership the bureau made a tremendous advance in the area of occupational safety and help. The net result of his loss prevention efforts for ongoing reduction that was just described, half a million dollars in worker's

OCTOBER 11, 2000

comp, fleet liability and general liability claims cost in the last fiscal year due to richard's and his employee's hard work. So thank you. [ applause ]

\*\*\*\*\*: Just to echo what russ had to say, one of the keys to our success has been going beyond the bureau-wide safety committee and the committees, safety committees in representing all our divisions, an incredible amount of teamwork is played into this, and makes it very easy to lead. When I am just following and they are leading an excellent safety direction, so thank you very much.

**Katz:** You are welcome. [ applause ]

**Hales:** And then we have the lost control committee and an overall recognition for the bureau of maintenance for the 15% reduction in claims of 10%, in injury claims I mentioned and particularly, the recognition to the loss control committee for their work in occupational safety and health, so who, on behalf of the bureau, will accept the awards? Good work. Thanks and congratulations. [ applause ]

\*\*\*\*\*: In the interest of time I won't give my prepared speech. [ laughter ]

\*\*\*\*\*: But on behalf of the bureau of maintenance employees, I would like to thank you for this prestigious award and hopefully we will be back here again next year. See what I can give you an update on our success. Thank you.

\*\*\*\*\*: Thank you. [ applause ]

**Hales:** Parking enforcements, we have two awards, one for the work of the parking enforcement safety committee in recognition of their work, and are you going to accept that award on behalf of the committee? Come on up and congratulations and thank you for good work. [ applause ]

\*\*\*\*\*: I want to thank the council for the award. Our safety committee works really hard in helping to keep our -- preventing losses, especially when we moved from the market building back to the Portland building and trying to keep our office safe, and then also keep us safe while we were moving in, unpacking and also for all of our people in the office, on a bicycle or on a vehicle and keeping all of them safe throughout their day. Thank you. [ applause ]

\*\*\*\*\*: This next one might seem strange, that, that there could be a critical facilities team in parking enforcement that would help with the creative ideas but when you think about it, it makes sense because these are people that are always like the old santa claus, making a list and check it go twice and figures out who is knotty and nice, so these folks figured out how to make another list by observing an emergency operations drill, they decided in the event of a major emergency it will be good to have a list of critical facilities already identified where citizens and employees could find safe refuge. The team updated the information, added more locations, and then sorted them by zip codes, making the facilities' list smaller and more usable. So this critical facilities' list will be in all city buildings to provide crucial information quickly to all the citizens that we serve. So the creative solutions award to the parks of critical facilities team. Come on up. Thank you. [ applause ]

**Hales:** Great idea. Thank you.

**Katz:** Tell us what you did. What did you do?

\*\*\*\*\*: We took the critical facilities list that the bureau of maintenance had and then we looked at it and we updated some of the addresses because like these precincts had moved since the original list was made and we added in the telephone numbers so we could reach these facilities and then we sorted them out by zip codes because we figured well, you know, hopefully, there is a major emergency, people are going to come up to anybody and say, where do I -- where am I supposed to go and what am I supposed to do, well depending on what zip code you are in would depend on where you are supposed to go so we think it is a good thing to have that list.

**Hales:** Great idea. [ applause ]

OCTOBER 11, 2000

**Katz:** Water. Commissioner Sten.

**Sten:** The water bureau. First two awards go to two of our safety committees and the water bureau has taken the concept of safety committees very seriously, and also very creatively, and we have the committees working throughout the bureau and they have done a terrific job, and this year we are going to recognize two of them. The treatment operations safety committee, and the safety committee from the interstate group, and the partnership and prevention award in recognition of the ongoing efforts of the group to promote awareness in the area of occupational safety and health, and they have done a terrific job. If I could ask the committees to stand and some of the representatives to come on up. [ applause ]

\*\*\*\*\*: We are working hard on a daily basis, you know, to improve not only the safety, but the efficiency of our bureau. It is a difficult task, but we are working together to be here, and with the sponsorship and endorsement, we are achieving great things and I see better things next year.

**Katz:** Good. Thank you.

\*\*\*\*\*: On behalf of the entire safety committee, I would like to thank all involved with the presentation of this award. Our team takes great pride in providing safe water for all of our customers, and with that pride, we also take pride in doing that safely. I think it is also safe to say that this award would not be possible without the direction of our manager, mark knutson.

**Katz:** Thank you. [ applause ]

**Sten:** The next award is one for safety leadership, and it goes to dave mcdonald, so dave, if you are here, come on up while I tell people what you have done. Dave was recommended for this nomination by his supervisor, dick sheets, for outstanding contributions to the water quality inspection group's confined space entry practices, which is a place you really need to be safe. He's been a role model for the 7 inspectors and testers in the work group and has raised safety issues to a higher level of consciousness among them, he led efforts to research and select safety equipment that would work best for the difficult task of entering confined spaces to perform test and go inspection of back-flow devices, which they have to do several times every day. His leadership has been constant and consistent and has demonstrated the good, safe work practices, readily available, if you think about them even in this very, very difficult work. So congratulations, dave. [ applause ]

\*\*\*\*\*: This is proof that you can get an award for --. [ applause ]

**Sten:** Our next one is mike pop, who also is getting, yeah, mike is also getting a safety leadership award, and mike is an electrician for the city, and has been a safety advocate for a long time in the electrician operating engineer group. He's made it his mission for many years to insure that safety is a routine agenda item, and if you know mike, you know that everybody listens to him, whether they want to or not. [ laughter ]

**Sten:** Let me thank mike for all his terrific work to make the electrician's group much, much safer. [ applause ]

\*\*\*\*\*: The safety culture and the atmosphere that you have, you get support from everybody, and it is really good over a period of time. It is an ongoing process. It is a works in progress and without both labor and management support, limits how far you can go, and I am really lucky that we have that support. [ applause ]

**Sten:** Okay. One more safety leadership award to an individual, that's larry trexler. Larry, come on up. Larry works with the city of -- the water bureau, sandy river station. He's worked for the city for just under 32 years and most of that time he's been up in the bull-run watershed so he's done a great job up there. It is the one to get, but he's not giving it up. [ laughter ]

**Sten:** And there's good reason, he's helped us a ton. His experience -- larry's experience in chain saw usage at the watershed has been very valuable for the bureau of water. Just this past year, and

OCTOBER 11, 2000

this is what the award is for, larry set up a chain saw safety class for employees working in the bull run water sled. The class was very well put together, and very informative. Safety instructions were given followed by hands-on practice using chain saws in the property way in the field. Following the instructions he gave 14 employees at the sandy river the class was also extended to the operating engineers, grounds, maintenance, water quality inspectors and water treatment operators, and obviously, working a chain saw is an area that you do need to be safe and actually comes up a lot in the bureau, so it has really been a big, big contribution that larry has made, and let's give him our thanks. [ applause ]

**Katz:** Whose phone is ringing? You can't shut it off? Sit on it, then. [ laughter ]

**Katz:** Okay.

\*\*\*\*: I would like to thank my manager and supervisor. Without their assistance and their help, we wouldn't have been able to do it, so thank you. [ applause ]

**Sten:** And the final award goes to the entire bureau of water, and so if you work for the bureau, please stand up, and it is a safety excellence award for the entire bureau, and it is in recognition of achieving over a 15% reduction in worker injury claims in completing three of the four focus areas of the safety incentive plan so we have over 15% reduction in claims which that's the bottom line and slows that all of this work that we have discussed has had a major impact so thank you and thanks to -- stand up all the employees that are here. I think we have got them. [ applause ]

\*\*\*\*: I am barney and on behalf of our 500-plus employees that work from bull run to the columbia river to getting water from the tap, we appreciate your support and the recognition and we are here to do a good job next year. Thank you. [ applause ]

**Katz:** Thank you. [ applause ]

**Katz:** I have two awards for the bureau of general services, bureau-wide safety committee, and the vehicle service safety committee in recognition of the ongoing efforts of the safety committee to promote awareness in the area of occupational safety and health, so bureau-wide, stand up, please. Come on -- stand up. [ applause ]

**Katz:** And the vehicle services committee. Come on up. Come on up. Congratulations.

\*\*\*\*: Thank you. Congratulations. Have your picture taken. [ laughter ]

\*\*\*\*: On behalf of the safety committee and employees of pgs, I would like to thanks you for this award, and just point out pgs safety is very important. Safety is very important.

**Katz:** Thank you. [ applause ]

**Katz:** I have a safety leadership award for roger johnson from the bureau of general services come -- come on up. For his efforts to get the spirit of safety and support through safety related activities throughout the bureau. He created a safety officer position within vehicle services. He arranged for all employees to attend a defensive driver training. He makes safety issues and agenda item on all garage meetings. He empowers employees to correct unsafe conditions. Not just report them. Actually, gets something accomplished. And created a monthly newsletter that includes safety-related issues, created a safety culture, and arranged for all of the employees to attend first aid cpr training. Congratulations, roger. Good work. [ applause ]

**Katz:** Now, on my list -- oh. Sorry.

\*\*\*\*: Actually, what I was going to mention is you provided an awards to the general services committee, one of the vehicle services committee which suggests the culture that we have, but in addition to that, I think that safety becomes important to employees when management makes it important to employees and I would like to thank everybody member of the council for setting aside a special day of recognition of safety, a formal recognition of safety, and recognizing the fact that your employees work safely throughout the year with your efforts, so thank you.

**Katz:** Thank you. [ applause ]

OCTOBER 11, 2000

**Katz:** There's one other item, and I don't have an award for opd and r, commissioner Hales.

**Hales:** I don't think that we have an award here but their safety committee has been recognized for good work this year, so let's thank them, as well.

**Katz:** Okay. [ applause ]

**Katz:** So would all of you stand up? Thank you everybody. I want to thank all of you for doing the good work and let me just share with you that we do look at the claims report on an annual basis. Worker's comp claim, fleet liability, and general liability claim, and when things -- when the graphs go down, we want to know why it is going down and we also want to know why it is going up. But, for all of you that have made the progress that you have for your bureaus and the fact that claims have gone down, that's the result that we are all interested in making a very safe environment for all of you. So thank you, everybody. Thank you very much. [ applause ]

**Katz:** You can all sit down and I would like to bring dave baker up, whose the lost prevention manager from risk management who made this all possible for, I think, the third year or the fourth year or -- how many years, dave?

**Dave Baker, Risk Management:** This is the 6th year.

**Katz:** Oh,.

\*\*\*\*\*: Time flies.

**Katz:** Come on up and say a few words.

**Baker:** Really, I want to thank all of you in the Portland loss prevention. It is a team effort. [ inaudible ]

\*\*\*\*\*: Thank you very much, and I look forward to next year.

**Katz:** Thank you, dave. [ applause ]

**Katz:** Thank you and I understand that there is some refresh elements for all of you or you are more than welcome to sit here and listen to the albina plan presentation. [ laughter ] Bye. Okay. Who is here?

**Item 1496.**

**Katz:** We kept a close "on what worked and what didn't work and what other action items are there for us for you to review, so you have that document before you, and let me call up staff and -- come on up and give us, not only for us, but the people who are listening and watching, a brief kind of review.

**Graham Clark, Planning Bureau:** Good afternoon, mayor and city council people. Immigrant clark, bureau of planning and I am one of three people that have been working on this project. Nicklaus has been working with me and -- and we have been working under michael's direction. I am here this afternoon to present the revisions to the community plan action charts. The commission considered and voted on the revisions, in the summer. The recommendations from the planning commission are in three parts. Within the resolution. First off, there are the actual revisions to the charts. Second of all, the commission recommended three different city-wide processes to happen following the conclusion of this process. And third, the commission asked us to republish the albina community plan, basically swapping out the adopted action charts from seven -- several years ago, with these revised points through this process, so mayor, I am going to give a brief project background. The albina community plan, that at least two of you are a member of at the time, was adopted in 1993, it followed about 3.35 years of a very public process, and it is comprehensive in the broadest sense of the term. It addressed issues of long-term decline, especially by the early '90s, the albina community was -- it has had a pattern of investment for several decades. It involved nonprofit entities and agencies that identified the problems and worked together to find solutions. The plan, itself the albina community plan included vision policies, objectives, and actions to approve albina. And it was envisioned to be a 20-year sort of

improvement process. And the plan has been terrifically successful. The community has seen a lot of reinvestment. Some will tell you that the albina community plan has been integral to that turnaround in the community, others will say that maybe a little bit less, and certainly few people will say it had nothing to do with the improvements in albina over the last seven or eight years. This process is looking solely at the actions within the plan we adopted in '93, and just before I get into that, I would like to mention that of the actions adopted seven years ago, our recent highlights report, that I am sure that each of you has seen, showed the progress on the treatment of the actions that were adopted. A little more than 20% of the actions have already been implemented, just about 28% are partially implemented at this point. 34% are ongoing. 16% have not yet been implemented, and frankly, that's pretty terrific on a 20-year action chart. After only seven years. It is something that a lot of people can take a lot of pride in. Some of the great actions that have already been completed, in the walnut park precinct was completed about the time of the plan adoption. Portland community design was formed to address issues with reinvestment into the community. There is a Emanuel Hospital program that encourages Jefferson High School programs to participate in medical fields during their high school education and there was a process called ten essentials for housing that looked at how do you fit relatively design into the albina community to help raise the housing stock.

**Katz:** Do you want to make sure that you share that pamphlet with everybody here on the council?

**Clark:** Sure. The ten essentials?

**Katz:** Yes.

**Clark:** So those really are a brief sort of project background. As far as the process goes for this project, the albina community plan actions were always intended to undergo regular view, either in the community and by agencies that consider how we are doing over a time-line, but also, a revision process to, to consider whether the actions are still relevant, whether they should be updated or improved in some way. The project before you today is funded by bhcd, through federal sources, and it is limited strictly to the revisions of the action chart, so throughout our process we have heard ideas about needing to consider rezoning studies, it is not something that can be addressed in this process, our funding was very, very specific. We have looked at the action charts and where zoning and policies are and some questions have come up. We have tried to integrate those into the action charts with terminology like undertake a zoning study, consider undertaking a zoning study, and those sorts of ways of addressing that, and basically saying, do it in the next five, six, eight, ten years. We have formed several questions and I will mention three of them, first off, are the actions adopted seven years ago still relevant? Secondly, are the implementors appropriate? Have they changed? Have some disappeared or are there new ones, they are, are the time lines current? Should we change the timelines on some things and have some things been completed and we need to shift them into the completed column and that sort of thing. As a little refresher, actions are intended as statements of support. For efforts that will achieve the albina community plan vision. So, they are adopted by city council by resolution. They are starting in place and adopted with the understanding they may need to be adjusted in the process to complete the action that's undertaken. Circumstances change over the years. We only let the -- if there is an action on there and you see the implementors, they are only there because these are actions that they have formally told us that they can get behind. And the actions are intended to be looked at in the albina community vision. This process that we are talking about today, it began to some extent when, when the bureau of planning considered how we had done in 1997 and we published a report to mark the progress on the albina community plan and action charts. In the northeast economic community development alliance, start not guilty 1998 had its own review of the albina action charts and started considering whether the actions were still relevant.

OCTOBER 11, 2000

**Clark:** That was really the beginning of the bureau. It marked the transition from the alliance effort to the bureau of planning effort, and you may hear some things about that transition today. Colleen, as I mentioned, oversaw the project through her retirement around thanksgiving. I began working on this project in january. Michael has overseen it throughout the whole time. We had two rounds of workshops, one was in the fall of 1999 and the other was in the spring of 2000. I can testify that we had discussions about the actions. One of the things that nicklaus and I have spent most of our time doing in this process is coordinating between implementors. One says that I can almost support that action but I need to change the wording a little bit or the time line and nicklaus and I have to call up five different implementors to make sure that the changes are okay, so that had a lot to do with the timing of the process. Three early draft revisions were made. First there was the economic development alliance proposal for change to the action charts. That was last fall. That's what those workshops were predicated on. In february, we marked the progress by basically cataloging everything that anybody had said through the alliance effort and into our effort about the action charts. That's this document here. By spring, the workshops, we had a public discussion drafted that kind of took down what the efforts and changes are, and basically we fielded those ideas and tried to make sure that they were broadly supported. Following the spring workshops, we put together a planning commission proposal, the planning commission, public hearing was on july 25th, and the commission, or lots of generally positive testing of the process and the plan -- what happened was several testifiers, who wished to, to criticize some very specific action charts and the commission actually did a terrific job of addressing the action criticisms and suggesting some changes along with staff's help, and by august 8th, they were able to vote unanimously to move this process forward to you. I will break into sort of what we have before us today. We have a project record behind catherine there behind the desk. We do have the revised action chart, exhibit a that, supports the resolution. The proposal list is 363 action items. This is up from the 324, 325 that were adopted previously. There were changes proposed to three quarters of the action item seven years ago. 53 new items are listed. [ inaudible ] You may be familiar with all of this from previous planning bureau efforts. We have some conventions in our documents, our action charts. We underline a new language and we strikeout the old language that's to be removed.

**Katz:** That's the way it is supposed to be done everywhere. [ laughter ]

**Clark:** We try to do that. So, we like to hear about a few actions today. I just want to mention very briefly. First off, there has been in the last seven years quite a bit of housing ability in the employment and commercial zones and not everybody is happy about that. Employment and commercial zones have been intended and have been hooked to the devoted to the job producing development. We try to get at that issue through three different actions, and I will just give you the numbers because you are likely to hear about them. The land use action 27. 31. 43. All call for future studies of the employment and commercial zones and what's being built on them. So, we try to address that. As I said, we cannot --. [ inaudible ] We can respond to the needs that have been identified.

**Katz:** 21, 25, and --

**Clark:** 27.

**Katz:** And 27.

**Clark:** And 43.

**Katz:** 27, 31, and 43.

**Clark:** The second item you will hear about today is there has been an interest, kind of a long-standing interest within the community for a formal monitoring process of progress on the plan. There are two different action items that address kind of a community-based monitoring process. Those are lu-29 and jobs action j-16. There is another action, another land use action that requests



OCTOBER 11, 2000

that they keep with the plan, somewhere within the city of Portland, and that is addressed by lu-41. Two others are issues that you may hear about today. Bg-11, business growth 11 is an action that basically states that the city of Portland will not revisit the demarcation between residential and nonresidential zoning lines. This is especially south of fremont on the williams corridor.

