



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7th DAY OF FEBRUARY, 2001 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; Harry Auerbach, Senior Deputy City Attorney; and John Scruggs, Sergeant at Arms.

Item Nos. 133 and 151 were pulled for discussion and, on a Y-5 roll call, the balance of the Consent Agenda was adopted.

- *129** **TIME CERTAIN: 9:30 AM** – Create a local improvement district to construct street, structure, retaining wall, drainage, signing, striping and illumination improvements in the Lower Albina Overcrossing Local Improvement District (Hearing; Ordinance introduced by Auditor Blackmer; C-9988)

Motion to overrule remonstrances: Moved by Commissioner Hales and seconded by Commissioner Francesconi.

Disposition: Ordinance No. 175316. (Y-5)

CONSENT AGENDA - NO DISCUSSION

- 130** Cash investment balances December 21 through January 17, 2001 (Report; Treasurer)

Disposition: Placed on File.

Mayor Vera Katz

- 131** Accept contract with Snyder Roofing of Oregon for re-roofing the second and third floor loggia roofs of The Portland Building as complete, authorize the final payment and release retainage (Report; Contract No. 32608)

Disposition: Placed on File.

- 132** Accept contract with Platinum Construction Services, Inc. for the installation of a Commercial Space HVAC upgrade at Third and Alder Garage as complete, authorize final payment and release retainage (Report; Contract No. 32861)

Disposition: Accepted. (Y-5)

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S-133 Establish an interim policy for vehicle acquisition and for use of Sport Utility Vehicles by the City (Resolution)

Disposition: Substitute Resolution No. 35960. (Y-5)

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

Disposition: Ordinance No. 175299. (Y-5)

***135** Pay claim of Roderick and Sylvia Kell (Ordinance)

Disposition: Ordinance No. 175300. (Y-5)

***136** Create on Senior Risk Specialist position for the Bureau of Risk Management (Ordinance)

Disposition: Ordinance No. 175301. (Y-5)

***137** Create one Assistant Program Specialist position for the Office of the City Auditor and create two Program Manager II positions for the Office of Transportation (Ordinance)

Disposition: Ordinance No. 175302. (Y-5)

138 Amend contract with Pinnell-Busch, Inc. to extend the expiration date, amend the scope of work and increase the funding to provide additional training for the project manager/inspector training program (Second Reading Agenda 105; amend Contract No. 32980)

Disposition: Ordinance No. 175303. (Y-5)

Commissioner Jim Francesconi

***139** Assign the right for a permanent slope easement and a temporary construction easement in Portland Parks and Recreation property at South Waterfront Park to the Office of Transportation (Ordinance)

Disposition: Ordinance No. 175304. (Y-5)

***140** Authorize intergovernmental agreement with Metro for development and maintenance of computerized mapping systems for Portland Fire and Rescue emergency response vehicles at a cost of \$44,470 (Ordinance)

Disposition: Ordinance No. 175305. (Y-5)

Commissioner Charlie Hales

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- *141** Authorize the continuance of negotiations for the purchase of two street dedications, one sewer easement and two temporary construction easements required for the NE 47th Avenue south of NE Buffalo Street Improvement Project, authorize the City Attorney to commence condemnation proceedings, if necessary, and obtain early possession (Ordinance)

Disposition: Ordinance No. 175306. (Y-5)

- *142** Revocable permit to Jake's Restaurant/Avado Brands, Inc. to close SW Stark between 12th and 13th on March 16, 2001 through March 18, 2001 (Ordinance)

Disposition: Ordinance No. 175307. (Y-5)

- *143** Amend contract with KnowledgeTech Solutions, Inc. in order to address additional information design, modeling and conversion needs for infrastructure-related GIS data sets (Ordinance; amend Contract No. 32803)

Disposition: Ordinance No. 175308. (Y-5)

Commissioner Dan Saltzman

- 144** Accept completion of the SW Canyon Road at SW Murray Street emergency sewer reconstruction, Project No. 6950, and authorize final payment to East Wind Construction (Report; PO No. 100345)

Disposition: Accepted. (Y-5)

- *145** Contract with nine professional, technical and expert service firms for real estate and related environmental services as required in support of Combined Sewer Overflow, watershed, stormwater and other capital projects (Ordinance)

Disposition: Ordinance No. 175309. (Y-5)

- *146** Authorize a contract with KCM, Inc. dba Tetra Tech/KCM, Inc. for professional design services for the Carolina Basin Stream Diversion, Project No. 5506 (Ordinance)

Disposition: Ordinance No. 175310. (Y-5)

- *147** Amend contract with Thomas/Wright, Inc. for additional design services and services during construction of the Fanno Basin pump station project, Project No. 5761 (Ordinance; amend Contract No. 30824)

Disposition: Ordinance No. 175311. (Y-5)

- *148** Authorize an Intergovernmental Agreement with East Multnomah Soil and Water Conservation District to administer monies for the Columbia Slough Watershed Council to be used for program development and watershed stewardship, assessment, restoration and education projects (Ordinance)

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Disposition: Ordinance No. 178312. (Y-5)

Commissioner Erik Sten

- *149** Contract with Mt. Hood Community Mental Health Center for \$20,000 to provide housing placement services to mentally ill homeless individuals and provide for payment (Ordinance)

Disposition: Ordinance No. 175313. (Y-5)

- *150** Contract with Southeast Uplift for \$55,219 for the Kerns Target Area Designation and provide for payment (Ordinance)

Disposition: Ordinance No. 175314. (Y-5)

- 151** Grant a temporary, revocable permit to Portland General Distribution, dba Portland General Broadband, and establish terms and conditions (Ordinance)

Disposition: Referred to Commissioner of Public Works.

- 152** Contract with Northwest Economic Research to provide analysis of proposed electric utility rate filings with the Oregon Public Utility Commission (Ordinance)

Disposition: Passed to Second Reading February 14, 2001 at 9:30 a.m.

City Auditor Gary Blackmer

- *153** Assess system development charge contracts and Private Plumbing Loan Program contracts (Ordinance; K0034, K0033, P0056, T0049, T0050, Z0731)

Disposition: Ordinance No. 175315. (Y-5)

REGULAR AGENDA

Mayor Vera Katz

- 154** Adopt the Five Year General Fund Financial Forecast upon which the FY 2001-02 Budget shall be based (Resolution)

Motion to strike the words "Multnomah County" before early childhood development: Moved by Commissioner Saltzman and seconded by Commissioner Sten.

Disposition: Resolution No. 35961 as amended. (Y-4; N-Francesconi)

- *155** Contract with twenty professional, technical and expert service firms for various services as required in support of Bureau of General Services projects and provide for payment (Ordinance)

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Disposition: Ordinance No. 175317. (Y-5)

- *156 Contract with the Police Activities League of Greater Portland to expand the Police Activities League Program, services not to exceed \$168,899 (Ordinance)

Disposition: Ordinance No. 175318. (Y-5)

Communications

- 157 Request of Romon Bunton to address Council regarding Housing Authority of Portland, Section 8, discrimination toward a single father (Communication)

Disposition: Continued to February 14, 2001 at 9:30 a.m.