Williams-vancouver corridor but also applies to king boulevard. It is an agreement that was made between Portland development commission and the elliot neighborhood association back in the early '90s that removed one of the roadblocks with the passage of the plan in 1993. So, the agreement was that the city would not initiate a process that asks to reconsider that demarcation between residential and nonresidential, and if I understand it right, it arose from elliot's feeling that it had had a whole lot of its residential base removed through urban renewal or freeway construction or whatever, and -- finally -- [ inaudible ] It is especially an issue because the district has picked up so dramatically. Our housing, h-28 action, attempts to address that issue. So, back to sort of what I am here to ask you. The planning commission has asked the council to adopt a resolution that implements the planning commission's recommendation, so there are three parts to the recommendation. One of them is adopt the revisions to the action charts. The second is, find a way to make future city-wide efforts occur. Those precity-wide efforts are an evaluation of the alternative design overlay zone. An evaluation of success of the home business provisions in the zoning program. And I am almost remembering the third.

\*\*\*\*\*: Social service.

**Clark:** Service sighting issues. My understanding is there will be -- there is also funded an evaluation of an overlay starting in -- as a phase ii of the land division rewrite process that's ongoing. My understanding is that alternatives to incarceration process is budgeted at some point, and that's the social service sighting issues could be incorporated into a process like that. The home business provisions have not had any sort of evaluation, no formal process. Finally, the third thing the planning commission is asking is that the bureau republish the community plan, basically swapping out the old action charts with the new action charts. That concludes my presentation. Questions?

**Katz:** Good. Nice job. Questions?

**Francesconi:** Just generally speaking, is it fair to say that the plan has done a very good job in most of the areas, but not quite on the employment side? It is my understanding that maybe the employment goal for the area was 12,000, and I don't think -- new jobs. And I think that the facts might be, you should correct me, that's why I am asking, that there really haven't been significant employment increases in the area. At all. Is that right?

**Clark:** I think that that's approximately right. And I think that my response has been hedged just a little bit in that the albina community plan was adopted as a 20-year framework for growth. And the type of growth that occurs is more driven by the market than by the zoning, and currently we have a --. [ inaudible ] And not necessarily an employment market, and I think that we have seen the results of that, to some extent.

**Katz:** Michael, sit down. You are sort of the father of all of this. Or the grandfather. Identify yourself for the record.

**Michael Harrison, Bureau of Planning:** Michael -- we don't really have a good way of tracking what's going on with employment. And we are working on that. And I think that we will, by the anniversary -- we have had some positive indicators in terms of emanual hospital developing a master plan for the development of this. It calls for doubling the size of the campus and doubling the 4 or 5,000. There is additional employment opportunity going on. [ inaudible ] It is creating employment in terms of jobs but also starting up their own businesses and being self-employed. We have the project out in bridgeton, which is starting to move into the commercial phases of the

OCTOBER 11, 2000

project, beyond his initial residential hotel phases, although the hotel is employment, so we have a lot of good indicators that there is progress being made in employment, we can't quite quantify it yet. But, I am confident, actually, that we will get to the 12,000 employees in 20 years.

**Katz:** Would you please let commissioner Francesconi know all that?

**Harrison:** We have gone over there calm of times -- he has had that same frustration, just a notion occurred to me, michael. I never asked this before, but tri-met collects a payroll tax based on employment, I mean, it is dollars, not bodies. But, it is dollars. It is 6/10's of 1% of payroll and I presume that they could sort that collection list by zip code. Maybe we ought to try using that as a measurement from year-to-year of employment because we have been frustrated by this --

**Katz:** That's a good idea.

**Hales:** But they collect a payroll tax from every single employer for every single employee, not per employee but 6/10 five or six of the payroll so \$100,000 worth of payroll generates \$600 and regardless whether that's one position or five, but nevertheless, it's something.

**Harrison:** That's excellent.

**Katz:** Than excellent idea.

**Hales:** If we could just get them to download that data to us, you know, annually or something, we could have some kind of information about what's going on.

**Harrison:** We will try.

**Hales:** Okay.

**Harrison:** And I will report back to you on how --

**Hales:** Let me know if you need help with tri-met getting that information.

**Harrison:** The other thing that's happening, the bureau of licensing with the business license requirement, they are actually going out and trying to use that because they are supposed to list employees, too, so we are actually trying to develop that.

**Hales:** Both?

**Francesconi:** And then we want to give that to pdc. Was your answer that you don't know what the job growth is? I am sorry.

**Harrison:** We don't have a specific number. There are some very positive indicators.

**Francesconi:** You disagree with my general statement that there has not been job growth there?

**Harrison:** I think that there has been significant job growth in the area and there is additional job growth projected, and I sighted the expansion in emanual hospital that has occurred and planned to continue. The expansion with the facility, the emergence of many new businesses on alberta street, and the development that michael is doing in the bridgeton neighborhood. I think that there is a long list of very positive things that happened. The adidas facility coming to the area. The new nike store on mlk. A number of new businesses going in on mlk with new development. I can't give awe quantity, but it is all very promising and it makes me confident that we will get to the 12,000 unit target by 2013.

**Francesconi:** One of the questions, and we will get into it later but one of the issues, is there parking for the businesses along mlk to support job growth along there, for example. Do you think that there is?

**Harrison:** I think that that's one of the issues that has been identified in this work that we are bringing to you today. The need for that to be looked at again. And personally, I think that there is. But that's a personal opinion, it is not backed up by a lot of data.

**Francesconi:** I don't. You and I disagree on this one.

**Harrison:** And there is plenty of room for disagreement. And the reason that I suggest doing some follow-up work on that is to get to the point where there is a factual basis for the discussion,

and not just dealing with, you know, my perception and this hearsay and that hearsay. And actually get it down to the facts.

**Francesconi:** Okay.

**Katz:** Okay. Thank you. Further questions? So, on the three issues that you identified, I am not sure that we are going to get to every place that you want on the signing issue. On the home occupation, maybe someone can testify on that, what the issue really there is. On the overlay design, alternative design overlay, there are issues, and we will -- michael?

**Harrison:** What the planning commission want to do bring to your attention on the issue of home occupations is there is a renaissance in home businesses going on. And the number and variety of home businesses and home-based businesses occurring is vast. And the interest in it seems to be growing. It is turning into a significant element of our economy. We have 19 -- we have many people thinking about home occupations and the planning commission felt before too much longer, we recognize not this year, but we should take another look at the current home occupation regulations and see if they are consistent with the economy in the year 21st century.

**Katz:** I think some of us flagged that a couple of years ago knowing full well that people are going to be wired into their home and with the new technology, are going to start small businesses at home. And we are -- our zoning may not conform to the new -- the new technology, and the new -- or the emerging economy.

**Harrison:** Uh-huh. We have some allowances, we are not sure if they are the right ones for the 21st century, and that's what we wanted to ask and find out.

**Katz:** We will take that into consideration when we put the work program together.

**Francesconi:** A couple of other questions, one specific and one more general. On the issue of the williams' corridor, it stops at fremont, I guess. As opposed to going all the way to broadway? What's the rationale there?

**Harrison:** Fremont is the northern boundary of that agreement so it is the elliot neighborhood.

**Francesconi:** Association oh, that's the northern boundary so it goes from fremont to broadway?

**Harrison:** Actually, when we were doing the albina plan, there was a lot of interesting things in the business community, including economic development elements, the north, northeast economic development alliance. In creating additional opportunity for business development within elliot. And pdc received, received a special charge to focus in on the special opportunity when they created the original Oregon convention center urban renewal district which included parts of elliot, was precluded from taking action until the albina plan and the neighborhood plan were completed. The elliot neighborhood compromised with pdc, and pdc suggested that we formalize the compromise and set it in stone, saying that there would be certain expansions of commercial zoning on mlk and williams-vancouver and those would be the last time that there would be expansions of commercial zoning within the life of the elliot neighborhood plan. So, we actually made the expanded commercial lines, lines that couldn't be changed without an I couldn't tell date of the elliot neighborhood plan, and again elliot agreed to allow commercial zoning from mlk, sometimes up to 350 feet. So, there was some give and take. Elliot's concern was that was the third project in 15 years in which pdc had come with proposals for expansion of the depth of commercial zoning along mlk. This was one of the hottest and most contentious things, the basic agreement to cast the lines in stone, came out of meetings with pdc staff and members of the pdc commission, and reaching across the table and shaking hands with elliot and saying, we have a deal. So, the council formalized that deal in some policy statements within the elliot neighborhood plan which would have to be revised before we could redo the zoning lines.

**Katz:** And the reason for that is because the loss of housing?

**Harrison:** Yes. Elliot was down to 500 housing units about. At the time the albina plan was coming to the planning commission. We are up at least a good 250 housing units in elliot since then but they were very concerned about whether they could continue to be a residential neighborhood. And in a sadder past there were two proposals from the city, two clear all housing on elliot. And that, in fact, since the 1970s, and that made the residents of elliot feel uneasy, particularly given the 340 odd housing units cleared as part of the emanual hospital urban renewal district, plus the housing cleared for the minnesota freeway plus the housing units cleared for the memorial coliseum, plus the housing units cleared for the school district headquarters facility.

**Katz:** I will have to tell you there is an old map that I saw of the old neighborhood with houses right by the river. I have never seen that map, and maybe you could bring it forward once and show the council if they haven't seen it, it is remarkable. Where the neighborhood was then and where it is now. Is it in here? It is in here?

**Harrison:** I think it is in the plan.

**Francesconi:** It is my understanding there might be three sites along vancouver, williams, I don't know, I am -- so, what I want to know are we going to look at these three sites at some future point or not? One may be south of fremont. And one may be closer to killingsworth, are we looking at these areas later, do the action studies allow that to happen?

**Harrison:** That's a really difficult issue for the council in the area south of fremont within the elliot neighborhood association.

**Francesconi:** I have got that.

**Harrison:** North of fremont we are looking at some sites. And in fact, there's an anticipation that the inclusion of the sites within the new interstate urban renewal district will create some financial stability to move ahead not only to look at the site, but to provide some --

**Francesconi:** I am not suggesting that we should rezone south because I don't even know the issue, other than that there is a big history here and I know that, do the action steps allow to be looked at or not?

**Harrison:** Yes.

**Francesconi:** Okay.

**Harrison:** But it is a bigger issue than looking --

**Francesconi:** Oh, I got that loud and clear. The two more general issues are, you know, with the issues of gentrification on the business development side, just in the last two days, three different occasions, people have asked have any way to help the renters who are going to run these businesses in these commercial corridors, have, so that we can get some people, turn those renters into owners of small business opportunities along this. It is a broader issue, but are there action steps that address looking at that question in here?

**Harrison:** There are.

**Francesconi:** Which ones, generally?

**Harrison:** They are under the economic development and business growth and development policies. Could we get back to you on that?

**Francesconi:** Sure.

**Harrison:** There are people waiting to testify who want to speak to you on specifically this point.

**Francesconi:** Okay. My last general question is the education section seems to be a little less developed. Than some of the other sections. It doesn't appear as if the crisis team was actually working on this. Some of these elements, and it doesn't look as if the strategic core people were actually involved. Is that -- is my impression correct or not correct?

**Harrison:** We had a lesser level of involvement in this update from the school district. To we had developing the original albina plant. Of course we are, like post-ballot measure 45 and 47 and

their impacts on the school district and the problematic problems that those cuts created for them. I don't think that that's an issue of a lack of interest, or a lack of commitment. It has really been an issue of how thin are these.

**Francesconi:** Thank you.

**Saltzman:** This is kind of my first plans of this sitting on this body here, but is there too much stuff in here? I am looking at stuff that talks about conduct research on alternative fuels and upgrade to clean fuel standards for buses? -- that somehow seals seem like something that's peripheral at best to what we are trying to achieve in the albina community plan, and sometimes, you know, you put too many things in here, to, you know, you appease everybody and end up with something that pleases nobody maybe six, seven years down the road so I seniority sort of throw -- I throw that out as a philosophical question but maybe we would be better off if we trimmed this down to some tangible things that we are all concerned about, jobs, housing, gentrification and some of these peripheral things, although I am sure that people will say, you know, they will be upset, but focus, maybe.

**Harrison:** I would like you to keep in mind that it is there because it is the citizen or citizen group or an agency wants it there. And they are willing to work to make it happen. So we have somebody who says that they are willing to work to make it happen much of the 320 odd things in the list in 1993, some progress has been made on 80% of them. Which is remarkable. When we originally invented this notion of an action chart to try and orchestrate the implementation part of the plan, had tried to think about it being a strategic plan, which would be focused short, near term, long term, and we would end up, we thought, with actions, you know, maybe with lists of like eight or nine, by policy. But, the citizens, came to us and said that you need this one, too, and you need this one. An agency yes, and we will help implement that. And that is why the list has gotten as long as it has. 80%, progress. Since 1993, I am not too concerned any more about the list being too long. At some point we could ask the question, and maybe we should, some of these actions, maybe should be in a city-wide action chart. And not an albina action chart.

**Saltzman:** That's kind of what I am thinking. I guess with limited dollars, how much time do we want to have graham going back from one or two or three or five implementors on that particular issue about research on alternative fuels? As much as I support alternative fuels, we only have so many dollars and there is other policies that maybe are more demanding of his time. That's kind of where I am going. Anyway, more of a philosophical statement/question.

**Katz:** Gentlemen, thank you. Let's open it up to the public hearing. Come on up, do you want to do it as a group? Come on up. Bernie will testify first. That's right.

**Bernie Foster, North/Northeast Business Association (NNBA):** 415 N. Killingsworth. Thank you very much. I am bernie foster. And I have a couple of little organizations or a couple of small properties, one on 450 north killingsworth, which is my present location, and I want to thank, first, the commission for allowing me to testify, but I am under a little tight gun here today. I am chairing the african-american home buying fair, the first one in the city, and I think you mentioned gentrification and that's one of the reasons we are doing this today, but I do want to say that I am here today in support of most of the, most of the items on the agenda, except with one exception. And I think that commissioner Francesconi about that, and it is the one on the land use 43, what I am really concerned about, now, I guess I am really concerned about the fact, and the other gentleman testified that they did a hand-shake for the elliot neighborhood association. And I heard the fact, too, that there was permanent land uses or permanent kind of zoning, and I am a little appalled at the fact that I don't think that there is anything in america that's permanent. I don't think that the, in fact, I know that there are no such things as a permanent job or no such thing as a permanent council position, so I guess that I am really concerned about permanent zoning. No

OCTOBER 11, 2000

such thing, changing, we have to make exceptions to it. Parking is a major problem, it is a tremendous amount -- there is a tremendous amount of problem. I am here to say that on 43, that should come from, instead of going from fremont north, it should go from broadway north. There is two pieces of property there -- I had -- I talked with an individual yesterday that want to do expand his particular property, which is the, the -- the telephone company next to 2337 north williams, can't span because of a number of rules on there -- buildings on there. That property was c-2, which is commercial zoning because they wanted to expand their business much now basically, you almost hinder him by saying, if you want to expand, these are some of the other things that you have to go through and you can't. For example, the way I understand the zoning, if you burn down 70% of the time, 70%, those people could not rebuild their business. Could not rebuild their business, so therefore, you lose the -- all the necessary product that people need to sustain their living. So, I am saying here today that it should go back to a c-2 zoning and if nothing else, nothing else, then it should be extended from broadway on up to all the way up through killingsworth. And I guess that ends my testimony. And I will take questions.

**Katz:** On l-42, when it talks about the consideration -- I just lost it.

**Foster:** Correct.

**Katz:** Consider undertaking a zoning study, and you are recommending that the boundaries be looked at?

**Foster:** Extending it from vancouver -- from fremont, broadway, all the way through.

**Katz:** Let me just say that I don't know what the right answer is, but if and when we do that, that will be a conversation that we will have with the community, whether this -- whether we ought to extend it or not.

**Foster:** And I would, ma'am, I would extend it way beyond the elliot neighborhood association. Mad mayor.

**Katz:** We would have to talk to the other neighborhood associations.

**Foster:** Absolutely. Thank you, madam mayor.

**Katz:** You are welcome.

**Foster:** I would like to introduce the people that are here from the north, northeast business association --

**Berta Delman, Manager, MLK Maintenance:** 425 NE Hancock. I am Berta del 34678, called the main street manager, martin luther king, jr. Main street manager. I want to introduce eduana, who is with a company that's on our board. Lydia lynnberg who is on our board, and has been involved, and samuel johnson, who is also on our board and co-chair of the land use committee and I thought that I would give them the opportunity to speak to you and then I would come back if there was something that I wanted to add.

**Katz:** Okay. Come on up.

\*\*\*\*\*: Can four of us sit here? Is that all right?

**Katz:** You will have to come back.

**Edwina Wassen, (NNBA):** I will start. I am edwina, and I am a landowner on the northeast martin luther king, jr. Boulevard. I am a business owner, and as Britta said, I am on the board of the north/northeast business association. And I am here because I just moved back to the Portland area in '97. I was raised here, and i've been gone for 25 years, and moved back and was shocked in many ways to some of the changes and challenges that had gone on in northeast Portland. I was raised and went to grade school and high school and Portland state and lived in the area. My mother still owns a home in the area and have been there for 30 years. So, when I came back, one of my things in terms of getting involved in business was to make sure and understand that when all businesses thrive, it contributes to the other businesses thrives so as a business owner I was

OCTOBER 11, 2000

concerned of all businesses on martin luther king, jr. Thriving and that's why I became a part of the northeast business association. And started attending meetings regarding the plan, so I came in on the tail end of it, and I am just overwhelmed at the amount of work that's gone into this and very awed by all the work that people have put into this project, and it is a phenomenal package and I really am asking that the council support the package. There are a lot of wonderful things in here, and I know you mentioned about clean air, and I understand looking at all of the items, but I also say that clean air is not a peripheral issue in north northeast. We like clean air, too, so someone has to start the ball rolling or bring up the question, so maybe if it goes to city, that will be gray, so at least we brought the issue up. But also wanted to say that I am here to support the package, and also the letter that all of you have received that was drafted by our president and vice president. By the north/northeast business association and I am asking you please look at that letter and take it seriously. It includes not only items from the albina plant but also further recommendations that we would like to see included in reviewing the albina community plan. And ask that you support those recommendations. In addition, if the council is seriously committed, and I do believe that you are in supporting the, the thriving neighborhoods that's happening in north/northeast Portland and allowing it to be more involved in Portland and not be the step child of Portland as it has been, then one of the issues that's of concern as a retail business owner, living in the community as a neighbor, is parking. It is a serious issue, it is an issue that's been addressed in the plan and some of the new items that you see in the plan is because it's been brought up more recently. I recognize that when any plan is drafted, and the moment everyone is trying to see as far in the future as they can and some of the concerns and as it moves along, ideas grow and change, and that's why some of the new recommendations, but parking is one of the areas that was, in my opinion, not as -- not addressed this wholly, if we are talking about commitment of thriving retail businesses on the boulevard. I am also working with the committee that's reviewing the fremont projects and some of the pdc-owned properties along martin luther king, which, in my opinion, make great location spots for parking and parking structures, what I keep hearing and of course, the issue comes down to money. We don't have the money. Well, if we don't want to have some of the disastrous problems that we have had in northwest, which there are in this process building parking structures to address some of their parking issues, that if we address the parking issues now, with the financial resources that we have, it is not going to get any less expensive, five to ten years from now. So if we are looking at the thriving of the community you can't build retail and expect it to thrive if you don't build parking. That's necessary. Parking structures, parking lots, however you want to do it, pdc has plenty of money and lots. They can contribute to the success of the community. My last statement is about the medians, when I was raised here the medians were not in the strip. I understand that mlk is a highway but however, they contributed to the decline in the area, and it is much less expensive to take out a median and change timing of traffic lights than it is to put medians in and the idea that it will help people get across the street. And the people that use those are children that play there which is not a safe place for them to play. Thank you very much.

**Katz:** Let me ask you a personal question, not only did you come back to work there but you came back to live there?

**Wassen:** Yes. Yes. Living here now. As well.

**Lydia Lundberg:** I am lydia, and I own a restaurant and bar and my husband and I also own the dairy building and I am also a board member of the northeast, north/northeast business association. I support the letter that we submitted to you, specifically, I would like to address a couple of items. Lu-25. It seeks ways to meet the parking needs of the neighborhood while addressing pedestrian and transit-friendly vision of martin luther king, jr. Boulevard. And what happens is, in the short-term, if there was some flexibility we could have some short-term solutions that ask the market for

land increases in values, we could have development, as an example, there's a lot right across -- from the standard dairy. It is fenced in. It is full of weeds and it looks abandoned, which is what it is, if we were to buy it or lease it, we, we could use it for parking am. It is a small lot and probably won't be developed for the next five or ten years but it seems very difficult to get any kind of flexibility on things like that. Another one further down the street, they own a lot that used to be parking at one point, the zoning changed and now they are trying to use it for parking again and they cannot because the planning department says that they cannot. That is a company that employs people. And they need parking. When you have -- we have a lot of retail in the standard dairy. We need people to come in from outside northeast. And they want to park, and they also have trouble crossing mlk. We have -- we did manage to get a crosswalk where. Nobody pays attention to it. I mean, you literally take your life in your hands to go across martin luther king there. There is parking across the street so we try to encourage people to park across the street. So, I thought that some of these short-term things with being more flexible with the zoning on the parking issue could alleviate some of the -- where you do have notes of retail, and you do have people that are coming from the outside, so that you can have better parking. And then the other thing is, I did find out that it is not a law that the motorists have to stop when you are on the crosswalk. That you, as the pedestrian, have to wait for the cars to be at least a block away before you can go into the street, which most people don't realize. And the other alternative would be that maybe people should consider is there is a lot of parking that's only being used during the daytime hours, is their mechanism to make that available for public parking in the evenings and t-17, would like to see extended up on mlk. We pay tri-met taxes up there, as well.

\*\*\*\*\*: Yes, we do.

**Lundberg:** And also on t-33, there is consider -- consider parking. The standard dairy is close to my heart. We could make one-way streets and have angled parking and double parking. That area is choked by parking. Thank you.

**Samuel Johnson:** That's okay. I am samuel johnson and I work for a company here in town and I am on the board of the north, northeast business association. I am the outside of the group because I am a Washington transplant but in that is a key. To the livability of north, northeast. I work in the north, northeast community, and wanted to live there. As a person of, of middle income, I found it very hard to find apartments. Reason being is because all of the nicer apartments are subsidized and I make too much money. My point is, is not everybody of low income want to live in north, northeast. I think part of a lot -- of the plan is to improve or at least get a fair assessment of low income, middle income, people so that they can live in a north, northeast, as well. And my main concern, too, is business welfare and development. I go down martin luther king, jr. Boulevard and I see the makeup of it, and a lot of what a community is based upon, the livability of a community is how well they could infiltrate the dollars in the community. Okay. There are no -- there's only one major grocery shop there, safeway. There is only -- there is no major, until walgreens, drugstore. There is no major entities for us who live in the community to shop and get goods and services there. And that is another point to what commissioner Francesconi said about the job growth. I happen to agree. I don't think that the job growth is as good as it should be and only because you don't have or we are not allowing the major businesses to come in there and especially, the retail businesses to establish places in there for people who, you know, need goods and services. Generally, we have to go outside of the community either by lloyd center or as far north as jantzen beach to get quality goods and services, and not in the community. So, my whole point about the bg-21, linked community based businesses with corporations and get a good mix of that area down there to include retail goods and services so that people in the community have, you



know, basic access to that. Instead of having to go outside of the community to get decent goods and services.

**Katz:** Thank you. Okay. Questions? Thank you.

**Delman:** I wanted to pass this along. I wanted to thank the alliance for their work and cooperation in the last few months on the plan and also to nicklaus and his staff. I think that we are really fortunate to have them. They support most of the items you are going to be reading about and I want to make some comments on the one that I passed is land use one, which is the southgateway, we are very anxious to see it happen. We have been allowed from pdc, to proceed with, perhaps, a temporary gateway, and that's the picture that I show you, not something tremendously expensive, for the next three or four years. And we feel like a welcoming, warm group with the colors of martin luther king, jr. In the past, but we could certainly have a visual improvement along broadway and grant and mlk. I really want to urge you to consider the aesthetic involvement of driving into the area and what it means in attracting people and perhaps we could speed that along. Please take a look at it because at this time, we have not been approved for a permit yet. Certainly we can do somewhat better with that. We have a small grant, which we need to match, and I would love your support on that. I also want to talk about downtown, t-17. It would be an excellent idea. We are trying to reduce people in cars. We have very little property, parking along the way. And we are talking about not just people who are working there, but attracting other people. I have had a habit since I took this job, about 2.5 years ago that every time I am in a car, I count who is on the street. Whether we are pedestrian friendly, for two miles from hancock to killingsworth. I have never gotten over 20 people. Usually I get some mace between 15 and 18. And many are waiting for a bus. If we are going to be successful and compete with other neighborhoods in the city, we have got to do something about transportation. T-31 is very important. We introduced that. It looks like it is going to be paged. We made one mistake. We said after each phase, the street modifications on martin luther king, jr. Boulevard needs time to evaluate the completed work and its impact on commercial park and go pedestrian needs. We very much would like to trade that to be 4. Each phase of street modification we study and get the opportunity to see where the median is going to be and is it going to hurt business? Is it going to hurt pedestrian improvement of being friendly and able to cross the street or is it going to help us? We have long waited to do these things. We want it now. We need to do it now because people are discouraged. From their business or their housing. So that's a serious question, and I hope that we could have an congratulation. I know that we are proceeding with phase 2 in january, and the timing is such that we would have several months to do it. We also have a couple architects already talking about parking and good ideas that would not be tremendously expensive to do. Changing the lights. Things like that, knowing where the crosses are. When I drive up the boulevard, I often see little children and I am talking really young coming from king school playing on the median while the highway traffic is literally racing by on either side of them. They are not crossing the crosswalk. Definitely they need a light. I don't see how we can permit not to. So, I certainly encourage that. Also, t-32 and 33 were ones that we adduced and we particularly asked for you to look at those. We think that it will help a great deal. So, again, the parking issue is important and the driving in that way. The southgateway, to go back, I neglected to say one thing, is at one time I heard someone say that we could have a world competition. We don't need a world competition. We need local competition. We need people to feel they are a part of marketing, that it is going to be the way it was and the way that they lived in it. That they are always going to have a place that's really their home in the area. I think that that's very important. We need to take that into consideration as we are designing and people are incorporated in it and they either feel included or left out. There are many ways, creative ways that we believe that we can improve the

OCTOBER 11, 2000

parking in the situations. One of those is Jane has done an extended curve-cut, and it accommodates five cars, between Boeving and another street. Be sure and take note of it. There is a little -- more than a little. A very nice pet shop on one corner and the Oregonian on the other, and many of our city people discourage people from looking at that. And it is really a super idea. They come in and they can lift up 100 pounds of dog food and put it right in their car. It is good for the kids there. It has worked out great. The banks didn't want to support it in a loan, and now they are calling Jane how she did it and put it together. There are all sorts of ideas that we can use.

**Katz:** Your time is up. I will let you finish.

**Delman:** Okay. So creative solutions, we are willing to work with you. We look forward to working with you. Thank you. We know that you read our material and you care about us and we appreciate that, and hope that you will hang in there and help us make it even better. Can I have my picture back or does anyone want it?

**Katz:** You can have your picture back, you know, I had something to do with the banners, and I want them back up again, clean and hung right and unfortunately, the answer -- the transportation doesn't have the resources to do it, so I would love some help from the community to make it happen before we put anything else up that isn't going to be maintained.

**Delman:** We can probably find somebody --

**Katz:** No, PDC can't use the money for that, I am sorry, not for maintenance of banners. Okay. Further testimony? Why don't you start.

\*\*\*\*\*: Gina is going to start. I am the past chair of the alliance. Sheila Holden, who couldn't be here today did send a message. Gina I think is going to --

**Jeana Woolley, Northeast Development Alliance:** I am a member of the alliance, I am on the executive board of the northeast development alliance and I am actually here to deliver some comments that our chair, Sheila Holden, prepared. She wanted to congratulate all of the partners for the hard work that has been done on this plan and to encourage your adoption of the recommended -- the revised actions. The proposed studies, et cetera. When the -- in 19 -- when the alliance partnered with the planning commission and the city council to do the Albina community plan in 1989, we emphasized the importance of creating a dynamic living document, one that didn't sit on the shelf and gather dust. The alliance board strongly supports this document as it is revised. We believe this plan clearly establishes a shared vision for the northeast community. It provides a comprehensive integrated focused approach to the revitalization for north and northeast Portland. And it is inclusive of all community members and encourages champions of action items, who are willing and ready to be held accountable for the completion of their tasks through public/private partnerships, which goes to the point, Commissioner Saltzman, that you made, which is that most of the actions that have gotten added are there because somebody stepped up to the plate and said, we are willing to work on this issue as it relates to the quality of life in northeast Portland. And so we support people stepping up to the plate and becoming part of the process. And it is a plan that honors the uniqueness of the neighborhoods in northeast Portland, but recognizes and capitalizes on the opportunities that serve the greater good and the shared vision for an overall community revitalization. And it is a plan that addresses all aspects of the communities development and recognizes how closely all of these components are connected, whether it is job, land use and planning, housing, business growth or education. The alliances, development plan was the blueprint for the, the ACP, the plan that we developed in '89 became the blueprint for this plan. And the first review that was done in '94 led to the -- a city/county alliance that created an application and designation of Portland as an enterprise community so out of that, that plan came another set of actions that has served this community well. And has brought additional dollars into this community to work on these agenda items. It also showed that the community was serious

OCTOBER 11, 2000

about the plans, implementation and review of progress on action items, and that's why even though there was no budget to do this review, we pushed for this five-year review of the plan and we appreciate that we were able to get support. We want to thank michael harrison and colleen acres, graham and nicklaus for their help in implementing the broad citizen -- the broad citizen stakeholders review of the plan, want to thank the mayor for her leadership and we want to thank the commissioners citizen and Francesconi who supported funding to the planning bureau to help expand the citizen involvement process so that more people could comment and react to this plan and could help augment the actions. In this five-year review -- Okay. In this five-year review, we have the success of the plan has been -- we found out that we have other issues that our successes have created new problems and I think that many of the changes and revisions that are proposed are intended to sort of address what happened with this living document and we would encourage you to support it.

**Katz:** Of all the new -- because of the successes, and I think that it is fair to say that there are many. There is still a lot left to be done but there are many. Of all those, what's created the most -- the greatest new problem?

**Woolley:** Well, I think that this issue about this tension between housing and business revitalization, the zoning related to the housing has come up because there's been money to do it. We have large, significant chunks of land on our commercial boulevards that are zoned for housing, and what so many of the recommendations in this plan are intended to create some balance there to allow greater, mixed use development on those rh-zoned sites. We are looking to, I think that there's been a reaction in the community to housing and we don't believe that the commercial development is, has kept up or is as far along as the housing piece is, and we need that balanced out and some of these actions are intended sort of to help create that balance.

**Sam Brooks, Business Growth and Development Committee:** Mayor Katz, city commissioners, I am sam brooks and I am a past chair of the north/northeast economic development alliance and the current chair of the business growth and development committee. I don't have a lot to add. Simply to say that we have been in this process now for 11 years, and for those of us that have been involved in northeast, we can still quibble about some of the issues that are in this plan to you. I am just really basic to point out again that we are a long way from where we started. We may not be where we need to be. But, we certainly are a long way from where we started 11 years ago. And by any measure, from anyone, we are better off than we were in 1989. I do want to touch just very quickly on two issues. And the two issues have to do, as a side chair of business growth and development, and the issue of development along mlk. If we revisit the issue of zoning, which I think that we must do, that happened as the discussion by mr. Johnson about large developments along mlk, large developments really cannot take place along mlk, so we need to review if you are going to have size, the kinds of development that people consider large, you may have to revisit the issue of zoning but on the issue of business growth. Business is growing and it is growing in a way that sometime I believe is imperceptible to people. We are having changing communities. The hispanic community, which is an emerging community in north/northeast and businesses grew 182%. In the last five years. African-american-asian businesses grew 82 for asian and 65% for african-american, but these are small businesses. Home-based businesses. Microbusinesses where a small businesses in Oregon, the average for small businesses is seven employees, from an, for minority businesses, it is only four employees so those businesses that are emerging in northeast oftentimes you don't notice them. They don't appear on the radar screen as a large entity but when you count them collectively, tremendous change has occurred. I had an opportunity and be willing to share the information that anybody wants to see it. It would be public in december, the department of commerce, as you know, is the only entity that does a national survey for every city

about business every five years. Because I participated in the minority business development week, in Washington, d.c. A couple of weeks ago, they -- the census of the department, the department of commerce, released early information. In january, all of the information about everybody block in the united states and everything that's going on in every block, including what citizens and businesses use, dispose of will be available online. We do have some of that advanced information. And small business is occurring. But, it is not the large business that's occurring in north/northeast so I wanted to point out that, that the business growth and development has not gone to sleep. It has not come in large chunks.

**Sten:** Sir, I don't have a problem with we need to look at the study and undoubtedly, some things are permanent in this country but I think that mr. Foster is right, most are not, and it makes sense to look at all these things and we might have been right on most of it and missed on a few things but I think the thing that's a little fuzzy in tellers of this policy problem is I think that there needs to be more definition by, by community members on what it is that's wanted because I don't necessarily think that being retail and employment are exactly the same thing. So do they want services on mlk or jobs or mixed use housing and smaller things that have a lot of services in some jobs with some housing above it. It isn't clear to me -- it is a very broad kind of discussion right now and it seems to me there is all sorts of things if you are going to move away from housing zoning on some parcels that we could move to, and I think that putting together big parcels could end up with some really unintended consequences without a little more thought. But, I don't dispute the, kind of the notion of where it is coming from.

**Brooks:** Actually, commissioner Sten, the man from the pdc would speak to that eloquent 8ly. What we have heard has not been about let's grow large parcels development. It has been about creating wealth and ownership in the community whereby the community grows so, if -- what the community specifically asked, it is always, and I don't believe has ever changed, always talked about creating wealth and ownership in that community.

**Hales:** That's why I am a little frustrated by the, the rush to move back the things like c-2 zoning, which is -- The rush away from r-1, what is it, 30% of the floor area, r-1 building can be, retail? What is it? In other words, somebody must have built a mixed use building, in r-1, can they do it?

**Brooks:** No, but we do have a special regulation represented to the rh-zoning on mlk that allows 30% of a development if it is located on the ground floor to be in nonresidential uses.

**Hales:** Only 30% on the ground floor.

**Brooks:** Well, 30% of the overall square footage and the 30% must be on the ground floor.

**Hales:** So if you had a four-story building, you can do the first floor in retail.

**Brooks:** A three-story building, you could, basically.

**Hales:** Okay. And I guess to me, that kind of building is likelier to create the kind of space that would support lolly owned retailers, leasing a small space rather than zoning it c-2 or got help us, cg and having chain stores come in and build big parking lots and boxes. So, I am a little concerned about that strategy. Secondly, I am concerned about how auto-dependent that strategy would be. I think I heard people correctly. Is anybody happy with the traffic volume on mlk today? Does anybody think it is making it a nice place? So, we are going to create more automobile storage? You know, that's like, you know, solving an obesity problem by buying a bigger belt. Let's have more car storage so we can have more cars on mlk and have worse traffic, so if we are going that direction and we want to be more like jantzen beach, I am not a player for that. And a couple -- couple that with what I think is a fairly weak alternate modes action chart item, t-9, plan for alternative modes of transportation, including by sibs, trolleys and minivan -- that's pretty wimpy. So, you know -- [ laughter ] So, are we wanting more cars on mlk? I don't think so. So, why do we want car-oriented development on mlk? Maybe we want better transit and a better

realization of the plan we started. One more little pontification here. You will remember this, sam, and I think that others will, as well. We had the downtown store-front retail requirement for quite a few years. One of michael's creations that turned out great, as a matter of fact, just like this one is, and it took a long time for that to kind of catch on in the marketplace. And in the first few years, the reaction we got from the business community is nobody will ever lease that space and on and on, and now they are building two stories instead of one. So, I think that this plan could use adjustment. I am not saying don't change a thing. But, you know, six or eight years is not that long, compared to how long we waited from first interstate to pacwest to see the realization of the store-front retail requirement downtown which did end up fostering lots of little small businesses. So, I guess that I would say, I am not just saying stay the course and don't change a thing. But before we jump to more parking, more cars, and big boxes I think that we need to talk. [ laughter ] And I don't think that --

**Brooks:** I don't think that we are supporting that, commissioner Hales. I think that the real issue is that the zoning, as it exists on mlk, it is not really more of something. It is really which -- it is really placement of parcels. There is some illogic to the zoning as it was done in the acp because of some of the deals that got cut so what you end up with is everything below fremont on both the commercial corridors that was large and undeveloped, that didn't have a lobbyist for it ended up as housing, zoned. High density housing zoned and I think what we need is mixed use development. I don't think that as sam has indicated in any of these processes, and I have sat through them just about every one of them that we have gone through, including these nodal studies about what people want to see is people don't want to see big-box development. They want mixed use development, that's sort of the chime that we keep hearing. The issue is whether we can get the kind of mixed use development, where we need it, where it makes sense, on some of these parcels, and it is really a few. It is not a whole bunch of these parcels so it is really taking a more educated look at what's out there on the ground and whether makes sense for a few of these parcels to be zoned the way that they are.