- 158 Request of T. J. Browning to address Council regarding Police Accountability and Police Internal Investigations Auditing Committee reform (Communication)

Disposition: Placed on File.

- 159 Request of Patrick Dinan to address Council regarding Police/Police Internal Investigations Auditing Committee issues (Communication)

Disposition: Placed on File.

- 160 Request of Richard Koenig to address Council regarding his unaddressed police business (Communication)

Disposition: Placed on File.

- 161 Request of Thomas E. Mullen to address Council regarding police harassment and police procedure (Communication)

Disposition: Placed on File.

- 162 Request of Todd Olson to address Council regarding police accountability and Police Internal Investigations Auditing Committee reform (Communication)

Disposition: Placed on File.

At 11:10 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS 7th DAY OF FEBRUARY, 2001 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; Ruth Spetter, Senior
Deputy City Attorney; and John Scruggs, Sergeant at Arms.

163 **TIME CERTAIN: 2:00 PM** – Amend the Central City Plan Fundamental Design
Guidelines (Ordinance introduced by Mayor Katz; amend Ordinance No. 163325)

Disposition: Passed to Second Reading As Amended February 14, 2001 at 2:00 p.m.

At 2:35 p.m., Council recessed.

FEBRUARY 8, 2001

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8th DAY OF FEBRUARY, 2001 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 Peter Hurley, Sergeant at Arms.

164 **TIME CERTAIN: 2:00 PM** – Appeal of the Pearl District Neighborhood Association and DPR Construction, applicant's representative, against the Portland Historic Landmarks Commission decision to approve a historic design review with conditions at 1415 NW Hoyt Street, Portland Pearl Tech Center (Hearing; 00-00678 HDZM)

Motion to deny appeal and uphold the Hearings Officer's decision, accept the withdrawal of the applicant's appeal of the Landmark Commission's decision, and that findings reflect that the pedestrianway and equipment yard will be reviewed in a separate proceeding by the Office of Planning and Development Review: Moved by Commissioner Hales and seconded by Commissioner Francesconi.

Disposition: Tentatively Deny Appeal (Y-5); Prepare Findings for February 22, 2001 at 2:00 p.m.

At 3:18 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.

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9:30 AM

Closed Caption Transcript of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

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9:30 AM

Item 133.

Katz: As ron is coming up, let me start by saying that there has always been an interest by everybody to take a look at our vehicle policies, and now that the bureau of general services is under -- it is our ability to review those across the bureaus and set one standard for, for us as a city, and as a city council. And one of the issues was having a tighter control over a sports utility vehicles or SUV's, and also a tighter control on leases, which do not have to go through council. You will be seeing that coming up as we work on that through all of our bureaus and through ron's work with the bureau. So ron, why don't you talk a little bit about what you want to do with regard to this and something about the substitute, as well.

Ron Bergman, Interim Director, Bureau of General Services (BGS): Thank you, mayor, and council. Ron bergman, director of general services, the policy before you is really a, a, somewhat of a housekeeping issue in terms of gaining a little more control of the council in terms of the size of the fleet. Right now, we have any acquisition through purchase has dog through the council but other acquisitions and fashions do not. This really makes the policy uniform that any permanent expansion of the fleet does have to go to the council for approval. There was also a look at the acquisition. It really does fit with the purposes that the city has for the vehicle.

Sten: Does this policy also recover leases?

Bergman: Yes, it does.

Sten: So it is all -- okay.

Bergman: All acquisitions in any form of a permanent nature will require council approval to expand the fleet. There is a second review for SUV's that would require the approval of the chief administrative officer.

Sten: And at this point, have any of our direct policies, because if not, I would like to work with you to look at it. I think we really need to have it, to have two looks at this, one is whether the car is absolutely needed, and I think that's fair, and I don't think -- I want to be clear on this, I don't think that we should we should necessarily get you an absurd standard. I mean, you need cars to get around, but I think that we should get dramatically more explicit in saying once you pass that test, you ought to drive the most fuel efficient vehicle. And we have had some conversations like using hybrid cars that get 60 million to the -- 06 miles to the gallon. And these are issues for the city, as well as the world. These are big, big issues, and I still keep hearing things like, well, you can buy a less fuel efficient car cheaper, most of these cars you are looking at 12 to 24 months different in gas mileage so I would really like to see us, I am less concerned about making sure that we use a car than that we drive vehicles that set the right tone, particularly in this age when you don't see the federal government taking that stance, and it is going to come back to bite us.

Bergman: Just as a side note, relating to that, we have done an evaluation of the hybrid cars and we will be coming to council with some recommendations on, on acquisition of those for a motor pool and some, some acquisitions for bureau use, as well.

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Sten: So if the issue is safety on i-5, which I read in the paper today, driving to salem, subaru or somebody makes an all-wheel drive car, you don't need a monster, an suv to be safe on i-5, you know, and I just think that, you know, that it gets 8 miles to the gallon --

Bergman: Again, it is matching the vehicle --

Sten: I am not sure I guy that, but let's say that it is unsafe to drive a small car down i-5, which I don't believe, but let's even say, for example, that that was true, that would lead you to the conclusion that you need the biggest gas guzzler to be safe.

Bergman: Well, it is not true. That was a particularly weak argument.

Sten: I missed that, somebody actually made the argument? Our government relations, they took the stance they need suv's to be safe driving to salem.

Hales: I guess I have been driving the city pool car --.

Katz: There is a whole list of issues that we are reviewing right now and we will bring back to you, and we would like a criteria that, for you to develop across, across the bureau, so that.

Bergman: You will notice, this is labeled an interim policy. We are in the process of putting together a comprehensive vehicle policy that will be coming back to council, but we did have these holes in our current practices, in terms of expansions of the fleet, and we wanted to have a double-check on the suvs, so that's an interim policy, put these in place, we will be coming back with more comprehensive policy later in the year to deal with those issues that the mayor mentioned.

Hales: And I have got consumer reports for you to look at, to see which cars are safe and which cars are not gas guzzlers. Okay. Good. Another quick question. I will get into this in greater depth later, so I appreciate, mayor, and you ron having this in front of us this morning. I don't want to try to rechew the whole issue now. But one thing that I would like to hear at some point in that discussion is on what sort of business basis, would we, as a corporation, not talking about what the bureaus would like to do or what individual people would like us to get for them, and I know that you have been trying to change that mindset, for whatever the customer wants, they get. On what sort of business basis would the city ever need to lease vehicles. I don't know the answer to that question, in other words, I don't want us to go into this with the presumption that, of course, people can lease vehicles. We spent some time on the council previously, and I think we did a responsible job of it, lengthening the, the ownership period for police cruisers and other vehicles. While we were doing that, the bureaus were off willy nilly leasing, or some bureaus were off leasing an enormous number of vehicles, and in effect, making a mockery of whatever efficiencies we were gaining by that change in policy. I have never heard anybody, since the bureau has never had to ask the bureau to lease vehicles. I have never heard of justification for why we, as a municipal corporation, that's going to be around for the long run, would ever lease vehicles. I need to understand that on a financial basis. As a practice.