**Hales:** Let me follow up on that by saying that I don't think that we have done our job yet in the transportation system plan, and frankly, again, this action chart item isn't going to make us do a better job. We may have set mlk up for failure in that we have upped some of it significantly and we haven't significantly enhanced the transit. We still have the number six bus doing what it does, and we are building all of this housing, and granted I would like to see more mixed use than we are getting. But, in other words, I don't think the planners did a bad job and I don't think that the neighborhoods did a bad job but I think that we may have underplanned in terms of the transportation infrastructure. Transit infrastructure. Not going to add lanes to mlk. God help us. And in fact, we need less cars on mlk, not more, I think. So, I think that we need to be more aggressive about what our transit plan is for that district. I don't have a fancy answer for what that ought to be. But, just assuming that the number six bus like it is today is as good as it gets, and we can add 5,000 residents and eight zillion square feet of commercial, probably not going to work.

**Francesconi:** So, if I could add to that a little bit. What we don't want big boxes there. We don't want huge parking structures, per se. But, we maybe have set it up for failure because if there isn't adequate transit there, and we have the housing, and it is a state highway, which means the traffic is coming from other places to go through, we haven't. In the meantime, we want business development along here and there's no place for these cars, as they are driving by, so park, in order to get into those stores, and there is no transit, we have also set up the small businesses for failure. So, I think that their parking of some kind needs to be at least a part of the solution until you put in the transportation infrastructure and/or get rid of the freeway through there.

**Hales:** Don't create more automobile habitat. To solve an, to solve excessive automobiles.

OCTOBER 11, 2000

\*\*\*\*\*: But where you and I disagree are the automobiles are there anyway because it is a highway, and --

**Hales:** No, the automobiles are always going to be there. The question is, whether we are going to have enough transportation. What's traffic.

**Katz:** This is a continuation.

**Francesconi:** We have the same old argument a lot.

**Hales:** Traffic congestion is too many cars. That's our corporate problem of traffic congestion. So what's the problem, not more spaces for cars so I have got to disagree about parking --

**Francesconi:** No, I didn't say parking structures.

**Hales:** I disagree with them. I winced, and the mayor winced, too.

**Katz:** I shuttered.

**Hales:** But when I heard people say, parking structures on mlk of course great, dead buildings full of auto storage, that's going to make it a safe street, so I can't go there and I don't know what kind of parking we are talking about. Onstreet, that's why we are getting rid of the median and narrowing it in order to add that. Diagonal, I love it, I have to push my engineers around to get them to consider it, and I am happy to do that, but parking instructors? Oh, you know, I am not going to go there. I am not going to vote for spending public money for parking garages. In this neighborhood or any other as a solution, quote-unquote --

**Katz:** Okay. All right. I think what we are going to do what, I think what we are going to do is we are going to have either a retreat or a work session or something for an extended period of time to deal with this issue because it has come up over and over again, and my sense is that it is going to come up again as we look at gateway and other communities, but I have to tell you in the lloyd center district and the rose quarter, and you were there when we were visioning, people said, get rid of the cars and the garage. And have people walk so, we need to have a real discussion about what is that we want the city to look like.

**Francesconi:** I can't avoid saying this, and I don't mean to offend anybody, but I agree we need this and don't need massive parking structures but we want community participation and we want people close to the problem, to have some input on the solutions. But, when it comes to small business, folks, who come in and say, they just need a little parking, we don't give any weight to it.

**Katz:** Well, but the whole --

**Hales:** Well, parking in a parking structure.

**Katz:** The whole notion of looking at where, you take away the median, and the smart solution, what is it, well, what is it called, the governor's -- community solutions that we worked on for over a year was trying to identify where, in fact, you could provide parking on the street and get rid of the median to help the small businesses. Now, if we are not -- we didn't do much in the first approach on it, and we are doing all better on the second approach, that was the direction we were going to provide parking for the small businesses on mlk.

**Hales:** I think we could all agree on that and that's something that we should do more of. Finish that job of narrowing the median and giving that space back to onstreet parking. So, there may be less disagreement than it sounds like.

**Brooks:** My last comment would be on -- the reason you see this plan looking the way that it does, is because as maybe as commissioner Francesconi said, we have a diverse community. If I submitted this to you, you, it probably wouldn't look like it looks but unfortunately I have to work with the people that are in the community and the folks on planning indicated in order to get something we can all work with given the directions of all the various organizations and individuals in the community, we need a plan that we all could live with.

OCTOBER 11, 2000

**Francesconi:** Sam, a different question that has nothing to do with parking. You alluded to it and I was going to ask you because I know you worked on this, but you alluded to the changing diversity of the neighborhood, and in particular, the latino population -- group, citizens. So, can you tell us a little more about what you are doing to kind of include them in the leadership roles in terms of the community, shaping the community?

**Brooks:** I can only speak to an organization -- that I am involved with, the Oregon organization of minorities. 30 percent of the companies involved are hispanic. 30% are african-american, and 15% are asian 10% are native americans, remainder are european americans in the organization. And that come from 56 different countries. My director is hispanic. My purchasing and clearing house manager is asian. The person that we are working for the clearinghouse, happens to be african-american but is also fluent in spanish and has lived in mexico, so what we have tried to do is make sure that, force our involvement as an organization that we make sure that not only in our strategic plan, the kinds of things we are doing, consistent with the albina community plan, but the staff involved with that reflects the ideas that we are talking about.

**Francesconi:** There was actually a group that was thinking of locating here, a high-tech company recently and one of the reasons they decided not to locate here was because they weren't sure that Portland was diverse enough for their workforce. So, this will be to our economic advantage in northeast.

**Brooks:** Yeah. I agree.

**Katz:** That's interesting. Commissioner Francesconi is absolutely right. I remember when we were trying to attract pgt, and they came because they were from san francisco and they came because we had, for them, the diverse workforce of gays and lesbians in the community that was part of their own workforce in san francisco. So, we may be okay in one area, and we may not be okay in another area. But, anyway. That's a little history. I hope the history is accurate. But go ahead.

**Brooks:** All right.

**Jennie Portis:** Good afternoon. I am certainly glad I didn't chair the transportation people. [ laughter ] But, I did chair the jobs and employment piece, and as part of the alliance, I am the executive director for the northeast workforce center, but I have also chaired for the last, I think, probably 12 to 13 years, the northeast jobs committee and I led the communities through the beginning of the jobs and employment piece for the alliance before it became the albina community plan. I just want to say that in general, about the albina community plan, again, as sam and gina have said, I am here also to ask for your support of the plan, but in general, I would like to say that the albina community plan is truly a planning document, I mean, it was not put together because we in the community were trying to get some kind of grant or we were trying to get some kind of proposal or there was a pot of money on the other end much we got together because we were a community and we wanted to put together an economic development plan for the community that had all these various components to it so it truly is a pure planning document. That includes jobs and employment and housing and land use and all of these other things. We had a chance of using the alliance as a vehicle to come back after I would go off and have my meetings with the job's committee folks and incorporate the community input in jobs and employment, and we also had an opportunity of using the alliance to come back to the table to see what the housing people were doing, to take a look at what the land use people were doing. There was some discussion here earlier about how do we solve some of the problems and concerns. I can tell you in the jobs and employment piece since we put this plan together in 1989, we have always been concerned that the employment issue in northeast Portland needed to be resolved in a couple of ways. One, by growing and fostering the businesses that are already in northeast Portland, and encouraging new

OCTOBER 11, 2000

businesses to locate in northeast Portland, and we were also clearly keeping our eyes on the land use piece because we did not want to see wrecking yards and big, large development things coming in only hiring about two or three people. So the land use people was real critical to us as we went about our business in jobs and employment. So, we decided that, and we knew that the employment piece was going to be fixed by fostering and growing the businesses that are already here and making resources available to them, but also looking outside of northeast Portland and what we did in the workforce to get folks ready to go outside, so that meant that transportation, day care, and some of these other areas in this plan were critical in ultimately resolving the unemployment problem. You were talking earlier about the job growth and what that is. About three or four years ago, with the help of the city and I think it came out of the mayor's office, we had some technical assistance where we looked at what it would take in northeast Portland to bring us into parity in terms of unemployment, with the city as a whole. And we got that down to, I think, about 12,500 jobs, and we got that in a number of ways. We looked at tri-met. We looked at the state unemployment records and what they used to calculate that. But, we also went deeper than that. We looked into the community-based organizations that were serving the chronically unemployed. And that is a significant population to be aware of because even by going to tri-met and our other institutions, they don't have ways of capturing the chronically unemployed. Okay. So what I want to say is that the unemployment rate back then, in order to bring us into parity was about 12,500 people, we obviously need to go back and take another look at that. I think that some of the things that are in this jobs and employment piece will begin to get us there. We have not done all of these things. We have done a review. We have done a lot of these things but we still have a long way to go.

**Katz:** Thank you for reminding me how we got to that number. I remembered the question that we asked was what do we need to do -- how many jobs do we need to produce to make sure that northeast is at the same level as the rest of the city.

**Portis:** Exactly.

**Katz:** That was a long time ago.

**Portis:** Yes, it was.

**Katz:** Eight years ago.

**Sten:** Is that how many you need to get employment employed or how many jobs that need to be in the area?

**Portis:** No, that was the number of people who needed new jobs. New jobs, so net new jobs.

**Katz:** Okay. Questions? Thank you.

**Katz:** Michael, is this your last visit here?

**Harrison:** Vera has asked me -- Berta asked me to come back on --

**Katz:** I was going to say, if it was the last one, we certainly wanted to say goodbye and thank you for everything, but good.

**Harrison:** Not yet, I will be here a lot the next six months.

**Katz:** Oh, good. All right. Excuse me, he can't retire until we find a grocery store in the most dense part of the city. [ laughter ] all right.

**Carl Flipper, Humboldt Neighborhood Assn.:** I live at 606 northeast killingsworth court in the king neighborhood. And I am coordinator of the humble target area project, a community-based revitalization initiative of the humble -- humboldt neighborhood. Or objectives are revitalization along the killingsworth and albina street corridors involving young people in that revitaltation effort, which means youth entrepreneurship, jobs, training, education, et cetera. And encouraging home ownership in that corridor. We are part of the, the bhcd target area program. As an active member of the northeast economic development alliance and representative of the humboldt



OCTOBER 11, 2000

neighborhood, I have served on the citizens' advisory committees for interstate light rail, the interstate urban renewal project, the williams vancouver infield study project, the Portland public schools facility's task force, and now commissioner Sten's diversity --

**Sten:** Displacement.

**Flipper:** I will sorry, displacement study commission. The albina community plan has been the guiding document in much, if not all of the, these committees and study groups that I have been a part of for the last year and a half. The acp also included originally a humboldt neighborhood plan which was focused much of our efforts in the humboldt neighborhood as we develop and implement our neighborhood improvement initiatives. We are supportive of the work undertaken by the northeast economic development alliance and the work with the city council in conducting this five-year review of the acp. I have had an opportunity to participate in some of the many community meetings, public meetings that have been held to hear constructive input and suggestions on the plan. The plan, like any plan, is a living, breathing document intended to be updated, adjusted and tweaked. Changed to meet the changing needs of the community. There are no wholesale changes being recommended, the document proposes changes like the original document and will not meet with 100% acceptance by 100% of the neighborhood, 100% of the time. If that absolute concurrence were required, we would probably get absolutely nothing done in this community. We urge this adoption and pledge our continued cooperation and support for this ongoing implementation.

**Katz:** Thank you, karl. Questions? Thank you. Okay, Britta. Anybody want to testify on this plan? Any questions? Any questions by the council of anybody here?

**Francesconi:** I hate to do this but I am not clear on what happens next. I mean, just briefly, no, not from you. I am sorry, Berta -- no, no.

**Clark:** Following the adoption of the chart revisions we will republish the plan, so we will swap out the old actions with the new actions and update a couple of maps, and then it is up to the entities that are listed as implementors to find ways to implement the actions. I know that sheila with the alliance has expressed a real interest in every fall convening an effort to mark the progress on these actions, and the fall is -- the reason for the fall is because it is sort of right before the, the city agency budget cycles and alliance members would like to influence that to make sure that these actions continue to happen. I know that city agencies also mark their progress through the action items.

\*\*\*\*\*: Did that answer the question?

**Francesconi:** Yeah. But I am back to, on this one, commissioner Saltzman's point. It seems like the council will have to decide some zoning questions that have been raised so we have to decide whether there is a zoning study and so somebody needs to, rather than come back to us every year with 100 things, I think that it would be a better use of the city council's time to concentrate in a few areas. One would be do we need some rezoning or not along williams? The second would be, what would it take to get some, some more on-street parking for the businesses? Curb cuts, et cetera, is that dp -- pdot's budget or pdc? But it seems like we need some focus given on that area. And somebody needs to give them back to us with that. There is a third area that we really just kind of touched on today and I don't want to get into it, but the whole workforce issues, and what we are going to do. The issue isn't so much new jobs, although we need new jobs. The question is how we are going to get residents from northeast into those jobs, and that's a third discussion that needs to happen item point. The fourth is education but that, I don't think that we need to do that in the context of the albina plan. There is other place that is we can have that discussion. The strategic plan, crisis team, I think, is the right plan for those discussions, that's what I think. For what it is worth.

OCTOBER 11, 2000

**Katz:** Let me ask another question, perhaps this is for michael. We have got the albina plan, the outer southeast plan, we have the southwest community plan, are we doing the same -- well, the southwest community plan is still, we are being worked on.

**Harrison:** Right.

**Katz:** Are we doing -- what are we doing in terms of the overview of the outer southeast plan?

**Harrison:** It is newer. It was adopted in 1996. We included within the highlights' report an assessment of how we are doing, trying to move toward the implementation. The southeast community plan. Some of the ideas take a little longer to mature, we are actually in pretty good shape for a plan that's only four years old. Certainly, the -- the district is taking a big step for us, the consideration of whether an urban renewal would be appropriate at gateway may be a key factor along with the airport light rail extension. There is always an issue between taking on new initiatives and maybe that -- that maybe need to be considered that are important to the public and important to the council. And going back and doing follow-up. And that's attention that you need to sort out every year in the budget process. There is several items for follow-up that are called for in the action charts and we will be bringing those back to in the areas parts of the bureau plannings' budget.

**Katz:** Let me ask you this question, because of your history with the city and all the contributions that you have made, you have seen the progress and the albina plan and in the community. What do you think that we need to focus on first? I will give you three choices. Three items.

**Harrison:** I think the biggest single issue is finding a way at risk for the households to live in albina, the household that are at risk of displacement, to stay in the community if they choose to, I think that that's the single most part thing to do. The second thing we need to do is foster the growth of small businesses that are owned by people that live in the area and committed to the area. The third thing that we need to do --

**Katz:** We understand the first and work tonight is starting on that and there is good cooperation between both commissioner Sten and my office with planning and pdc on what do we need to do in this arena. But, what do we need to do to expand the small business opportunity in light of the land use discussion that we just had?

**Harrison:** I am not sure that we need to do very much. There is a lot of opportunity in the zoning. We may need to do more with facilitating land availability. There is land zoned for commercial use that's sitting there and has been sitting there for a long time. And we may need to get involved and we have the tools through urban renewal, although they aren't, you know, as easily focused as we would like in some cases. To do some more work in getting incubator projects built that small businesses can look at and start to thrive. There is blocks that are essentially vacant zoned for mixed use, including 100 business use on mlk that are actually on the market and we might need to do something to get them on the market and get a prompting there. The same is true of locations on most of the commercial corridors.

**Katz:** Third?

**Harrison:** I think that the third thing we need to do is come back to the issue that commissioner Hales raised and talk about broadening access to and from and within the area through transportation systems that are an alternative to the car. The central city plan concept map and the albina map envisions something streetcar-ish, moving up grand avenue through the east side by the omsi site and across the hawthorne bridge, up into albina and mlk. That was sort of something that was included in the plan as, if you will, a fallout from the community's initial desire to push for light rail to be located in mlk and the decision ultimately by the community to back off of that because of the cloud of uncertainty that they felt that that had put on the redevelopment potential along mlk. But, I think that it is timely to think about with the interstate avenue, light rail facility

OCTOBER 11, 2000

looking like it is very green light and going ahead, how are we going to link to that and what are these connections and how do we take some of the synergy in the central city and move it up mlk enveloped and have it working together with that initiative and I think that the boundaries you have drawn for the interstate avenue district create potential for making progress on all three of these points.

**Katz:** Thank you. Anybody else have any further questions? All right. Then, I will accept a motion to adopt the updated action charts for the albina community plan.

**Hales:** So move.

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

**Saltzman:** Second.

**Katz:** Thank you, roll call.

**Francesconi:** I happened to be at the first meeting called way back when that got everybody together on this, it is amazing how much work there's been done the public and private sector and how much has been accomplished because of the good efforts of both. It is terrific. Aye.

**Hales:** Well, this is a good piece of work and it is -- we should celebrate how much has been accomplished in carrying out the plan, it was a good piece of work in the beginning and it was a collaborative effort between the community leadership and professional planners and the people at the city council paying attention to the neighborhood and it is really working. I am, as you can tell, more than weary about short-term, quick-fix, quote-unquote, solutions, that might come along to start managing the problems of success. And parking issues are one of those and I am just very concerned about that, and we ought to talk more about that, but we ought to remember, as this area starts to grow and to develop and realize the vision that the community put together, which is what's going on here, remember what yogi berra said about parking, which is that place is too crowded. Nobody goes there any more. You know, we have got the problems of success here. As I have put it to some of our traffic engineers, we have got to reverse it, level of service a is failure and level of service f is success. When the streets are crowded, it means that things are good. So, do we have to manage that problem? Yes. Do we have to manage that problem by building parking structures, not just no, hell no. Onstreet parking? Yeah, let's make more of it and finish the job that we started with mlk and put onstreet parking back onto that boulevard and take some streets that are too wide and strike them for diagonal parking. And if I have to lock up some people in pdot in order to get that done and send people out with a paintbrush, okay. But, changing the urban form from urban to suburban, whether it is in the type of development we permit or the amount of parking that we build, that will set this plan back. Not carry it forward. So I am really looking forward to the next chapters in realizing this plan. But be weary of the automobile, you know, we have held it at bay so far, in the development of this district and letting it back in won't do us any good, aye.