Bergman: There are really two primary reasons -- well, actually three primary reasons why we might want to lease vehicles. One, we have a short-term need for a particular program that is a quick start-up, quick turndown, wouldn't have the vehicle for the full amortized life of the vehicle. That makes sense to do it. Another has to do with timing. If we have a program that is in rapid start-up, we have a long lead time in terms of purchasing because we rely on the state purchase contracts, and they have a particular timing, so if he don't get our order in at the front end. We have a long lead time to get into the cue for purchase in that fashion. So there may be options in terms of leasing at the front end until we can get the, the vehicle on a purchase basis and make it more of a permanent thing, and then there also are some undercover issues for the police bureau in terms of having a need for unmarked, different kinds of vehicles, short-term use that, that we really don't want to have an ownership issue in, where they can trade those vehicles around for their undercover purposes.

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Hales: Okay, but that's the kind of stuff that you are going to try and put into policy. You have that common sense approach, I think, to these issues. I am not confident that all our bureaus do, and that some of them have a different mindset about how they are entitled to these vehicles. If we can put those kind of common sense doctrines on paper and have them adopted and enforced, I think we will all be a lot more comfortable.

Katz: That's what we are trying to do. Anybody else want to testify on this issue? Any further questions? Roll call.

Francesconi: Actually, the mayor and ron deserve credit for this, and this is the sign of kind of the change that's happening with asr in that we are, in trying to propose some standards that cut across bureaus. So this is a good thing. I guess in addition to the arguments about SUV's harm to the environment, and additional costs, I guess I would just like to add the word "extravagant," I mean, these are things we just don't need and there is no reason the taxpayers have to pay for these when they can't afford them. Aye.

Hales: Mayor, I appreciate you bringing this forward in the short run and the work that's being done through your office on this issue for the budget, and for policy because I think that this one has gotten away from us corporately, all of us are equally responsible for that, but you have taken the lead in getting this brought in, and I appreciate that. Aye.

Saltzman: It is necessary for responsible management, aye.

Sten: Thanks, mayor Katz, for taking this on. I think it is a big one, and I think it is something that can be talked about most -- I ended up being on a panel on global warming on the mayor's behalf last Friday from mayors from up and down what they call Cascadia, and it was led by Mayor Shall, and we were the ones right in line talking to them, and the mayors wanted to figure out how to send a joint message and maybe even purchase hybrid cars as a group to send a signal to the car making industry, the point being if people are going to buy them, they will start getting made and be easier to get, so I think this has a lot of ramifications on money and environmental issues, I appreciate your work on it.

Katz: Aye. Thank you, everybody. 151.

Item 151.

Sten: We just need to call this back for a couple of weeks to work on some things.

Katz: Any objections hearing none, so ordered.

Item 129.

Katz: Commissioner Hales and I had a presentation of this and many, commissioner Hales understood because he's been working on this. I didn't realize the impact of this and what this is going to do, and so I am happy to hear it again, and let me turn it over to commissioner Hales.

Hales: Thank you, mayor, and let me call up our presentation, but first I just want to acknowledge some people. Some of whom we are going to hear from in this presentation, but not all of whom might be testifying. This is a project that has been in the works for a very long time, and has been advocated by the business people in the lower Albina district for a very long time, and so it is really the culmination of their work, as well as some excellent staff work that gets us to this point here today. So, I want to recognize the lower Albina finance committee that met over the last six months to work on this. Their members were Gather Mattison, from Glacier Northwest, who the council might remember has been proposing and advocating this project all along. Dave Talbott from Architectural Reproduction, Toll Tucker, another property owner in the district. Harry Whitney from PP and I and John Trumble and Carolyn Larson from the Union Pacific Railroad, which is the principle payer of all of the businesses, I think they paid the most in this particular project, and it wouldn't have been possible without their generous support. We have also had a star-studded team of staff working on this issue. Our city engineer, Brandt Williams, Karen Radner, who has worked on a

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number of rail projects, as well as this one, lola, project engineer a, couple other names you will recognize, tuck wilson from tri-met, who is busily occupied trying to get costs under control in seattle, and one of our favorite consultants, jeannie, so we appreciate the good staff work, and the cooperative relationship that we have had with the business people in the district in bringing this project here today. Take it away, karen.

Karen Rabiner, Portland Office of Transportation (PDOT): Good morning. I am with the Portland office of transportation. I am before you this morning with the lower albina local crossing improvement district. The lower albina industrial area is located along the willamette river's east bank between the broadway bridge and the fremont bridge. A significant portion of this area lies between the bank of the river and the union pacific's main line railroad tracks. The only access into this area is by crossing these tracks at five at grade crossings connecting the lower albina street system with interstate avenue. For over 20 years the lower albina industrial area has had access problems due to these railroad crossings. Significant delays are caused by blockages from railroads switching activities, and although various warning devices protect the crossings, more than 50 accidents have occurred in the area between vehicles and trains since 1960. The blockage problem impedes emergency service responses and reduces the attract itches of the lower albina industrial area as a location for new businesses. In addition, the seemingly constant whistle blowing from the trains has made conducting business in the district difficult. Improving rail and vehicle traffic in the lower albina area has been a long priority for the lower albina industrial council, property owners, union pacific railroad, the odot rail safety unit, and the office of transportation. And now with the introduction of light rail on interstate avenue, this connection has also become important for tri-met's i-max project. In 1997, the study was prepared developing six options. These options were reviewed with property owners, local business owners, the lower albina council and other interested parties. Grades or the steepness of the bridge impacts to property, businesses, and the railroad were all evaluated. The current tillamook to river street overcrossing was selected with only one dissenting vote. The proposed project will connect a bridge from north interstate avenue at tillamook street over to union pacific railroad tracks and connects to lewis street at river street. Once the overcrossing is in place, the five at-grade crossings will be permanently closed. The lower albina finance committee was convened and charged to represent the business community and to work with the city to explore funding opportunities and options and make recommendations to the lower albina council in the business district. The committee met ten times over six months last year and recommended a finance plan that concluded a fixed \$3,775,000 local improvement district. Staff and representatives of the committee then met with property owners in the district in both small groups and individually. The total funding for this 14.2 million project is varied and includes federal transportation funds, odot rail safety funds, direct contribution from union pacific railroad, in addition to them being a large property owner in the local improvement district, transportation system development charges, Portland office of transportation, tri-met, and of course, the local improvement district. We are before council today to form the lower albina overcrossing local improvement district. Petitions were signed representing 85.2% of the property in the district. One remonstrance has been received representing 2.4% of the property in the district. The remonstrance was received from rebecca and romon who own a parcel at 808 north river street. It crosses over part of their site. They, through their attorney, kelly clark, have raised two objections. First, that the amount of property used to assess the them is wrong, as the city is likely to acquire more land for right-of-way than originally planned. The city is currently negotiating a settlement with them for the purchase of their land for right-of-way. If a settlement is reached that includes more land, the final assessment will be revised to reflect the adjusted area. At this time, we are talking only about the primary assessment. Secondly, they object to the