**Saltzman:** Aye.

**Sten:** Well, I want to thank the staff and everybody has worked so hard on this, this is really -- this isn't a half full or half empty glass, this is like a 99% full glass and we are talking about the pieces left and the changes in the northeast are extraordinary and I think that the market would have changed in northeast quite a bit but despite all of the things that I am probably the most concerned about, people getting priced out of the neighborhood and people I knew growing up can't afford to live in their neighborhood, I think that it would have been dramatically worse. I don't think it would have been better had he not gone about all these efforts. I think the trends that we are fighting are trends that were coming and what the albina plan and the 320 actions, 80%, I can't do the math so 200 something of which have been moving, has done is really carved out an opportunity to have a better version of what was there and what was there ten, 12 years ago is not

OCTOBER 11, 2000

acceptable with the vacant homes and crime on the streets and the lack of anything. No offense to the businesses that were there but on the whole, the lack of any kind of shopping opportunities, so I think that we are a lot, lot better off, and I just -- my hats off to everybody who has worked so hard both at the city and out in the community because it has been, despite tension, a lot of partnership and I think that we are on the right track and I think this update is solid and boy, this one hasn't set on the shelf and collected anything. Very excited about the urban renewal district on interstate and the way that we have drawn the boundaries, although it cost -- caused more strain, politically and financial 8, I think it will be the right thing to do. On some of these issues have, that have come up, I guess, I want to put out one little separate view, I don't disagree with, commissioner Hales with your view of let's do better transit, but I do right the 6 a lot. It is close to my house. It isn't that bad, it runs regularly, it is a lot better than 33, which runs up fremont, which is why I ride the 6, but I don't actually think, put in the right place as neighborhoods get more and more dense, structured parking is a horrible land use, I mean, I think it is a way at times, of dealing with the reality, without eating up too much land because reality is people drive no matter what we do and I guarantee the city is going to subsidize parking garages in the river district so in the river district we are going to say it is okay to do that, because that's that, but in the northeast, we can't do that, we have to force people out of their car, I am for the aspiration of, of not doing suburban stuff but I think we also, when business owners are saying to us, people can't -- my business won't thrive because people can't park, I think we have got to be open to some of these solutions even though it is not my preferred alternative. But I think that that's all something that can be worked out and the better transit plan is the key to all of it, so I don't think that battle lines are drawn but we need to dig into this pretty aggressively because it is hard to park over there and i, for example, I won't be too long winded, I ride the bus almost every day to work, but I actually drive the six blocks when I go shopping because I don't have time to go for one bag of groceries and I need to get three or four bags when I have time to go to the grocery store and they have a huge parking lot and it is always full. And so somehow trying to figure out how to get some room on king for people whose patterns are like mine, I think is going to be needed if we are going to have that next level of business survive on king. Beyond what's there now, so we will see, I think that we can do it, and boy, you know, to hear parking is the problem, is a huge change, I mean, that's what I want to point out. That's the problem that the river district brings to us is parking. It is not the problem that, other than sort of the age-old philosophical debate over the median because I don't know whether it is good or bad, it is not something that's been a serious problem in northeast, in the ten years that i've been engaged in these issues so it really shows that things are different. There are businesses who want parking and I would rather have that problem and some pushing and pulling up here with you on how to fix it than most of the problems that we have had so far. So, good work and I could go on and on but I will vote aye and let you go on your way.

**Katz:** I don't think that we ever can remain complacent but I will tell you what the problems were in 19 -- in 1993. I remember gretchen sitting here and complaining about vacant lots, built up buildings, I was complaining about the crime. There were no businesses -- there was no housing on mlk. There weren't any businesses that were thriving enough to put a little tables and chairs along the businesses adjacent to mlk. There was a lot of stuff that wasn't happening, and so I think that this is a celebration, quite frankly. It is another generation of the albina community plan. Because of the success of it, and it is because of the work of the neighborhood association, the northeast economic alliance, the northeast business association, all of our partners, the city agencies. We now are confronted with some other problems that we need to solve. But, boy, we need to be very careful because if we do the wrong things, then 20 years from now, we will have to come back and redo them again, which is exactly what we are doing in the lloyd center and the rose

OCTOBER 11, 2000

quarter. I don't want it happening in albina, and you don't deserve that upheaval. So, we have challenges. More employment opportunities. Certainly the education issues, and I think ronnie and the crisis team are going to take care of that with, or without our support. I am convinced that we do need to work on the planning. I am sorry, on the parking. I think that we can do it the way that both commissioner Hales and commissioner Sten have identified. We can manage that, but we are not going to do what others wanted to happen in the central city here. And ruin the heart of Portland. I just want to remind all of you that there was a time where parking and parking garages were the thing to do in the heart of a city. We chose to stop that and made a decision that cars were not going to be the friendliest folks in the city and that we were going to make a decision about limiting the number of parking slots and make it friendly to pedestrians. That's what Portland is all about, and quite frankly, I hope that that's what our neighborhoods are all about. I did walk along mlk, and I couldn't find very many people walking along mlk, and for me, the goal is going to be when people are walking along mlk, feeling safe and going and visiting the shops that are there and hopefully in the future, additional shops that will develop. We have some opportunities on mlk. We now own 2203 major parcels that we can develop, and I think that it is all correctly for what everybody wants it to be, and so I hope that the neighborhood works with us to make sure that Portland development commission makes the right decisions with the community on what they want to see on -- at that node. Thank you everybody and it will not gather dust on this shelf or on anybody else's shelf and we will keep looking at it and updating it and making things happen. Aye. And we stand adjourned until tomorrow, at 3:00 tomorrow.

At 4:50 p.m., Council recessed.

OCTOBER 12, 2000

OCTOBER 12, 2000 3:00 PM

**Chinese delegation:**

**Katz:** We have, as you can see, some wonderful guests from a long, long way off here on a mission that I think all of you would be interested in. So I would like to invite mr. Gua and mr. Belile, come on up. Mr. Gua is deputy director general of the administrative center for china's agenda 21. The chinese secretariat of the senate. They are all here, and they are here for -- to observe the role of government in environmental management, economic policy for harmony between economic development and the environment, not quite the words we use, but the principal is the same. Energy efficiency and sustainable energy. You have got a lot of friends here. Environmental protection and sustainable use of natural resources. And sustainable -- now, mr. Gua, you will have to tell me what sustainable social development is. Those are not words that we use. We use them separately, but not together. So why don't you and david come on up. Please. And we want to welcome you. Okay. Who wants to start?

**David Bly, US Foreign Service:** I will start very briefly on what I am -- my name is david and I am a u.s. Foreign service officer. I am a detailed for one year here in Portland from the department of state. To help the china u.s. Center forces until they get started, it is a nongovernmental organization which is working on promoting sustainable technology from the u.s., And in getting us into china. So, I just came from beijing, the embassy in beijing after working there for three years as director of the office of environmental science and technology. I am here in Portland for one year and just arrived this summer. The center has arranged for our partners in china, which is the agenda 21 center, to have a delegation here to talk -- they are visiting here, and they are also going to visit seattle, and vancouver, british columbia, to look at sustainable practices and environmental protection in different areas within the united states and in canada. Thank you.

**Katz:** Thank you.

\*\*\*\*\*: Thank you very much. Madam mayor. Ladies and gentlemen. [ speaking through an interpreter ]

\*\*\*\*\*: I am the deputy director of the center for china's agenda 21. That is under the the title of technology. I lead the television, which can I say consists of ten members to the beautiful state of Oregon. To exchange information and experience with you the system.

\*\*\*\*\*: Today is the second day of our visit trip. We have learned a lot. Though the time is not very long. We got to know that Oregon is a motto state and Portland is a motto city. In sustainable development in the united states. [ speaking in chinese ]

\*\*\*\*\*: I think that's the reason that why we choose Portland as our first station of our visit. [ speaking in chinese ] [ speaking in chinese ]

\*\*\*\*\*: The international sustainable development based here in Portland has arranged an excellent agenda for our group. In the past two days, we have visited different sectors, including the government departments's business sectors social groups, and we have a lot of changes -- exchanges with them. [ speaking in chinese ]

\*\*\*\*\*: Coming to this, I believe that we are going to visit very good organizations and we will have more fruitful results. [ speaking in chinese ]

\*\*\*\*\*: We will try our best to contribute to the corporation and be team your state and china. Thank you very much.

**Katz:** Thank you very much. I hope that you have learned a little bit about what we are doing here in the city. Commissioner Saltzman and commissioner Sten are taking the lead in that area. And I know that you know that we have a sister city in china. And I know that you are on the way to see

our garden. And we thank that city and the cities of that city of providing this gift to us. Before you say that, I do, mr. Gua, I do need to understand, what sustainable social development. [ speaking in chinese ]

\*\*\*\*\*: There is a program that initiated by the central government, actually, it is advanced technology. It is called social development program. [ speaking in chinese ]

\*\*\*\*\*: This program has been running for more than ten years. The purpose is that after opening to the outside, the reform, the 20 years' reform, some places has been getting rich, so they have developed economically but in terms of social development, it is not kind of balanced to the economic development. So, this program is trying to promote social development. [ speaking in chinese ]

\*\*\*\*\*: So the program needs are trying to coordinate the economic and the social development. [ speaking in chinese ] [ interpreter ]

\*\*\*\*\*: So by implementing such program, we have generated experiences, and lessons during the exclusion of the projects in the pilot status selected by the central government, and we are trying to disseminate it nation-wide. [ speaking in chinese ] [ interpreter ]

\*\*\*\*\*: We also want to get to know the experiencing of this aspect in the united states so that we can learn after we come back to china.

**Katz:** Thank you. I think that there was another question.

**Francesconi:** By coincidence, my wife and I are going to shangai, and up the river in the yellow mountains in ten days. So, if you have any advice for me on tourist things or things that I should see, I want you to let me know. [ laughter ] [ speaking in chinese ] [ interpreter ]

\*\*\*\*\*: There are many beautiful places that I could recommend to you.

**Katz:** Oh, you are a wonderful diplomat. Thank you very much and thank you for spending some time with us. Good luck to all of you and david, welcome to Portland, and good to see you. Thank you. Enjoy your stay. All right, everybody.

**Katz:** All right. Britta, 1497.

**Katz:** That was rescheduled to november 1st, so there is no objections. We will reschedule that to november 1st. 1498.

#### **Item 1498.**

**Frank Hudson, Deputy City Attorney:** Good afternoon, everyone. I am going to begin the proceeding by setting out some of the ground rules by which this proceeding is governed. If you are going to participate in today's hearing, you might want to listen carefully. The kind of hearings, I am going to cover first. This is an on the record hearing. This means that you have to limit your testimony to material issues in the record. That means that during this hearing, you can only talk about the issues and testimony and exhibits, other evidence that were presented at the earlier hearing before the hear's officer. You cannot bring up anything new. This hearing is designed only to decide if the hearing's officer made the right decision based on the evidence that was presented to him. If you start to talk about new issues or try to present new evidence today, you may be interrupted, and reminded, you must limit your testimony to the record. Next, I want to cover the order of testimony. We will begin with the staff of Portland, by the opdr staff, by approximately ten minutes, following the staff report, the city council will hear from interested parties in the following order -- the appellant will go first and will have ten minutes to present his or her case. Following the appellant, the persons who support the appeal will go next. Each person will have three minutes to speak to council. This three minutes, time limit, applies regardless to whether you are speaking for yourself or man of the organization, such as a business association or neighborhood association. Next, applicant, will have will have time to address the council. The council will then hear from the person from the appeal. If there is no principal appeal, council will

move directly to testimony of the persons who oppose the appeal, after the supporters of the appeal conclude their testimony. Again, each person will have three minutes each, whether you are speaking for yourself or on behalf of an organization. Finally, the appellant will have five minutes to rebut the presentation of the opponent. The council may then close the hearing and deliberate. After the council has concluded its deliberations, council will take a vote on the appeal. The vote is a tentative vote. Council will set a future date for the adoption of findings of the final vote on the appeal. If the council takes the final vote today, that will conclude the matter before council. If you wish to speak to council on this matter and have not signed the list located outside of council chambers, please sign up at this time with the council clerk.

**Katz:** Okay. Frank? That's it?

**Hudson:** No, one other piece. Scope of testimony on the record hearings. First of all, the evidentiary record is closed. Again, this is another record hearing. It is not an evidentiary or de novo hearing. This means that you must limit your remarks to arguments based on the record compiled by the hearing's officer. Presenting your arguments is permissible, it is permissible to refer to evidence present to do the hearing's officer. It is not permissible to present new evidence today that was not submitted to the hearing's officer. The planning staff and I will be listening carefully to your argument, and if it strays from the evidence or issues presented at the initial hearing, I may interrupt and remind you that you must limit your argument to issues and evidence in the record. If your argument includes new evidence or issues, the council will not consider it. It will reject it. In the council's final decision. As far as objections to new evidence goes, if you believe a person who has addressed council today properly presented new evidence, or presented illegal arguments that relies on evidence that is not in the record, you may want to object to that argument. Council will provide a time at the end of the hearing for anyone to offer this kind of objection. Finally, under state law, only issues which were raised for the hearing's officer may be raised in this appeal of the city council. If you believe another person has raised issues today that were not raised before the hearing's officer, you may object to council's consideration of that issue. Again, the council will provide a time.

**Katz:** Thank you, frank. Sorry I interrupted you. Declaration by council members of conflicts of interest. Declaration by council members of ex parte contacts. There seems to be none. Does anybody want to challenge the council? The council members? If not, then we will proceed with the staff report.

**Silvia Cates, Office of Planning and Development Review (OPDR):** Good afternoon, council. I am Silvia Cates, city council with the land use division of opdr. And before I get started -- Before I get started on my presentation, I would like to note that for your convenience, I asked Britta to provide you of a hard copy that you should have at hand that's a copy of the revised site plan that the hearing's officer approved. It is labeled za-1, and I thought it would be helpful for you to have it in front of you during this presentation, so if you need to get it, you have got a spare copy of that. At&t wireless requests the conditional use approval to install wireless telecommunications facility, consisting of an 80-foot tall monopole and an associated 12-by-28 foot electronic equipment shelter. Such facilities are allowed by riding the general commercial zone. If the monopole meets the height limit of the zone, it is more than 2,000 feet away from another monopole, and is greater than 50 feet from a residential zone. This review was required because the monopole exceeds the 45-foot height limit of the base zone. And the facility is within 50 feet of a residential zone as it abuts immediately to the south. The applicant also requests an adjustment to reduce the landscape screening required for this facility. Many concerns about the proposal were expressed during the hearing. The issues raised were generally clustered around concerns about visual impacts, health concerns from radio waves, and primarily the increased opportunities for lurking and hiding places,



the facility and related landscaping might provide for criminal activities. During the hearing, the applicant asked the director to be held open so that the concerns that were raised could be considered further and mitigated by a revised proposal. After meeting with several neighbors, a revised site plan was submitted that relocated the facility and equipment shelter further to the west. Away from the balcony views of the apartment building that's immediately to the south of the site. The hearing's officer found that the revised site plan met all of the approval criteria. In the decision, the hearing's officer acknowledges the concerns that were raised by the neighbors, but notes that many of the objections were not directly related to the criteria for approval. His discussion of these or are detailed on pages 21 and 22 of the hearing's officer's decision. The revised proposal and landscaping adjustment was approved with revisions made to the mitigation required for the requested landscaping adjustment. In 1996, congress passed the telecommunications act, which deregulated the industry and increased substantially the number of service providers in the marketplace. The act preserves the power of local governments to control land use in zoning for telecommunications facility, but forbids regulations that would have the affect of prohibiting wireless services or discriminating between providers. The city of Portland revised the applicable zoning code regulations in 1997 and among the revisions, developed a number of stringent, approval criteria and the development standards for facilities located in or near a residential zone --

**Katz:** Let me just interrupt. Was there a court case recently with regard to this issue? That gave local jurisdictions more power to control these radio towers or the location of these radio towers?

**Cates:** Actually, since '96, there has been a plethora of court case law that is further defining where the local jurisdictions rights and the fcc's authority takes over. So, there is a number of areas where --

**Katz:** Okay. I want to get back to that then, if there is anything else that we need to do in our code.

**Cates:** All right. Certainly. This proposal before you was found to meet the approval criteria and the requested landscaping adjustment was approved with mitigation in the form of significant landscape buff erring to be installed along the southeast powell frontage. The site is zoned, general commercial, and abuts the residential 2000 zone along the south property line. The southeast corner of the site abuts the r-1000 zone. The site is 2.38 acres developed with two commercial buildings and a drive-through automated bank teller building. The applicant originally proposed locating a wireless telecommunications facility adjacent to the auto teller building, toward the rear of the site. The south property line abuts the r 2 residential zone and the site is separated from an adjacent apartment building bay moderate slope. Two loading docks also face towards the residential area to the south. The facility was originally proposed to tuck in behind the existing restaurant building and in such a way as to have a minimum of impacts on adjacent parking and vehicle maneuvering areas. At&t proposes to mount the antenna's flush to the monopole so there will be no visual clutter at the top of the pole. However, due to the relationship of the facility to the apartment building, staff was concerned about the lack of screening and recommended that significant landscaping be installed along the south property line. At the hearing, neighbors expressed concerns about the facilities' location near the loading docks and automated bank teller building, as well as its proximity to the nearby apartment building. Many objected to the recommended landscaping on the grounds that it would provide hiding places for the homeless and for criminal activities. Neighbors also expressed concerns about the recommended landscaping, which would block views into the site and into the nearby loading docks. Where undesirable activities are alleged to take place frequently. The applicant held the record open. Met with concerned neighbors, and submitted a revised site plan that places the facility over 100 feet for the

OCTOBER 12, 2000

west, away from the direct views from the apartment balconies and away from the auto teller building. The applicant stated that this placement addresses the concerns of the neighbor. The configuration of the facility places the monopole further away from the apartment views with the placement of the equipment shelters shielding the ground-level views of the pole from the southeast and the southeast. At&t wireless has an existing facility several blocks east near 39th and southeast powell. The proposed new monopole is intended to replace this facility in order to address signal coverage and capacity within their network. This is a view of that existing facility. The site --

**Francesconi:** So is that one coming down? I am sorry.

**Cates:** Yes, sir, that one is coming down. The site for the proposed new facility has extensive frontage along southeast powell boulevard with a large parking area between powell and into the commercial buildings. Both buildings on the site have multiple retail tenants. This is a view of the building along the east side of the site. Due to the topography of the site this adjacent apartment building overlooks the commercial development and has no benefit of any significant landscaping or buff erring as is required by the code to provide separation of commercial development from adjacent residential uses. The facility was originally proposed to be adjacent to the automated bank teller building. After meeting with neighbors, the applicant submitted a revised site plan that moves the facility over 100 feet to the west behind the pink line that we see at the bottom of this picture. This is a second view of the revised location compared to the original location. The revised location indicated in pink indicates there is a facility away from the views of the adjacent apartment building and away from the automated teller building. The proposed facility was found to meet all of the applicable approval criteria with conditions of approval. And the hard copy before you is the site plan that decision approved. The applicant has indicated to staff that they have continued to communicate with the concerned neighbors and have explored several additional modifications to the approved site plan to try to further address their concerns. And I would like to just make a note to council that the applicant has extended the -- 120-day clock until november 9th.