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constitutionality of using lid funds to pay for property acquisition. We have consulted with the city attorney's office. Ors 310-140 defines what costs may be included in an lid. Property acquisition are among those that may be included and allocated among property owners. But indeed, there are many other funds, also, on this project. The city engineer's recommendation. The lower albina overcrossing project is a much needed great separated access to the industrial area, and now with the construction of interstate max light rail under way, the timing of the construction of this access is critical. It is therefore, the city's engineer that the remonstrance be overruled and the time and manner ordinance be passed. There are several people here to testify this morning, in addition, we received some letters of support from some property owners and businesses that were unable to attend this morning. And I have got those here, but we can hand out. They are from glacier northwest from kf jacobson, although I believe that they are here to testify this morning, and from cargil grain. So if there is any questions, I can answer them now or we can answer them after testimony.

Katz: Any questions for karen? If not, let's take public testimony now.

Don Donovan, KF Jacobsen Co.: PO Box 82245, 97282. My name is don donovan and I represent kf jacobson and company. We produce hot asphalt on our river cite, and we are certainly in favor of the overcrossing. We have several hundred trucks a day running back and forth across the tracks, and we are blocked -- we used to have large purchases from the city of Portland paving, and they will not come down to our plant any more, except for specialty mixes because they attacked 35 minutes per trip on each truck, which, therefore, puts us not competitive, and many of our customers won't come down because they have crews out on the jobs and they can't stand the wait and it is costly. One of the main things, too, is safety. Trains across the track as much as hour, hour and a half time, on occasion, and basically I think that they average about 15, 20 minutes. And if we have an accident down there, the ambulances can't get to us. We are isolated, and we have quite a few people working down there. There have been accidents before, and there have been times when the ambulance sat on the other side of the trains to get to the people that have been hurt, so that's a big issue with us. We have been there since 1952. I have work there had since 1953. We have -- in our division, we have about 33 employees, and we support 50, 60, 70 trucks, so economically, it is good union high-paid wages and for families that, that are in the community. And we are certainly in support of it, for many reasons. Thank you.

Warren Anderson, Ross Island Sand and Gravel: PO box 82249, 97282-0249. Warren andersen, manager of ready mix -- ross island sand and railroad company. Ross island supports the proposed overcrossing project. We produce ready mix concrete at our river road site, and with our plant personnel and our mixer drivers, deliver the project throughout the metropolitan area. Concrete is a perishable product. We only have a short period of time to deliver it, and the blockages have hurt our business. We can be late to jobs as a direct result of these blockages, and the concrete delivery schedule is specifically planned for matching delivery in a manner that the customer requires for properly placing, and spacing of the trucks. The spacing is planned to the minute. The delays can throw off the schedule for the entire day. The blockages are expensive. The plant jobs, well paying jobs, and the driver's jobs generate a lot of money down there, in the lower albina area. And these jobs are threatened by the lack of ability to service a customer in a timely fashion. There is lots of ready mix suppliers, so we need to keep the customers that we have. Another issue, like don said, is safety. Blockages cut off our access to and from our plant, and at the time of a medical or other emergency, we have to get down there. Therefore, we think this overcrossing is of utmost importance for the safety of employees and a smooth operation of the plant, and smooth delivery to the customers, and the entire lower albina industrial area needs this project. Thank you very much.

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Stan Herman: 2335 N. Clark, 97227. My name is stan herman, I own the property east of the railroad tracks. I purchased that property on the east side knowing that if you get on that west side, you are going to have the problems that these gentlemen just were talking about. That problems existed there for years and years, any property owner that bought property there knew that that railroad crossing and area is a problem. I am objecting to the east side of the railroad tracks, property being part of the lid because there is no benefit to us at all but we are getting put into this area, paying for the biggest region that the city just mentioned that they are building this is because of the blockage. The blockage of, whether it is safety or customer service, of all of the businesses west of that railroad track. There is not one valid reason why any of the property owners on the east side should be part of this lid. We are already handicapped in some ways by the road construction with the tri-met going through, which is another issue, and that's going to affect a lot of us, property owners, in a negative fashion, from traffic being cut down from four lanes to two lanes and so forth, which is a different issue. So, again, if we take a look at that, and I invite you to come out and really take a look at what this ramp is going to service, the west side of the railroad tracks, and that's who should be paying for this lid. The east side should not, and just -- enclosed in there, when this was being discussed on the east side of the railroad tracks, property owners participating in this cost, it was actually dropped from 100% of the equal value of square footage down to 50, and one little issue was raised, it was dropped down to 25, and hopefully now, that we are this far, somebody will realize that there is really no benefit, zero benefit of the east side property owners of that railroad track. That should be eliminated from this lid. Thank you.

Kelly Clark, representing Wayne B. and Rebecca A. Van Raden and Van Raden Industries: 2100 N. Albina Ave. Good morning. Madam mayor, members of the council, I am kelly clark and I practice law with o'donnell and clark. I represent wayne and becky, who are property owners affected by the local improvement district, and the property that's here, you saw it on one of the overpasses that are on one of the slides, the overpass comes right over their property, and the city has proposed to condemn an easement over their property, and your staff person was correct, there have been negotiations about reaching a settlement on the amount of the compensation for the easement. Just by way of, brief way of backgrounds, this is the second time that they have been through this. 14 years ago they owned a logging business that was placed by the convention center parking lot, and the compensation that they were able to acquire for themselves was just enough that they were in bankruptcy a year and a half later after decades of being in business, so this is the second time that they have been through this. The principle points of our objection are really four-fold. First of all, we have serious reservation, whether the property -- the lid benefits us at all because of the way the project is being constructed. It bisects our property. It will entirely remove a portion of our ability to turn around. They manufacture heavy trucking parts. It is a heavy manufacturing business, and they bring large trucks in there. We are working with the folks on the condemnation to make sure that we can still do our business when the ramp is, is constructed. But, even so, we have questions as to how this overall project can in any way said to benefit their industries. Secondly, as your staff person pointed out, we think the property has been over assessed because when all is said and done, we think that there will be less property remaining and I was encouraged to hear her say that if that were the case, that we would look at the numbers again, so I won't spend much time on that. My deeper concern is a question that i've been thinking about for some time now, a number of years, actually, which is how can you, on the one hand, come along and say that you are going to give a property owner just compensation for what you are taking and then turn around and issue an assessment, which essentially forces them to fund a portion of the compensation that you are giving them. And that's exactly what the proposal is, and the staff person confirmed it. And it is true that the statute appears to authorize it, 310.140

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authorizes this very thing, which is exactly the question that I have been thinking about for a number of years. How can that statute be constitutional? It would be one thing, perhaps, if you were robbing peter to pay paul, but you are robbing peter to pay peter, so to speak here. You are taking funds from them, a portion of which is going to be used, used to acquire the property, that you are condemning that requires just compensation under both the state and federal constitutions. So, I raise the issue. I don't, necessarily, expect you folks to agree with me or fold the whole project up but I just wanted to raise it so we can preserve it here. We were just served with the condemnation lawsuit and probably by way of counterclaim, we will raise this issue in that lawsuit because I just don't think that you can do this, and if the statute authorizes it, then the statute seems to be plainly unconstitutional. It is a matter of first impression, as far as we can tell, the state of Oregon hasn't been litigated, actually it was probably litigated once in a Washington county case and was unreported so it may not have any precedential value.