**Hales:** Just a quick question. You probably said this but I missed it. And that is the revised site plan come after the hearing's officer decision or before?

**Cates:** No. It -- the record was held open and the approved site plan was submitted during that period of time that it was held open.

**Hales:** So the hearing's officer is based the revised site plan, not the original one?

**Cates:** Correct.

**Hales:** Okay. All right.

**Katz:** Okay. Principal appellant? You have ten minutes.

**Amanda Schueler, appellant:** My name is amanda schueler, and my address is 3711 southeast lafayette court, Portland. 97202. And I would like to thank you, mayor Katz, and council members for the opportunity to state our concerns today. At the hearing's review on july 31st, 2000, more than 30 residents stated their opposition in person and in letter to at&t's proposed construction of an 80-foot monopole and accompanying utility structure in our neighborhood at 3582 southeast powell boulevard on the basis of livability and safety. As the monopole exceeds height restrictions by almost double and the proposed site is closer than 50 feet to a residential zone, we believe that present zoning laws supported our position. We learned from the hearing's officer, however, that the height and distance numbers were merely guidelines, not laws, and that at&t legally could proceed with construction. This revelation left many of us scratching our heads and wondering why these zoning guidelines, even exist, if they are routinely set aside. Of even greater concern was what avenues of recourse are available to Portland residents who want to keep neighborhoods safe and attractive. While the hearing's officer couldn't consider a position relate to do zoning, he did conceive that safety concerns warrant add two-week extension of the hearing to further

OCTOBER 12, 2000

investigate and seek possible solutions. This resulted in at&t proposing a minor change in location of the tower and building. Which satisfied the hearing's officer, but in no way, satisfied the residents who feel that the new location does not address our safety and livability concerns. The proposed location is a widely used pedestrian thoroughfare connecting southeast 35th place to southeast 36th place. It is our own access to point south and west without walking on busy powell boulevard or 39th. Our children, of whom I have four, ride their bicycles through this corridor. Families walk through there on their way to kenworth park. As testimony from the hearing indicates, we have had to deal with loitering in between buildings and behind bushes. We have seen human waste and used syringes in this area. We do not wish to add to the problem by erecting more structures, which invite criminal activity. On page 21, part 3 of the decision of the hearing's officer, titled "general neighborhood concerns," the hearing officer states, "it is unlikely that transients and criminals would flock to this property to lurk in the shadows of the equipment shelter. It is not as if the immediate surrounding area is not already well endowed with a large number of structures and dense landscaping. This particular proposal would not seem to significantly increase the possibilities for lurking." However, the police, who is the response team representative for the southeast precinct of the Portland police, and marsha dennis, the southeast crime prevention specialist, stated to the hearing's officer that the building would increase existing criminal conditions. In the recent past, the city council adopted the neighborhood association designed development plan, which promotes pedestrian use. Yet another structure in an area which, by the hearing's officer's own discrimination, is already well endowed with a large number of structures and dense landscaping is in direct contradiction to the plan and to livability, in general. In addressing safety concerns of the neighborhood at the july 31s hearing, at&t representative, spencer vale, suggested burying the equipment building as a possible solution. This suggestion, while not ideal, would be acceptable to the neighborhood. But, it was not pursued by at&t or by the hearing's officer. You will hear some further comments from my neighbors about our conversations with spencer vale and at&t, and we would like to ask the city council to help us to reach a solution that would maintain the livability standards of our neighborhood and meet the technical requirements of at&t.

**Katz:** So, let me ask you the question, if council directed at&t to bury the equipment shack -- the building there, would that satisfy the neighborhood association or the neighbors?

**Schueler:** Yes. We do not have an active neighborhood association but the neighbors involved would be satisfied.

**Katz:** Thank you. Further questions? All right. Anybody supporting the appeal, come on up. Neighbors, supporting the appeal? Do we have a signup sheet, Britta?

**Katz:** Well, why don't we just -- there are not very many people here. Who else wants to testify? Come on up, then, if you have a special order, that's all right, if not -- go ahead, sir.

**Ray Soucie:** Good afternoon. My name is ray susy, and I live at 3700 southeast lafayette court, 97202 which is one block east of the proposed site. I lived there for nine years, and i've been active in my neighborhood. My neighborhood association. I've testified at various planning development commission requests on how to be a good Portland citizen. And to be frank, I have spent over 40 hours of my own time on this, alone, before that, new owners of the property wanted to put a methadone clinic in. And you know, I voted, for various things that all of you support, and I support as a citizen of the city, but one of the problems that we have is we are losing our ability to govern as a neighborhood. We didn't have an active neighborhood association when the signs went up, yet. Yet, 30 citizens came down and testified at this hearing. How many times did 30 people come down and testify without a neighborhood association? There is a problem here. And the problem is that they want to put up an 80-foot monopole tower right near people's apartments. And

OCTOBER 12, 2000

it is a different form of graffiti. It is architectural graffiti. And we need your support to stand up like you did when it came time to fight the electronic signs for various reasons. And say, it has to stop. The photos that they showed was of a 45-foot tower, not an 80-foot tower, and I did the homework, and -- I found that fcc governs who decides what happens. And they gave the governance to at&t, and now it is in at&t's best interest to make money, and they want to put up an 80-foot tower and it has to stop because the 45-foot tower didn't work, now we need an 80-foot tower. Who is to say they don't need a 120-foot tower one or two years from now because their signals are dropping off? We are your neighborhood. We vote and we want your support because we need this corrected. We got a call yesterday, the day before this hearing, from mr. Vale, that they would like to work with us and move the equipment building that we appealed. This is the second location that they have proposed. We got a call the day before the hearing that they would like to consider other locations to satisfy our needs. How much time do we have to research this before we come and testify with you? I don't consider we are getting a fair shake on this, and that's why we are here. We really want you to help us consider that the report from the -- that we just heard said 12 neighbors testified. There were over 30. I called marsha dennis and asked her to come and testify, and her rules prohibit her from coming to testify. She's our neighborhood safety person. We have neighborhood safety concerns. And she is prohibited from testifying. There is a problem with how we are governing our neighborhood and how we are infilling and that's my concern, and I appreciate your attention. Oh, may I say one last thing? I am sorry. The photos that were presented don't show the neighborhood on both sides of this property. There is single home dwellings on each side, and that's where we live. And our kids do go to the park through that property there, and these are very, very difficult times for us because now the owner of this place also has a strip club that just replaced our bowling alley. He doesn't maintain his property and he has numerous violations of --

**Katz:** I think you probably are veering off.

**Soucie:** Okay. Thank you very much.

**Katz:** Off the issues, but --

**Soucie:** Thank for you hearing what I had to say.

**Spike Friedman:** Council members, mayor, I live at 3737 southeast 36th place, number 20, been there for 31 years. I have seen you all, the property evolve since it was a gravel route from one neighborhood section through another neighborhood section. This proposed tower, by the way, is supposedly less than 50 feet, and in fact, I will tell you that it is literally 15 feet between the tower and the buffer zone, if you will, to the residential area. 15 feet. That's not 50. It is not near 50. It is 15. It is also in direct view of the unit that i've been in for 31 years. So, if somebody has testified that it is, in fact, out of view from the apartment complex and the balconies, that's not true. If you care to come to my residence, stand in my balcony, or look out the bedroom window that I live in, you will see that it is 15 feet from the residential property line. There has to be a better location. I will give at&t credit. They have tried, not in a timely pay, we are say, because they just made changes yesterday so, we had to mobilize again yesterday afternoon. They have tried to do what they could to appease us, in all offers and alternatives. Moreover, this is not a good place for a commercial tower of 80 feet. It is between homes, literally, and right, if you will, 15 feet from quite a number of apartments, and I would suggest that probably 20 different people were getting to see this, virtually right out of their door every day or out of their window every day. It is just not an appropriate place, bottom line. If we have to have it, it is legal, yes. Staff says it is legal. At&t wants it. The owner of the property wants it. Those are the three people who want it. Zoning is for something that I think that we are all concerned with. That's livability. Livability for community. And that includes, if you are in a commercial community and residential community.

OCTOBER 12, 2000

And when we have 30 people who have banded together, without a neighborhood association but come together for this cause, and we see the legality through staff, we see the desire, through at&t, and the desire from the landowner, we still have three people against 30. And that's why we have had to come here today to appeal this to you because yes, it is legal, et cetera, et cetera. But, 30 to 3, I think that's why the onus now falls on your shoulders to make a prudent decision about your community, your community as a whole, not as a residential community or as a business community, but look at the greater benefit.

**Francesconi:** Sir, I was trying hard to figure out a way to help you, but have to tell you just kind of hurt yourself not unintentional, but, because you just said that yeah, it is legal, but it is 30 to 3, and therefore, council, do the right thing. See, we've been in circumstances with 100 to 1 or 100 to nothing on adult businesses, for example, but because the constitution allows it, you know, we have to uphold the law. On liquor cases, but what I am trying to tell you is, it is hard for me to kind of violate the law even when I want to. Because then the lines are gone, and it is kind of my interpretation -- if I -- first of all, I am not sure that I can, even if I wanted to. I just don't think that I can, sir.

**Friedman:** Commissioner, then answer me this question, and it is really sad that I think that the neighborhood association has had to come all of this way to appeal something that's legal. Why do we bother? Tell me that.

**Francesconi:** Well, I think that that's a good question that we should have a discussion about. See, we need criteria that we have to, unfortunately, are bound by. And sometimes, you know, we can stretch the criteria because there is different interpretations on the criteria, and the council really bends over backwards to do that. But, I think that it is incumbent, maybe we don't give you adequate advice somewhere along the line. But, it is incumbent to kind of look for a criteria that we can kind of deal with. Here, you were just honest, which I appreciate, but it is maybe a little too honest. I am just trying to tell you what I am thinking.

**Friedman:** I appreciate what you are saying. You have to follow staff because that's --

**Francesconi:** No, no, it is not the staff. You are talking about fcc?

**Francesconi:** I am talking about the law, not the staff. We deviate from staff. We don't deviate from the law. So, I guess what I am doing is, if the future people are testifying, it would be nice if you try to focus on something in the law to give us a little help here.

**Katz:** Thank you. You will hear further discussion, I am sure, among the council. Anybody else? Come on up.

**Ronnie Carey:** Good afternoon, I am veronica carrie and live at 3700 southeast lafayette court in Portland. As far as the criteria goes, for siting this instillation, we have strong objections to the height. Which at&t has told us that they need in order to have this unit function the way that it should. 80 feet is huge. It is tall. The fact that I have safety concerns are not a real issue disturbs me deeply and I am not going to bore you, but I called the police on a weekly basis for problems, on that property. My cynical self is saying, okay, we are going to accept a compromise with at&t to site this utility building in a spot that's less maddening to us and our safety concerns. But, I still -- I have a big problem with this whole process, and the way that it happened. The height of the pole is still an issue for me. I am still, in my heart, opposed to it because of the height of the pole and the way that it is going to look. I think that they could have put it on the front of the property and not in the back. Our neighborhood association, when it was functioning, came up with the plan that indicated that this area should be developed more as a pedestrian walkway, and none of that has ever been addressed, so we get involved in the process of communicating with our city officials, but it is not taken into consideration when it comes down to the nitty-gritty of, well, who is making money. At&t. This is -- this is not helping us, at all. Thank you.

OCTOBER 12, 2000

**Katz:** Thank you. I am listening to the testimony. Could you -- do the development standards 33.274.040 apply to this or not?

**Cates:** Yes, they do.

**Katz:** They do?

**Cates:** Yes.

**Hales:** What was that citation?

**Katz:** Page 10, 33274.040 applies. Insure that radio frequency transmission facilities will be compatible with adjacent uses, reduce the visual impact of towers in residential and open space, whenever possible, protect adjacent -- those apply.

**Cates:** That's the intent of the development standard.

**Hales:** That's the purpose statement, and then the standards are what you cited, or what the hearings's officer cited --

**Katz:** And I needed -- well, come on up. I am just -- I want clarification, as I am trying to help commissioner Francesconi or anybody else that needs help, yes, you are right. That is the purpose. How does that relate to where we are at this --

**Hales:** My understanding is, in the conditional use decision, we get to consider the purpose statement, but we also have to consider the specific criteria, that tried to put that purpose statement into effect, right? It is not like we can't look at the purpose statement. We get to look at both because it is a conditional use? Help me out here, is that correct?

**Cates:** Yes.

**Hales:** Is that your understanding, jim?

**Cates:** The approval criteria are what are applicable. The development standards are the implementation of the purpose statement.

**Hales:** All right.

**Cates:** Yes. Does that help?

**Hales:** No. [ laughter ] The question, is do we get to utilize the purpose statement in making our decision?

**Cates:** It is not an approval criterion.

**Hales:** So the short answer is basically, no? We use the criteria?

**Cates:** Right.

**Hudson:** I think that you have to interpret the approval criteria in a manner that's consistent.

**Hales:** Okay. That helps. Thank you. I needed that.

**Katz:** It has to be a relationship with the approval criterion in the purpose statement, otherwise you wouldn't have purpose statements.

**Hudson:** Right.

**Hales:** I needed that reminder.

**Katz:** All right. Go ahead.

**Andrew Koyaanisqatsi:** Hi, I am andrew, and I live on 3730 southeast lafayette court. Frequently, use that parking lot area as a thoroughfare to go on walks. I basically want to sit here and stand before you and tell you to take into consideration what my fellow neighbors have said already. You know, i've met with at&t, and i've met with spencer vale's boss, ron fowler, under the pretense of discussing alternate locations because actually, you know, there is a big area where a tower and that company utility box can go of several blocks, it doesn't have to go in this area, and I think that at&t has, in the past, as I look at other at&t facilities and structures, has made an attempt in the past to try to hide these things, and I think that they might have thought this was a good place to hide a utility box in a cell tower but they didn't realize how much this area is used by the community, so I think that they made a mistake in choosing this area as kind of some sort of

deserted back parking lot, which it isn't. And I believe that there are areas within their designated area that they can put a cellular tower which would fit within their cellular tower criteria. I met with spencer's boss, ron fowler, soon after one of the hearings, under the pretense of discussing the possibility of those other locations, and much to my surprise, he was not open -- he was willing to meet with me, but he wasn't willing to consider alternate locations. He pretty much told me that it was going here, like it or lump it, and I asked him, well, why have we bothered to meet here? I thought we were meeting here to drive in the lot and point out where other locations would be. And he said listen, we have to be in by october 1st and we are not, you know -- we might consider burying it, but, you know, it is going there. And you have no recourse, he told me. So, I think it is an inappropriate spot. It will have a big impact on the neighborhood. We have troubles. It is a very fragile area. There is lots of safety concerns that no matter where they put it, unless it is underground, the safety issues will not be able to be adequately addressed. So far as the required landscaping is concerned, it is already -- the property, itself, doesn't have already the landscaping that's required, and so, we have no faith in landlords to maintain appropriate landscaping because the landlords are really, you know, just not really concerned about the neighborhood at all, so far as I can tell. So, I hope that you take this under consideration. Thank you.

**Katz:** Thank you. Take the other mike. Yeah. That's fine.

**Elsie Butler:** Thanks. My name is elsie butler, and I live at 3645, southeast 38th. 38th fetus right into lafayette court where he lives and that feeds right into the bowling alley back of the parking lot back of the bowling alley. This is what the area that we have been talking about means to me. It is the parking lot back of the bowling alley. And I have lived at this address in the neighborhood since is 1953. At this address since 1960, and I have walked in the neighborhood. I have pushed my grandson in a stroller in the neighborhood, always through that parking lot because it leads onto other streets, residential streets where we can walk around and the kid gets some fresh air, I get some exercise, and now it is my 5-year-old granddaughter. I am doing the same thing with. And sometime, a year or so ago, I was starting through the parking lot, and there in -- near a bush in a bed that borders the parking lot, there was a nice, fat, wet, stinking pile of human excretae, recently deposited. And I think that now, am I going to have to risk taking my granddaughter past something like that? My point is, that those who abuse property by using it as a public toilet are already with us, the transients in the neighborhood. What is planned for this parking lot will just make it worse. Thank you for your time.

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

**Tim Ramis, Crew, Corrigan and Bachrach, attorney for applicant:** Mayor Katz and council, I am tim ramus and I am a lawyer, I am at 1727 northwest hoyt in Portland, and I am here on behalf of actual t and t wireless, the applicant. With me is spencer vale, who will make the bulk of our presentation. Spencer handled the hearing and the presentation of the application below. I would like to introduce the subject, though, by acknowledging that a central concern of the community has been, throughout the proceeding, where this facility on the site could be located. We realize we can't address all their concerns but we have made an effort to find a location on-site that begins to lessen the impact that they feel. We had an original proposal, and then changed it. The hearing's officer proposed or approved a modified version of it. And in the course of doing so, ruled that, while there were concerns about personal safety, that it was not directly relevant to the criteria. Even though we received approval under that theory, it is impossible for the company to ignore this concern by the community. And therefore, spencer was assigned to continue to negotiate with the property owner to try to find still another location on the site that might have less impact. As you can imagine, we have to try to juggle the concern of the community with the limitations on location that we have in dealing with the property owner because we don't have an infinite number

of locations to choose from. We have found another location, essentially, a third possibility, which you could consider under your authority to modify the conditions of the hearing's officer. This option has been shared with some of the neighbors. You heard some reference to it in the earlier testimony. Essentially, and spencer will describe it in more detail. Essentially, it is to move the shelter to a location that is up against an existing building so that there is not an additional free-standing structure that could be in a position where people might lurk behind it. I have drafted some revised conditions that would mandate the moving of the shelter to this other location, and would ask that you consider those in making your decision. With respect to the criteria, I agree with the interpretation of the hearing's officer, which I think is consistent with what the city attorney has told you. The criteria appears in the code. The purpose statements are not directly applicable. However, in interpreting the standards, you may consider the purpose section. You have implemented in your code the purpose that deals with dealing with visual impact by having criteria dealing with tower sharing, grouping of towers, tower finish. Tower illumination, things like that. This is not a subjective judgment about generally the visual impact of towers.