Hales: Well, maybe just a question, kelly, obviously, we are not going to argue the lawsuit case here but we have to try to do business on a practical basis and try to have policy that makes sense, and gosh, it just it seems to me as a policymaker that those are two separate questions. One, is it reasonable for cities to, or, or public corporations to use local improvement districts to fund public works. Well, my answer to that is yes. Then, is it reasonable to try to apportion the costs among the property owners affected by the project in some rational way and try to be as fair as possible? Yes. And then there is the question of, should you pay people for property that you require to build that public work? Yes. Those, seems to me, are separate questions. We have a calculation of how much to pay your client, based on how much of their property we condemn for the project, and then they are still there, and so the rest of the neighborhood, and all of the neighborhood gets some benefit, more or less, from the construction of the project. As a policymaker and somebody who tries to get these projects done, that doesn't it seems to me to be a difficult set of questions. How would you have us operate?

Clark: Don't use any portion of the local improvement dollars to fund acquisition.

Hales: We could probably meet that test in this case, given the huge blend of moneys that are going into the project. There are plenty of other moneys, including the city's direct contribution of \$300,000 that could be said to cover all the administrative costs, so I guess we don't have to break a sweat to meet that test, but again, I am trying to understand how we would, how we would operate, would you just have us exempt property owners from local improvement districts? If any of their property was required to construct the improvement?

Clark: No, but I would have you not use any of the funds that came from the local improvement district for compensation of the property that's been taken. I don't think that you can use funds that you have taken from a property owner, as part of the compensation that you give to the property owner or by definition, you haven't given them just compensation for the property that you have taken.

Hales: I understand the legal argument but given the blend of moneys that are going into this project, the local improvement district is a minor shareholder of the total costs, federal funds, state funds, tri-met funds, city funds, and direct contribution from the railroad over and above the, the local improvement district, you know. This is an unusually good deal, if you will, for property owners in a district, in that usually we don't have that many other resources to draw on.

Clark: I am not questioning your policy desire, I am simply questioning from the standpoint of the clients that I represent, whether what you are doing is constitutional.

Hales: Okay. Thank you.

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Saltzman: You said your client sees no benefit to this improvement at all, I guess, so they see no benefit to eliminating the at-grade crossings in terms of business access and safety and all those other reasons why we are doing this?

Clark: Not as the project is constructed. And we realize you have to make tough choices as to where you are going to put it, but as far as this property, the answer is there is no benefit to them.

Stan Gray, Shane Company: I am stan gray, I am the president and owner of the shane company. We sit just below the railroad between lewis & clark streets, and we have been plagued with the access and egress problems created by the railroad blockages for years. And the biggest problem that we have is really a safety issue. If there is need for emergency vehicles, there is no way to get emergency vehicles in there, and on previous occasions, they have been trapped on the opposite side of the tracks when emergency happened. So, we are definitely in favor of this project, and it is way, way overdue.

Craig Reiley, ODOT: Mayor, commissioners, I am craig riley, the manager of the crossing division of the Oregon of transportation. I probably have the most time in this, dealing with it the longest. We are concerned about, excuse me, the access issues for the lower albina industrial area. Caused primarily by the normal train operation that is occur in that area over the five grade crosses that have been mentioned. We looked at the various solutions that have been available to us. We have worked with the railroad, with city staff, the other parties, including the businesses in the area. And the railroad has modified its operations to the extent that they can, to eliminate or reduce blockages. The only reasonable, viable long-term solution that we have been able to come up with that I have seen is, is the construction of the overpass that, that has been proposed. As has been mentioned, there is many funding sources in this project. I think that rail was one of the first to step up and make some contribution. Wasn't enough to fund the project, but it acted, kind of to seed money for other funding sources. The last piece of that funding seems to be the approval of this lid that's being proposed. I am here before you today on behalf of the Oregon farm and transportation rail division in support of passage, approval of the lid for the lower albina industrial area. Thank you.

Hales: Thanks for your contribution. We appreciate your support.

Carolyn Larson, attorney for Union Pacific RR: Good morning. I am carolyn larson, attorney for the union pacific railroad company and I was also a member of the lid finance committee. I have with me today a letter from the union pacific railroad company in support of the local improvement district. I have copies for each of you but you would also like to read a copy into the record. Before I do so, though, I would like to make a comment about the benefit of this project to property owners on the east side of the railroad tracks. Right now, the railroad blows -- the whistle on the trains for each of the grade crossings but once all five crossings are closed, there will no longer be that constant blowing of whistles, which does annoy the businesses on both sides of the tracks. The letter from union pacific is from tom, who you may remember is being the person within union pacific who championed the pedestrian pathway across the steel bridge, so I am sure that he's someone who --

Francesconi: Thank you for doing that.

Katz: It took a while. [laughter]

Hales: It was a long, slow race between that project and this one.

Katz: Took a while. But thank you. [laughter]

Hales: That's great.

Larson: This is tom's letter. "dear mayor Katz and council members. For many years union pacific has shared with the lower albina community the desire to find a permanent solution to the access problems faced by businesses who are located between the river and the tracks leading to the

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albina rail yard. It is, therefore, been extremely satisfying for the union pacific to have finally been able to help put together an engineering project and funding package that will allow trucks and cars to move in and out of the lower albina area without being stopped by trains, and to allow the railroad to move freight through this part of the city without creating delays for neighboring businesses. This project has been unique in the ways so many different people have come together to make the project a reality. Engineers for the city, tri-met and union pacific have worked long hours to get to derive at an overpass design. The businesses who have been most supportive of the overpass have not only worked hard to locate and secure commitments for government funding for the project, but have also agreed to pay a large portion of the project, they also, by petitioning the city to form a local improvement district. Union pacific is one of those petitioners by signing the lid petition, it agreed to pay over 60% of the local improvement district assessments and to forfeit all sdc credits ordinarily earned by contributing to such projects. We urge the city to help the union pacific and lower albina community achieve full funding for the overpass project by agreeing to form the local improvement district and providing this mechanism for us to financially support its construction. Thank you.

Dave Talbott: 525 N. Tillamook, 97227. I am dave talbott. I am a business owner in the lower albina neighborhood, and I am a past president of the albina council, as well as being a member of the finance committee that was assembled with the objective of pulling together the community support for the funding of this proposed project. From the lower albina council, I can tell you that this has been our major focus for the last ten years, starting with the study about that time, the preliminary study by david evans and associates that had a different alignment of this sort of thing. As you may be aware, the design and scope and budget of this has changed dramatically over that period, issues such as tracks row location or lowering have been considered against the cost of various designs. The termination of the west end of the structure is now essentially a block further toward the river in an attempt to minimize the disruption of the existing businesses there, and improve the traffic flow within the area. It is clear to me that this is impossible. It is impossible to construct this sort of project in a developed area without having some adverse impact on various persons or businesses. That said, I think that this design, which as has evolved as a result of input and variety from a very diverse number of parties, both public and private, but this design will yield a product that provides the greatest benefit with the fewest negative consequences. I think that's something that a great number of people have worked toward to achieve the proposed finance plan involves what has been a very astonishing array of participants from federal, state, regional, and local levels of government, as well as business businesses, both large and small. There has been a great deal of give and take from virtually all those parties to get us to the point that we are at, and I strongly urge your support to enable us to see this through to completion. Thank you.

Will Wright, Vice-President, Lower albina Industrial District: My name is will wrights and I am located at 809 north russell street in the district, and I am currently vice president of the lower albina industrial council, as well as a property owner in that area. And I would like to share a brief history of the transportation needs that the subject area and the lower albina industrial district may be -- maybe giving you a little different perspective. The deficiencies of this area were first identified by neighborhood needs analysis and way back during the gold submit organization. The lower albina industrial council was also formed during that time. The most apparent problem was the isolation of the businesses west of this up railroad line, and as trains go in and out of the albina yard. The district was in decline, due to the decline of the railroad industry in the building of the interstate highway system, i-5 and i-405 which left the district somewhat disconnected from the truck oriented flow of goods. In the early 1980's saw the passage of the staggers act which deregulated the rail transportation partially in an attempt to save it. That activity san an increase in

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the conflict between the rail activity and the lower albina, as well as in many other areas, escalated. The mid 1908's saw the lower albina district, included in the central city plan, which was encouraging. The access conflicts were, again, identified as a major constraint, restraining the growth of this district. By the late 1980's, small, somewhat civil war developed between up railroad and the local businesses, who were finally -- filing complaints against up for the violation of the time limits caused by the blockages of the street crossings. Lawyers were running up their billable hours at this time. One business needed -- new to the district, which is glacier northwest, currently, funded a small study to try to develop some solution alternatives. A newly rejuvenated lower albina council elected do not choose upsides but to become the forum in vehicle for finding and funding the solution to this problem. The significant turning point was reached when Oregon pus, now odot, steered by craig kelly, took the lead in initiating a settlement with the up. For crossing violations. This settlement directed some of the fine moneys to begin a study in alternatives analysis towards solving the problem. The early 1980's, the lower albina crossings were infamous for, both in the public sector and within up, and were the most violated crossings in the state of Oregon, so we were told. At times, they developed the -- the community was being splintered, it seemed to fix the problem but at the cost of significant negative impact to some businesses. The lower albina council continues to seek a fundable solution, suggesting a mix of private funding through local improvement districts, with state funding from crossing and grade separation funds and federal funding through metro's regional transportation plan of city funding through the city's transportation and planning process. A breakthrough occurred in the early mid 1990's with strong support from counselor, ed Washington and city commissioner, earl blooming hour, and metro placed \$600,000 for primary engineering, this was 34567 matched by 65,000 from the up. The up was now becoming an active partner in finding a solution --. I will close it. The finance committee reworked all these proposals and came to the solution that we are attitude, what I would like to emphasize is where we are today as a result of many years, many volunteer hours, a number of studies in the private/private partnership involving many meetings. This party really supports it and I appreciate yours.

Katz: Thank you for the history lesson. We will be hearing a lot of history over the next months as we celebrate the 150th birthday. I didn't anticipate this one, so thank you. Anybody else want to testify? Staff, come on up, you heard two witnesses testify that they didn't feel that their assessment was fair, do you want to comment on that?

Rabiner: Yes, sure. Mr. Herman is a property owner on the east side of the tracks. We didn't talk much about this, but as you look at the large map, the green represents the local improvement district boundary, and that's the property that's being assessed the 3,775,000. Most -- there is a small portion of this property that is between the railroad tracks and interstate avenue, and mr. Hermon is one of the owners in that area. And indeed, the benefit to those property owners has long known to be a little different from those who are on the west side of the tracks. As the finance committee has looked at the distribution of benefit on this project, it has -- approached those properties on the east a bit different. The property owners on the west are being assessed at 100% of their land area, and the properties on the east side are being assessed at approximately 25% of their land area. The benefits they receive are, as carolyn larson mentioned, there is a constant, or a seemingly constant whistle blowing. That happens as the trains pass through, and if you are ever down there and tried to conduct business, you would find that you can't even talk on the phone. You can't have conversations when the whistles are blowing, and it is really been one of the complaints that we have been hearing. Obviously, the property owners that are nearest to the tracks, are those who will benefit by that, and those are -- those three blocks that are to the east of the tracks. In addition, as the crossings are blocked, traffic backs up on these side streets waiting,

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sometimes, for 20, 30 minutes or even more. That not only keeps those trucks from accessing their businesses, but it keeps trucks and cars from accessing those businesses on the east side of the tracks, as their streets are now blocked with cars, cuing up and waiting to cross the tracks. So, the approximate amount of assessment for those three blocks, or three, four blocks on the east side of the tracks is \$50,000 out of the \$3,775,000. So it has certainly been flecked that, that their benefit differs but, but they do, indeed, receive benefit.

Katz: Questions? Karen?

Rabiner: Thank you. I guess one question, and that is because we proceeded to remonstrance, and the ordinance has an emergency clause on it, will we need a motion to overrule that remonstrance?

Harry Auerbach, Senior Deputy City Attorney: Yes.

Hales: Okay. Thank you.

Saltzman: I have one question. Looking at the order of the -- the northern border of the lid, does that stop at up property? At the northern border? In other words, is that property north of the lid line, the up property or not?

Rabiner: Yes, it is. But, it --

Saltzman: Why isn't it in the lid.

Rabiner: Because it is property that is actually closest to going street and if, indeed, we were to do a local improvement district sometime to do improvements in the future there, we would look at that portion of the property, and we typically don't assess property twice for local improvement districts so we drew the line away from going straight.

Saltzman: What's the nature of the anticipated improvement in going?

Rabiner: There are some bridge improvements that have been in the transportation plan that are still under discussion and the local improvement district may, again, be part of the, the funding sources for that.

Saltzman: Okay.

Katz: Further discussion? Further questions? Thank you. Take a motion on the remonstrances on both.

Hales: I would move to overrule the remonstrances.

Katz: Do I hear a second?

Francesconi: Second.

Katz: Any objections hearing none, so ordered. Roll call.