**Katz:** Well, but isn't one of the criteria the impact of the tower in the surrounding area must be minimized?

**Ramis:** That's correct. That's correct. You have the authority to do that, and that's the, essentially, the road that we have been going down is to try to figure out how to do that.

**Katz:** I stopped the clock for a second. I am -- when you are on this, respond to why the need, and I am not an expert here, at what 39 feet, you are going up to 80 feet. You could, eventually, go up to 130 feet, talk a little bit about -- that would be minimizing --

**Ramis:** I will elaborate a little further, if I can, madam mayor. It has proved that that's the only way to provide the service. So talk to us, one of you, about other sites in the area and why they might object -- you have the center right across the street with a large parcel with a nonprofit organization --

\*\*\*\*\*: They said no.

**Hales:** Okay.

**Ramis:** : We will let spencer address that.

**Vail:** You want me to respond to those direct questions?

**Katz:** No, why don't you go ahead, but respond to those questions. The landlord, on this particular site, said yes. And that's the reason that you are there.

**Ramis:** : Yes.

**Katz:** All right, go ahead.

**Spencer Vail, Planning Consultant for applicant:** I am spencer vale. Let me respond to some of the council's inquiry and go over a little further. You saw the slide of an existing cell tower on 39th and belmont, and it was 40 -- or 45 feet in height. We have cell towers at 21st and hague, 39th and hawthorne. This site is right in the middle. We are doing an upgrade to the system now that requires more space for the equipment shelter, and the shelter at 39th and powell is too small, and there is no room on that site for us to implement the larger shelter. Therefore, we have our engineers develop a search circle, which is part of my response to the hearing's officer, that is in the record, indicating where we should go and we did approach the prairie center and they said no. That was our first shot. It was taller -- a little higher-up would have meant a lower tower. The technology requires line of sight. Prior to my submittal, the hearing's officer, there were charts showing why this height and why this particular location, why we needed the height and how it related to the other towers to maintain the coverage so we don't end up with a hole in the middle of our system. Those charts are part of the record and were submitted to the hearing's officer during the period of time when the record was left open to justify why we needed this location. I am sure



that you are aware that we lease 99% of our property. We don't have eminent domain. We have to find a willing landlord and negotiate an arm's length transaction for the lease. Which is what we did in this location. And as was indicated, our first thought was we could go up next to the drive-up teller facility. The bank objected to that. And the neighborhoods objected to that for public safety reasons. One of the issues that we considered during the period of time that the record was left open. In addition to the concerns of the neighborhood. The slides in the zoning map clearly show that this is a parking lot and a truck loading area for commercial development that extends the full block, length between the two -- between two streets on the east and the west. Although the neighbors are correct, and I have seen a lot of people do use that, rather than walk on powell, but it is a commercial activity in that area. We approached the property owner on where we can locate on this property that would not disrupt the normal flow of traffic. Where he could still get his vehicles in to supply merchandise to the business in the truck loading area, and we moved the facility further to the west as shown on this staff's slides. That's the area that the hearing's officer approved. With respect to the landscaping issue, I think that to a person, objecting to the proposal didn't want to see any landscaping at all around our facility, for the reasons that they stated about public safety and lurking and creating places for transients to do whatever they might want to do to do that, that's why the hearing's officer put the condition that a light amount of landscaping would be provided elsewhere on the property. Although, we didn't object to providing the landscaping or improving the landscaping in the bank separating the, our facility from the residential zone, the hearing's officer responded to the neighborhood concerns, and required no landscaping around the facility. The -- even if our facility were undergrounded, that doesn't mean that you don't see it at all. The facility is air-conditioned, which means that there has to be a unit above ground for a trapdoor for the person to get into, there is a lease -- at least a 2-by-4 foot long by 4 foot high electronic box for wiring in connection to the power source, similar to any telephone utility box that you can see along the right-of-way where you open it up and you have the wires and switches and things like that, so it doesn't completely eliminate the need for -- doesn't completely eliminate something that someone might be able to hide behind. We would also have to protect that with a fence or something so the people don't run into it. In addition, it is about 75 to \$100,000 more expensive to do that. Although, we did explore that option along with the other options, when I had the meetings with the neighborhood, what we opted was to put the -- to put a light on it so that, that there would be a deterrent, to lurking behind the building, as you can see on the site plan that the hearing's officer approved. We continued to work with the neighbor -- or with the property owner to see if there were other property locations on that site where we could go that had further lessen the impact and address the concerns of the neighbors. Several things that we had to evaluate in the process. There was numerous underground utilities, waterlines, sewer lines, gas lines, you couldn't bore down into for a tower foundation because it would be impossible. We also looked at other areas around his facility where we could go. There is overhead wires that posed a problem where a tower could be safely erected by a crane operator and still meet osha's standards. We came down to a couple of other alternatives where we could go that they mentioned that I contacted yesterday. Well, I didn't know answers to those questions until monday afternoon. But, we are continually trying to find a place where we could address the concerns that satisfy the use of the parking lot by the pedestrians, not creating a lurking, hiding place at the same time, meeting our needs, and this is where we need to go and this is, you know, it is within our search circled area. We have a willing landlord, and we have been trying to address the concerns of the neighbors in our pursuit to accomplish this matter. If I didn't answer all of the council's questions, I would be more than happy to do so now. If you have some, the comments raised during the testimony of the opposition, I think I covered, or are covered in the materials that are part of the record already.

OCTOBER 12, 2000

**Saltzman:** Is it appropriate --

**Katz:** Yes. Are you finished, both of you? If not, we will hold six minutes because you have got some time.

**Vail:** That's fine, thank you.

**Saltzman:** Did you consider any locations north of the buildings on the property? Between powell and the buildings?

**Vail:** Well, that's north of the building, the landlord, it is all parking lot for the commercial businesses that are there now, and that space was not available to us by the landlord.

**Saltzman:** But you also are taking out some parking spaces at the proposed location, too, is that correct?

**Vail:** There would be three or four spaces in the back of the facility that are not as actively used by the people visiting the taco facility or the chinese restaurant or some of the others.

**Saltzman:** So the landlord basically said, nothing on the other side of the building?

**Vail:** That's right. On the south side.

**Katz:** And the reason for that?

**Vail:** That's his active, usable parking lot for all of the businesses that are on powell. It would be less disruptive to his business to have us on the back side. We had one alternative to go way down at the west end of the facility, put the equipment shelter inside the existing building, and the monopole down at the west end, but the neighbors didn't like that idea. When I spoke to them yesterday, he felt that the pole would be visible to too many more people at the west end and they would rather have it where it was and suggested moving the shelter up next to the building and amongst the loading dock area, and that's the gist of the letter that I have presented to the council. We have been looking at several places.

**Hales:** So you have a new proposal at this point or a new possibility --

**Vail:** It is a possibility.

**Hales:** That the tower up near the loading docks, nestled up against the existing building?

**Vail:** The utility building would be pushed --

**Hales:** What about the tower.

**Vail:** The tower would stay generally where it was, as approved by the hearing's officer. One of the things that -- well, let me put it this way. It is a commercial zone and the owner could go in and build and build another building in the back or whatever, and only do building code things that would present the same wall, the same mass, whatever it is, that someone could lurk behind. We are trying to appreciate that concern and move our facility some place where the neighbors would feel more comfortable with it and not create the perception of another -- a hiding spot that would disrupt their use of this area.

**Francesconi:** There is that concern, and I am sorry, I can't visual the modification, are they going to be able to use this as a pedestrian walkway? That seems like a legitimate desire. Will they be able to do it under the new proposal?

**Vail:** There is -- this is a large parking lot area that runs from 35th to 36th street. There is no marked pedestrianway there now, they use it. They go to the bank drive-up facility, you drive there or you walk there. It is not going to be that disruptive to a straight line way to get from point "a" to point "b". It will only be like 4 feet of the base. The equipment shelter is up next -- if we put it up next to the existing building, is in an area where they don't walk now anyway. We would be fencing -- or gating or something the back of the building to the existing building to prevent a hiding spot or a crawly spot where people could go, so it would be basically, physically attached to the existing building. And we are trying to get it out of the way.

OCTOBER 12, 2000

**Francesconi:** My last question is about the height. And now let's look at the criteria, the approval criteria. There is two of them that relate to height. The visual impact of the tower in the surrounding area must be minimized. This can be accomplished by one of the following. Limiting the tower height as much as possible, given the technical requirements for providing service and other factors. Such as co-location. And then public benefits to the use, number five, must outweigh any impacts, which cannot be mitigated, and then they talk again about the height. I mean, the value to you, having the height. My problem with these criteria is you have the information. I mean, as to -- or does the hearing's officer, or the other -- because it is pretty technical, and so I don't know how we evaluate --

**Vail:** We showed the hearing's officer, submitted to the hearing's officer information that showed why 80 feet was the necessary height to provide the coverage that we need in this area. One of the reasons is, number one, this is slightly lower than the -- in elevation, than the existing tower that we have up on 39th and powell. Secondly, the new equipment and the modifications require a different height than we currently have as it relates to the other cell sites in the area. We had to raise the, the height of the tower on 39th and hawthorne recently because the fred meyer built the second story on their building, it is over there behind old masonic lodge, but that went through the regular herring's process and did not get appealed to council. It was constructed. So, since line of sight is a factor, the relationship of this sight to that sight on 39th, which is the one it hands off to, was a critical factor in determining that height, also. We can't -- we have to be taller than the buildings around us so that the signals can travel that way. Now, a lesser height would not work for us in this location.

**Francesconi:** But how do we know that it is not 70 or 60 feet or 50 feet? I mean, I am not saying that --

**Vail:** We have to rely on the information our engineers provided to us on the you want mum height -- we are not going to build it taller than we want to. It is one of the things that --

**Francesconi:** Because why not? Explain that to me? I am not arguing with you, I just want to understand. Why would you not build it taller?

**Vail:** If we built it taller, and our antenna needed to be at 80, and you have 20 extra feet of pole sticking up there thinking that sometime in the future, somebody might want to co-locate on that facility, and they never do, you have got this stick up in the air that doesn't look that well. We don't need to be that tall. And as all the co-axial cables that feed the antennas, they are about an inch to an inch and three quarters in diameter, are all inside that tower, and you have got six antennas, this is a flush mounted antenna, which reduces the visual impact as contrasted to the triangular top hat, all those co-axials are inside the monopole, but the monopole is designed for a second carrier, it is that much bigger in mass because the other carrier's cables have to go inside that tower, also. So there is some trade-offs on visual impacts and co-location that continually would be a battle and discussion as a policy statement no matter what jurisdiction I am working on or with in adopting the modifications to the code requirements.

**Francesconi:** Let me try to verbalize. I am assuming the engineer supports what you just said and the hearing's officer had a finding but the hearing's officer is not an engineer and he has no way of kind of independently verifying that. And then you have the citizens here and they didn't hire an engineer, so if the engineer -- you control the engineer, then the only source of the information is from the engineer, and that's the approval criteria, and we have no way of double-checking that, and that bothers me from a system standpoint.

**Ramis:** That is a feature of the code. I mean, once the council passed a code that introduced this issue, what's the technical requirement for height, that became a problem. And I acknowledge that it is. In this particular record, there is no one who has contested that evidence. It is, it is

uncontested testimony that is necessary. So, that's the legal framework we are in. As a practical matter, and this, I think, was the question that you were asking, is there really an incentive for the, for the applicant to build taller, and the answer is no. If we build taller, there is a price that's paid. One, in terms of community relations. Another in terms of cost. And that's an additional cost that's really -- you get nothing back from. And there is no technical incentive for us to build higher than necessary because you don't get additional performance if you build a piece of your, of your network taller than is really required. It doesn't help out the rest of your network. So, we don't have a situation where we go and try and you know, if it is possible, to object to 100, will they object to 120? It is not done that way. We ask the engineers what's the minimum that's necessary because we don't want to spend more money and we certainly don't want to spend more capital in terms of good relations with the community than necessary.

**Francesconi:** Okay, so --

**Vail:** One of the things, the way a cellular system works, we are only assigned "x" number of frequencies, and it is the reuse of those frequencies by other cell sites within our system that make it function. For instance, if I am talking on frequency "a" here, 15 other people could be talking on frequency "a" on other cell sites that aren't adjacent to this cell site, so, we can't build a tower fall enough where, or too tall where the frequencies utilized by this particular cell site slop over onto other cell site and disrupt or interrupt its coverage. You are looking down on a honeycomb effect. Each one being independent of the others, and so it is a very -- when you are doing an infill site like this, you really have got to massage all the other cell sites around there to make them fit so that they don't interfere with each other, and we believe --

**Francesconi:** Let's say that the council decided 60 feet or 70 feet, are you -- is your testimony that it wouldn't work? It just wouldn't work?

**Vail:** That's right. Substantially it would reduce the coverage and impair our ability to meet our responsibility under our permit.

**Katz:** We are not quite finished with the hearing. But, I will take another question.

**Saltzman:** You mentioned that there is a circle that this has to be in. What's the diameter of this?

**Vail:** It is in the record, and if I have a copy, I will pass it up to the council, if that's all right.

**Saltzman:** Or, if you can tell us what the diameter is, if you have it on the map.

**\*\*\*\*\*:** Yes, I have it on a map, and --

**Vail:** This is the location of the proposed cell site, and this is the center across the street and this is 39th, so that gives you some idea.

**Katz:** Are there any other towers around this area?

**Vail:** No, not within that orange area. What I am showing you on the orange line is the delineated circle for this cell site. I shared that information with the neighbors when we had a meeting, it is the same map that you folks saw.

**Katz:** Thank you. You went way over your 6 million -- minutes, but there are further questions, we will come back to you. Oh, I have a question, you talked to -- somebody testified that you had a date crunch. What is that all about? The time frame that we are looking at for the cell site, with the equipment changeover that the at&t wireless is doing, system-wide, was to be october 1st, but it has progressed down because the other sites that are being changed over have also run into time delays, but other time to operate 39th and powell, the existing site, is fast approaching a period where there is going to be some serious problems in the system if that has to come off the air and this one has not been constructed yet.

**Hales:** I didn't realize that they were done with questions, so just one or two more, and that is -- I am looking for the criteria. Sorry. If the council was to direct that in response to testimony, and I am not sure if that testimony is hooked to the criteria or not, but we will get do that. That the

OCTOBER 12, 2000

equipment shelter be attached to the existing buildings, you have a proposal or a plan by which that could be accomplished.

**Vail:** Yes.

**Hales:** Okay.

**Ramis:** We do and we have shared that with the neighborhood. We could show you that site plan if it was not objected to. It is not currently in the record but if not objected to, you might be able to consider it.

**Hales:** All right. Let's wait on that, I guess, but I wanted to make sure that that was technically possible if that would be an improvement -- okay.

**Ramis:** Yes. And that's what the, the additional -- conditioning language we submitted attempts to do.

\*\*\*\*\*: There is a map attached to that letter.

**Hales:** All right. I don't have that, but that's all right. I can have that later in the hearing.

**Katz:** Okay. Anybody else who wants to testify on behalf of the applicant? Okay. Come on up. Appellants, you have five minutes for rebuttal.

**Schueler:** At one -- one point that I wanted to make.

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

**Schueler:** I am amanda schueler. And mr. Rails point about their new location that was offered yesterday, actually, does not go up against existing buildings. It couldn't because it would block the employee entrance to the scottish shop, and in fact, if it goes there, there would still be an allyway behind, unless they were to put up some kind of security gate attaching it to those buildings. And if it goes there, it will also use up the employee parking for the scottish shop, which I guess is not of concern to the landlords, although they don't want to put it in front where it would block a few spaces for customers.

**Katz:** Identify yourself.

**Soucie:** I am ray susy, and I just have a couple of tidbits and I will try to keep it short. I personally believe that at&t may have a monetary incentive to have a taller tower because if somebody applies for a building, in the near future to go up that may block a 45-foot tower and they have an 80-foot tower up, they don't have to replace that with a slightly larger tower that will be interfered with by buildings such as the fred meyer building, and they also have an incentive because they get to lease space on that monopole to other utilities, other services that want to lease that space. So, I question whether or not they do have a monetary interest in having a tall tower. We don't have access to the information that commissioner Francesconi said, and that is the core problem when it comes to governance of these issues. We have no way of determining, except for taking at&t's word that they need it because their customers are having drop-outs. That's my two contention and is that's why I object.

**Koyaanisqatsi:** Andrew speaking to you. You know, looking at this map where they have the search circle, I have looked at this, not as much as I could because when I met ron fowler, spencer vale's boss, he said that there are no alternative locations and it has to go here. But, you know, upon spending a little time in the search circle, I thought that I saw three possible locations. I am a contractor and I am used to looking at jobs from beginning to end. Of course I don't do things in the grandios scale that at&t does, but it doesn't -- I thought I found three possible alternate locations to a cell tower, and a utility building that I thought would not have as great of an impact on the surrounding neighborhood as this particular location would have. But, I stopped that consideration because ron fowler said, no way, it is going here. I wonder --

**Saltzman:** Was the perry center one of those?

**Koyaanisqatsi:** No, papa john's pizza? That seemed -- papa john's pizza and the dunkin doughnuts location, looked like there was some spots there, and also, I don't really know how seriously that they considered expanding where they have a tower out -- they have an existing tower on 39th and powell by blockbuster video, and they say that the landlords or whatever the reason is, that they can't increase the structure space there, can't increase the tower at a space where they have a cellular tower, and I don't know if that's because of some conflict they are having with the landlord there or maybe they don't want to pay the landlord, what the landlord wants to be paid in order to fix the existing location. You know, I just don't -- I feel like at&t is completely monetarily unmotivate and had I don't really care if it cost them \$100,000 to bury a 28-by-12 foot, you know, utility shed for themselves. I am going to have to live with there for the rest of my life. I lived in this location since 1988 and I plan to die in my house. Any decision that they make quickly will affect me for the rest of my life, and so I don't care if it cost them \$100,000, this is my quality of living.