Francesconi: There is two overwhelming public policy reasons to approve. The first is, good jobs in the heart of the city. Transporting freight is essential to our economy and to our businesses. As we continue to have a seepage of good paying jobs in the suburb, anything that we can do with realistic strategies to allow the transportation of freight is essential. The second public policy reason is public safety. As fire commissioner, I am aware of getting public service safety vehicles into this part of town. So I support that testimony. In terms of the, the legal requirements here, the assessment on the east side of 25% is, is more than reasonable, given the benefits to the east side. The second legal argument is, one that the legislature gives us this tool, it is very appropriate for the city to do it. It is not up to the council, as the appellant acknowledged. To get into the constitutional issue here, and that's for the courts, but the legislature clearly has given us this tool and we should use it given the importance of transportation of freight and public safety to this area. So, it has been a long time coming. Thanks for hanging in there in this cooperation of state, federal, local agencies, as well as the private sector, and congratulations, commissioner Hales. Aye.

Hales: I just would like to take a minute, maybe, and reflect on, first, some values that I think this project represents. And then just a moment about, I think it is symbolic value, first of all, this

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project really represents some values that this council really believes in. One is that public agencies ought to solve problems, and to get this many public agencies pulling in harness together is a good thing and the public expects it, but it isn't easy, and it is, unfortunately, not 100% reliable in terms of how government operates, so when it works like this, it needs to be celebrated because we did have a lot of cooperation from metro and from odot and from tri-met, and hurting -- herding all those ducks is not a simple proposition. Secondly, this council really has a value about public/private partnership, and this is one where we really work well with business people to get to the point where 85% of the, of the property in the district is sign the -- has signed the petition. That's great, and a sign of how well we have worked in trying to work out all the issues with the individual property owners. Third, another value here is thrift. This agency is one in which the capital improvements budget has shrunk to \$2 million city-wide falling by 75 percent over the last few years. 1/7 of the cost of this whole project is what this project has city-wide, and despite that situation, this bureau never whines and, achieves a huge amount of leverage with the capital dollars that we give them, and this is just one more example of that, and I appreciate it. On the symbolic level, I think this is a project worth noting, as well. We had the green drive project in here a few weeks ago, and both in that case and in this case, we have the city of Portland really making a substantial investment in traditional industry, you know. I am glad that we have all these dotcoms here and I am glad that we have gleaming new office towers rising here and there in the city, but we still make steel and asphalt and concrete and truck parts and steel cabs in Portland and I am glad that we have had a couple of major projects through here in the last few weeks in which the city is investing in the basic infrastructure that it needs to keep basic industry operating in the city, and I think that has very important symbolic value, as well as solving this very practical problem that these businesses have struggled with for so long. So, bravo, everybody, for an excellent, cooperative effort, thank you. Aye.

Saltzman: This is a good project with substantial benefits to the businesses in this industry, in this part of the river, so appreciate the perseverance of all and the overwhelming support for this project, and the unusual degree of cooperation amongst many governments, as commissioner Hales said. Aye.

Sten: Well, congratulations to everybody who has worked on this, and commissioner Hales, I know some offices down there, have been down there when the whistles were going off. This is a major quality of life improvement and it has been done in a smart and you can't get everything perfect in these, but this is definitely a fair approach, and I am glad to support it. Aye.

Katz: Good work, commissioner Hales, and I want to echo what he just said is that we do look at the next wave of industries and we target them, but the base and the foundation of the industries in this community are the manufacturing industries. They pay well. They are local. They don't usually merge with other companies, and we need to support them. And so I am pleased that we are able to make their life a little bit easier. Aye. Okay. Regular agenda, item 154.

Item 154.

Katz:, We do this at every budget period, and if you read the resolution before you, we have included a lot of items that have been discussed with the council over the last couple of months, and I want mark to run through them.

Mark Murray, Bureau of Financial Planning, Office of Management and Finance (OMF):

Mark, bureau of financial planning. This brings to council the results of the work session that was held in january, and served as the guiding financial principles as we go through the budget development process for fiscal year 2001, 2002. Included in the forecast based on the work session from council, we have included an increase of the thousand dollars that was set aside and increases of 1,000 per year. That includes the funds that are used to fund debt service, as part of that capital--

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Katz: It is a million a year.

Saltzman: Increase is --

Katz: Million.

Murray: Yes, and part of that increase, or part of that is set aside approximately \$936,000 per year is used to pay the debt on the grants that council gave to the school a few years ago. It also includes 1, of assumed savings for the general fund portion of the administrative services review. And it includes a 1 million allocate to Multnomah county for support of early childhood development. Given all that it shows a shortfall of 3.1 million to fund ongoing programs at that current service levels. Although, it does include approximately 975,000 in one-time resources that will be available for council application. The 3.1 million shortfall translates into approximately 1.4% reduction in ongoing requirements and was council's agreement that the budget guidelines to the general fund bureaus would direct them to bring in decision packages, and getting down to that level to assist in making the decisions to rebalance the budget for fiscal year 2001-2002. We will continue to modify the estimate based on updated information as it becomes available. The updated information we have to date has not improved the financial picture. We have a signed target budget at 100% of service level and then have, as I said, asked the bureaus to come one at 1.4% reduction packages. Are there questions or concerns of the council at this time?

Katz: Let me ask you, I am going to support this, but I need to flag to the council right now that the budget situation is very dire, that their information now coming with regard to power increases and higher cpi's and other issues that have been flagged that's going to make this task to those few general fund budgets really very difficult. In fact, the other day I totalled 4% reductions for the police bureau. That's 4%, that's not 1%. It is 4%, which includes their risk management reductions that they have to make, the asr, as well as this, and so I will support it, but I need to understand, again, from mark because if I change, if I change the budget and make different recommendations, that's in here, we will have to come back to the council with a different resolution?

Murray: No, we will not need a different resolution for the financial forecast. This just serves as council's base. This is where council is directing us to start. Everything else will play out during the budget --

Katz: All right, but I will not have to come back, because I know this has been raised prior to the council, and I want everybody on the council to understand that I wouldn't have to come back with a change in this resolution?

Murray: That's correct. You would not have to come back.

Hales: I have a question --.

Saltzman: I have a question.

Saltzman: I guess I want to amend the part about the early childhood development. I would like to strike the words, "Multnomah county" it is about allocating a million dollars for early childhood development, not allocating a million dollars to Multnomah county for early childhood development so I would move to strikes the words, Multnomah county, from that.

Katz: Let's, let's -- before I ask for a second, that's not been my understanding as far as the reason for doing this. Could we have a little bit of discussion on that now?

Saltzman: Well, sure, I think the discussion, this commitment arose out of the discussions related to the creation of the interstate renewal district and the impacts of that district's formation upon Multnomah county's general fund, however I think the discussion about the city allocating a million dollars was to support early childhood development, some of the activities and programs suggested for us to look at, and in fact, I have been tasked with coming back to you next month with a recommendation on how to spend that million dollars. The programs are, in fact, not Multnomah county programs, like early head start, and head start, those are not county programs so were the

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city to choose to allocate a million dollars to those programs, there is no reason that money would have to go to Multnomah county. It would go directly to early head start or head start. That's an example.