**Soucie:** One last thing, if I may. They said that they had the technology when they put up the 45-foot towers, and now their technology apparently has gotten worse because now they need 80-foot towers and who is to know how good their technology is and how good their engineers are?

**Schueler:** I am assuming I have one minute left? You know, when they realize that there is such adamant enabled conflict, I wish that they would have considered alternative considerations, especially since we were willing to walk the neighborhood with them and to consider alternate locations, but they just didn't seem willing. They were stuck at this particular location, and you know, I would say that if we looked at all the other possibilities, and all the other possibilities approved to be fruitless, then we would consider, and to a greater degree, the viability of alternate possibilities at this location that they want, but we don't feel like they have taken, you know, the empathetic and sympathetic steps that they should be taking to take neighborhood concerns into consideration.

**Katz:** You are absolutely at a disadvantage. There is no question about it.

**Schueler:** I know. Thank you for your time.

**Katz:** All right. I have a couple of questions -- no, not of you. The existing location, why can't you raise the tower there?

**Vail:** Spencer vale for the applicant. It is not an issue of raising the tower, as we can't raise the tower there because it would interfere with other cell sites in the vicinity. Too tall of a tower causes greater interference. There is not sufficient ground space there for the new -- for a 12 foot by 28 foot shelter center, so we have to vacate that site and take the pole down and establish a new one. Increasing the site of that site or any site, really isn't the problem in the cellular industry for solving capacity or coverage problems. In doing this tower at 80 feet, and you noticed on the site plan, these are flush-mounted antennas, they are long and skinny. It is like you have got three antennas into one frame so we have got the 10 or 12 feet of that tower, or the antennas, which normally would have been sticking out on a triangular top hat away, so -- array, so that's why we need to have that coverage for the low antenna, also.

**Katz:** Are you willing to spend time with the neighborhood to look at other sites.

**Vail:** We have looked with the sites --

**Katz:** I said with the neighbors.

**Vail:** I had two meeting with them and mr. Fowler will one. Another site and another location might just have other people and other folks, with the same reasons. It would just be shifting --

**Katz:** But they may not have as many problems as this one.

**Vail:** I tried to explain, as we have, to council why, within the search circle, we would -- we looked at other sites. Part of the criteria isn't like a zone change to commercial where you have to

prove that there aren't any other available sites. We don't have eminent domain. This was our second choice, because perry center said no.

**Katz:** All right. Thank you. You have questions? Thank you. I would like to -- a question from staff. I asked a legal question, in terms of the recent court decision with regard to local government having a little bit more clout, or the, or a little bit more ability to make some of these determinations. Could you explain what other possibilities a local jurisdiction might have in cases like this?

**Cates:** Actually, my knowledge of case law in regards to this area is that the abilities of local governments to prohibit or deny these applications are actually getting more and more constrained. For example, the fcc has made a ruling that you cannot deny an application based on harmful radio frequency transmissions. There is a recent case law establishing that local jurisdictions don't even have the power to require, as a condition of approval, no interference with other radio systems, such as a 9-1-1 emergency system because the courts have found that that belongs under the domain of the fcc. But, the 96 telecommunications act did preserve local jurisdictions the right to apply their zoning regulations and evaluating proposals. So, we have got those boundaries.

**Katz:** You also know there is new research done on the harmful radio frequency emissions, done more recently than 1996?

**Cates:** I keep abreast of that kind of research, yes.

**Katz:** And?

**Cates:** And the --

**Katz:** The federal fcc regulations.

**Cates:** The Multnomah county health officer provided his annual report as required with the heights advisory board approximately two months ago. It is part of his job to keep apprised of the research and his report stated that he felt that there was no significant new research that had validated scientific methodology to support the conclusions that the, that --

**Katz:** What about the tobacco -- I am sorry, that's an editorial comment. Further questions? All right, council. Commissioner Hales and I were here.

**Hales:** We haven't had one of these in a while.

**Katz:** Right, in a long time, and commissioner kafori and blumour and we pulled our hair out, and we found the same. We didn't have the expertise to question the engineering of the company.

**Hales:** I think that we are similarly stuck here, I mean, I think that I haven't heard in this hearing, and I am going to make a motion that we uphold the hearing's officer because I haven't heard, although I understand the concern, I haven't heard ground on which to overturn the hearing's officer's decision under our code to site this thing. Now, I am looking at the purpose statement, and there is a section in there that talks about safety, other safety hazards. I guess that we can go back to that purpose statement, if we so choose, and direct that the equipment shelter for this facility be located in a way that avoids potential in a -- and the sheltering of transients or other, you know, potential lurking problems, but this is the first time, frankly, that's come up on a cell phone case, I am not saying it is not legitimate but our code was not set up to deal with that problem, per se. So, I think that we could, and I haven't seen the letter or the alternate findings that mr. Ramus addressed but I think that if council is interested in doing that, I would incorporate that into my motion and say we are going to uphold the hearing's officer but modify the findings to reflect this revision, which I assume is less obnoxious than the original proposal, but I don't think that we have the grounds to deny this outright. So I would move we uphold the hearing's officer's decision but modify the conditions to reflect a location for the equipment shelter that is less likely to provide lurking space. For lack of a technical term.

**Francesconi:** I will second it.

**Katz:** Discussion?

**Saltzman:** Can we be more specific and say that the equipment shelter actually be placed adjacent to the shopping center or --

**Hales:** We may not have to get this to a words smith and they may have an alternative site plan, and alternative findings already ready to go here, apparently, so I would reference those, if that's something -- have you seen this, silvia?

**Cates:** Yes, I have.

**Hales:** So does that -- does that make sense to you in terms of an alternative location?

**Cates:** I think that you could come to conclusions along the lines that you are suggesting, yes.

**Hales:** So I don't think that we have to figure out how to direct that, since they have got an exhibit that shows it, and I will trust your judgment that that's going to work in terms of site planning and eliminate or at least reduce the problem that the neighbors have cited but I don't think that we get to say, under our code, sorry, 80 feet is too obnoxious. You can't have it because the federal requirement says that we have got to let them have a network.

**Katz:** Let me ask both frank and silvia, and i, unfortunately, I agree with what has been said here. I don't want to vote for this, but I don't have any legal recourse not to. But, the question that I ask is, can we change our code? Can we strength our code, even under the current fcc regulations?

**Hudson:** There probably are ways that we could strength the coated. I think that there are ways to tip-toe around some of the federal regulars, but we just have to be word smiths very carefully.

**Francesconi:** I was here, one of my first couple of weeks in office -- this was 3 1/2 years ago, we had a cell case, actually, two, Multnomah -- Multnomah and sandy boulevard, and as a result of those two, we pulled it back and I think that we drafted this code. So, I think that this is our attempt to deal with those cases. It does bother me, it is an unfair system. I am not saying that at&t did anything wrong but when you just rely on the expert of one side and you have a system that does that, that's a problem. For me. And yet, that's what we have done. And so what I would like you to consider, and this is a little different, but in a case like this, maybe you have the applicant -- you should see if it is legal, but you require them to pay for another engineering report done to back up that opinion. I don't know. That's just one idea. But, some way of trying to get in the record a second opinion as to whether that engineering analysis, if at all -- if it all turns on that, and they are the only one providing the evidence, it doesn't seem like a fair system to me, so at least that, I would like you to look at. If, as well as if you can do anything else. Especially on the co-location, we don't know what efforts were really made to co-locate. And I am assuming they are telling the truth but I don't know. But I would like to follow up on you looking at that again. Not redoing the thing for three years but looking at some of these issues.

**Hudson:** Commissioner, the way that I would look at that particular issue, is that I am not sure that you can require the applicant to get a study, but that's part of the legal assessment that the applicant makes. When they decide to put their case on, and I mean, I think having a study done on the strength of their case, and certainly I suspect that if there were legal representation on the other side, that would be something that they would --

**Francesconi:** I know, but I am trying to avoid the neighborhood having to hire these expensive engineers. Maybe there is no other way around but, but it just doesn't make sense.

**Katz:** Silvia?

**Cates:** Well, if I could -- try to address some of your concerns. Certainly, I am not an rf engineer but typically, these applications come in with a pretty substantial amount of computer modeling and calculations that I look at and I look at it at the same, within the same context of any sort of technical report that's required during a land use review, like a traffic impact analysis or technical reports. I think that staff typically looks at those kinds of reports and evaluates the data in there for



OCTOBER 12, 2000

substantial information, and providing evidence supporting the applicant's request. But, I don't think that there is any -- certainly there is no technical expertise per se in specifically in the rf engineering, but the data is certainly fairly substantial and in the record.

**Katz:** And do you understand it?

**Cates:** For the most part, I do. I think. When it gets into some of the calculus formula for determining signal line loss and that sort of thing, for specific facilities, I tend to accept the, the answer, I can't necessarily go back through the calculus and discern whether or not there was a mathematical error.

**Katz:** Did you review other sites?

**Cates:** What I do -- for this particular --

**Katz:** I just want to know, I want to know, you are our expert. You are not an engineer, and I need to understand how, how far you can go or feel comfortable going because we may want to change the code and require you to do something.

**Cates:** Typically, whenever an application of this comes forward, there is a mandatory pre-ap conference and the first thing that I do when we receive a pre-ap conference request is I research the city's data base for registered facilities to determine whether or not there are any other co-location opportunities within the area, and there have been, at times, situations where we have been able to tell a service provider, don't even bother, go over here, co-locate, and don't go through this process. And this particular instance, there's no co-location opportunity in this immediate area, and in general, my experience with these systems and with these applications from all the service providers, what we are seeing as what I call phase ii buildout where each provider has their network on line and coming in with what they call infill sites because the sites are getting loaded with their customer base and they need to split it so that they have double capacity, and then situations like that, there are -- my understanding is that their ability to place a facility is relatively constrained because they have to make it balance with all of the other existing facilities. So, there is some very real physical constraints that each of the service providers rubs up against and sometimes, you have applications that from the company's rf engineers's perspective, works for them, but may or may not be the most ideal location.

**Katz:** Let me ask you one last question, how many more of these are we going to be seeing, do you suspect, over the next year?

**Cates:** Lots.

**Francesconi:** Do them when I am on vacation, would you?

**Katz:** If it is lots, I really do think that you need to put your heads together and figure out --

\*\*\*\*\*: Is the technology going to change?

**Cates:** I am game but I think before the council gets too deep into this task of how can we write these rules, somebody needs to help me envision where you want a tower because you put it on powell there is going to be an argument. You put it -- there is no place the difference between 80 feet and 70 feet, it will be higher than 50 feet, that you might get through spending all this money on engineering. I just -- I need to envision what they are going to try and get out of this, I am not saying this is perfect, but the council, council, if you want to make the code strict, we ought to envision where it wants towers rather than playing a guessing game, like if I tighten this regulation, I might get --

**Katz:** I was referring some engineering work on the height of the towers, we are absolutely at a loss --

**Cates:** Again, my experience in this sort of phase ii buildout as the companies come in with their infill sites, the towers are getting lower because they are more of them, so they don't need to be as tall to see the next facility because the next facility is closer, and my experience over the past 18

OCTOBER 12, 2000

months in reviewing these is that the tower requests are coming in asking for lower and lower heights, three years ago, we were at -- we were seeing 100, 120.

**Hales:** The one in Multnomah was 120.

**Katz:** That was good information because I didn't know that.

**Francesconi:** I am sorry, but another way to phrase this, instead of focusing on code amendments, just make sure that you have the expertise you need to evaluate these. Okay. From an engineering standpoint so if you don't, then that means that you need -- we need to figure out how to make sure that you get it. I guess. If that takes code amendment or if that takes resources from the applicant, then that's the way to do it. In my opinion.

**Hales:** My motion is a tentative decision with findings and conditions to come back, right, because they have to be modified.

**Katz:** Well, once -- okay.

**Hales:** So that's my motion.

**Katz:** All right. We will take your motion. There was a second. Did you want to add something before we vote? Come on up for a second. Let him.

**Koyaanisqatsi:** I think that I have 30 seconds left.

**Katz:** Go ahead.

**Koyaanisqatsi:** You know, spencer vale was saying that the tower on 39th and powell, if he -- he didn't really answer your question as to why the bigger tower cannot go there but agent their own map, it falls within their search parameter and I think it has something to do with not wanting -- the landlord asking for more money than at&t.

**Katz:** Let me pursue that, what is your thinking about their ability to increase the height of the tower? The existing tower?

**Cates:** My understanding is that existing sites simply doesn't have enough ground space for the --

**Katz:** Did you go and see it?

**Cates:** Yes, I am familiar with the site. The hearing's officer also went to that site, and actually walked off dimensionally to satisfy himself that the ground space there appeared to be too constrained.

**Katz:** Okay.

**Koyaanisqatsi:** They have an at&t van right next to the utility shed that it was already existing and now there is a new at&t van mobile unit there right next to the old structure. There is room there. There is -- right now with what equipment is there by at&t, is all the room that they need. And they just need a taller tower and need to move the van out of the way that takes up all of that space.

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

**Francesconi:** Well, you know, for the reasons that I have stated I will vote for it but I will tell you, if, and I would be upset if it was outside of my balcony. And I lived there for 30 to 40 years. Aye.

**Hales:** Yeah, this isn't our finest hour. As a city, no one has done anything wrong, in the sense that our code is imperfect, our code is always imperfect but we have to follow it as best we can. We have a little wiggle room in there, as you heard, how do we apply the purpose statement in the codes as the rules that we have to follow, whether it is building a downtown office building or a cell phone tower. What silvia said right at the end pushed me even further back in this direction. If the hearing's officer went, walked the site and reach add conclusion about this not -- there not being an alternative site, I don't have anything in front of me, I mean, I appreciate what you said at the end, andrew, but I don't have anything in front of me, in terms of evidence, that said that they failed to meet the standard. The hearing's officer went out and walked it and said, nope, if they don't have

room on-site a, they have got to go to site b, I have no responsible grounds to countermand that. Aye.

**Saltzman:** Well, ink we made the best of the situation moving the equipment building up to the commercial buildings, I think removes the risk that many of the neighbors spoke of in terms of a camping area or whatever. Looking at the zone of influence where the tower has to be, without the perry center willing to play ball and the 39th and powell site not working, all the rest of it falls within the most densely populated area in the city of Portland, and I doubt there will be -- they will have any luck finding a better location than the one they found, aye.

**Sten:** Well, I think that you have a -- you know, two very valid concerns. One is a safety issue and one is just this is ugly, and it is going to be right behind you and I think those are completely legitimate. As I view there is, I think that there is three legitimate public interests that are at war with each other on this issue, one is yours, two is the property owner's right to do what's allowed on commercial zoning, and despite the fact that it is used as a pedestrian thoroughfare, there is a parking lot that's zoned commercial and I suspect that they could fence the pedestrian walkway off tomorrow without an appealable decision to this council so there is kind of a, you know, it is a loading zone that people walk through, and there is, you know, it is too bad that there is not more give and take between the property owner, and I hope that you guys can keep building some relationship. And the third, which I think is a legitimate public purpose, and I would be the first to say that I don't think that anybody has had worse experiences, than myself with the fcc, and at&t on completely different issue, I think that they are absolutely terrible and I think that the fcc writes laws that are absurd in terms of how they cater to the industry. But that being said, I think that there is a legitimate public purpose to have a working cell phone network. I do use cell phones and I suspect a lot of people in the neighborhood do, which is part of why they need a tower, and frankly, the, you know, the next wave of internet communications, and this council, like it or not, prides itself on wanting to be a 21st century city, we are sending out our people to try to get web companies here. They are going wireless, folks. That's how they are going to communicate. That's the future of this thing, and so we have got to have a working cell phone network so you have got these three things that I think are, you know, and it is nice when you can reconcile three different public uses, but you have got the neighbors legitimate, the owners legitimate and the community's need for a wireless network, and I don't think that there is a case not to put it here, but I do think that the condition of putting it up against the existing building, at least, should take care of it, if it is done correctly, and I think from my point of view, I hope that at&t will work hard to make sure that that's done in a way that there isn't a lurking area so that at least one of the two legitimate concerns are addressed through this. So it is not a complete loss. It will still be ugly, but at least we can get the lurking area out of there, which will albeit, you know, kind of one that's developed, the pedestrians should still be safe, you will just have to have the ugly pole to walk by, so that's the best that I can see, and a compromise but sometimes I don't think that you can find an answer that meets all the public purposes so I will vote aye.

**Katz:** I wish that I could vote no, and I could, but there is really no legal issue that I can identify to vote no. However, I will make a couple of comments. I do think that we need to build some expertise in the city. Now, the staff person, I don't know the extent of your expertise, but it would seem to me that if you needed that expertise, we should have some professional service resources to provide you that expertise, so that we can balance the information given to us by the utility. Lord knows none of us have that, and I agree, I don't think that the neighborhood association should be forced to go out and hire a consultant or an attorney. Since public safety was the issue that was raised by the community, at&t was kind enough in our neighbor-safe meetings to provide cell phones, free cell phones, and up to six months of free service, if anybody in the community

OCTOBER 12, 2000

was part of a neighbor watch or block captain, so may I suggest spencer, that because of this issue, and because this was a safety issue, that you might want to give the neighborhood association or somebody that represents the neighborhood in a public safety capacity block watch, a block captain, a cell phone with six months' of free service. That would be nice. One final say on the harmful radio frequency emissions. You are going to be hearing about these things from me over the next couple of years. Obviously, you probably understand why. I was in the legislature when people were arguing about agent orange and we had the testimony -- there is no proof. We don't have the health information about agent orange. No, you don't need to worry about it. Folks, how many years later did we learn that they, in fact -- that there was a problem and did tremendous amount of harm to our soldiers, and so I think that there are harmful emissions from these frequency towers. I don't have the expertise to clearly understand how -- whether the exposure to those transmission towers into those frequencies, what kind of serious harmful affect but if we continue building more towers, I would like for you to spend a little bit of time further researching and looking at some alternative articles in magazines and in newspapers with regard to this issue. May not have to be based on very sound scientific data, as of today, but there may be enough evidence that would question the fcc regulations. I am sorry that we have to vote this way, but right now, we do. Aye. Thank you everybody. You will come back with findings when?

**Cates:** Two weeks?

**Katz:** So you get a free cell phone if -- if you create a block watch program, okay?

At 5:00 p.m., Council adjourned.