Francesconi: I was going to ask you this later, commissioner Saltzman, but since you brought it up. Is there a program that we are funding with this? Is there an objective, an actual program that we are giving this money to or a program to be developed?

Saltzman: Well, I have been asked, asked to deal with the recommendation in march, and I will come to you with a recommendation.

Francesconi: But now as we adopt this, there is not a specific program?

Saltzman: No.

Katz: I think commissioner Saltzman --

Saltzman: There is probably a variety of potential areas that could be spent.

Katz: You are working with commissioner nato, are you not?

Saltzman: Yes.

Hales: And you are saying this limits whatever proposal you might bring back?

Saltzman: Well, I think it infers somehow that the money is going to Multnomah county, and that's not necessarily the case.

Hales: Okay.

Saltzman: It could be going directly to some other early childhood support program, and I just think that it is incorrect to state it the way it is stated here.

Katz: All right. Do you want -- do I hear a second?

Sten: Second.

Katz: All right, any objections? Hearing none, so ordered. My only hope, and this is a flag to everybody, that we don't make these huge commitments right now until we play all of the budget items out. I ask you that because there are changing requirements that are being made, and they will further impact general fund budgets, which are the basic services for this community. Okay. Anybody want to testify on this? Roll call.

Francesconi: Briefly, I am not going to repeat it all. I said it at the informal but I will not support this. I just can't -- I just happen to be -- I should confess, sometimes I read other things, but I just happen happened to be reading the pdot council work session on the budget next week, and so how can I approve, giving a million dollars to the county or to whoever now, for a program that hasn't even been developed yet? Given the short-falls in our own basic services. I just can't do it. Now, does that mean I am not open to talking about what we can do with Multnomah county to address a very real problem? Yes. And in fact, I met with commissioner nato to talk about how we might approach that, but to do this now is irresponsible. No.

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

Sten: Well, I hadn't planned on getting back into this, but I guess I have got to say a couple of things. This is a financial forecast. The timing of my view on the million dollars was not tied to this year's budget, it was tied to an off-year, off-budget cyclic decision to spend several hundred million dollars in north Portland and in my own view, which is in complete agreement with the council but a respectful disagreement, it was tied to impacts that that decision we were making outside of the budget in that \$300 million, there is absolutely no specificity at this point, and I am not saying that there should be. There is 52 allocated for housing. There isn't specific to housing, it was looking forward in saying over that time period we will spend "x" amount of money. It will have "y" impacts on other governmental partners, and should we or should we not set that forward? In that resolution, I then asked commissioner Saltzman to come up with a strategy for that. So it is in the forecast. Everything in the forecast will be open to debate in the budget like it always is.

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Everybody's bureau is everything else, so I see from my point of view, that this is a commitment that I believe was necessary for me to justify the amount of impact we were having on other services that this community takes, particularly early childhood communication, and all the work we are doing on interstate does have negative ramifications on the ability to provide nonurban renewal services, so that's the justification, and I couldn't hold to the, you don't do budget things off budget when we were doing a couple hundred million dollars worth of urban renewal off budgets, so that's the timing in my mind. Mayor, when you write the budget, you write whatever you want. And it will have some relation to this forecast but then it will be debated so I don't see that we have a big problem at this point. I think the problem will be writing the budget, aye.

Katz: Yeah, and that's the reason I am voting for it. But, I want to flag, you know, we do have the basic services that we have to fund. We can't tack on these kinds of fees that maybe comes from other bureaus, whether it is sewer, water, or transportation. We have to fund it with the discretionary dollars that we have. Unless we go out and ask the voters to raise their taxes. And so that I am very protective of the general fund and the basic services that we are charged by the charter, and that this community expects. So that's the reason that I flagged this. I also flagged to you that I have asked drew to redo the forecast for the loss of revenues for both us and Multnomah county, and that appears to be much less of a loss of revenue from Multnomah county, and I haven't yet had a discussion withdrew on it, but will, so that we are more linked for the reality of what the situation might be, which was so different from last summer when this discussion first went on, whether it is a million dollars or less or whatever. So, I will come back with more accurate figures in terms of the loss of revenue for Multnomah county, as I try to put this budget together. Having said all of that, and with all the caveats, aye. Okay. Item 155.

Item 155.

Katz: I normally would not have brought this forward to you by ron and I had a conversation about his role on this, and I thought you needed to know that, and he want to do share that with you.

Ron Bergman, Interim Director, Bureau of General Services (BGS): All right. Thank you, mayor, and commissioners, ron bergman from general services. This is an action to approve a number of contracts that will be used over a 3-year period on an on-call basis. It saves time for keeping projects moving forward. Yet still it meets the spirit and the interest of our contracting regulations, 25% of the contractors are in the mwesb program. I did want to highlight for you that one of the contractors in the building, commissions area is a nonprofit organization that has a board of directors, among which is an employee of the city, who worked for general services but there is no financial interest in that and really, in terms of just acknowledging it and disclosing that, we want to do put that on the record, but not that there is necessarily a conflict of interest. And again, the issue here is really trying to keep our projects moving and it is an efficiency effort to have these contracts ready to go.

Katz: Questions?

Saltzman: A comment, actually. First of all, I appreciate the disclosure about peci, but more importantly I appreciate the fact that the building commissioning firms are listed here. As you may recall, the green building standards that we adopted just a few weeks ago, an integral part of meeting the green building standard is the commissioning of a project, whether it is a retrofit or new building and that means basically making sure all your systems work the way they are supposed to work and have this done as an essential prerequisite to getting the green building certification so I am glad to see that we prequalified a number of firms to do this work. Good job. Thank you.

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Katz: Any questions? Anybody want to testify? Roll call. **Francesconi:** Aye. **Hales:** Aye.

Saltzman: Aye. **Sten:** Aye. **Katz:** Mayor votes aye. At some 156.

Item 156.

*****: I was going to say something about just in time for delivery, but that will be too bad of a pun.

Katz: The police bureau received a grant, and we are very pleased to pass much of it onto you for the programs, commissioner Francesconi, I know that you are going to be interested in, and tie in with some of our work with youngsters, after-school, and at other times of the day. So, somebody wants to start? Who does? Do you want to.

Merilee Laurens, Police Bureau: I am marilyn laurence with the Portland police bureau, crime prevention division and I will be the fiscal agent that will be managing the funds, and this particular ordinance is allocating funds to the nonprofit side so that they can do partnerships with other agencies. As well. With Multnomah county, with the school district, and with other law enforcement agencies, as well.

Katz: Thank you. Tell us what you are going to do.

Maura White, Police Activities League, Police Bureau: Have lots of fun. We are actually going to expand our program -- Mora white, the executive director, and marine is here, and she is going to be the project manager on it, she has been our assistant director for pal and now she will transfer to running the program. We are going to expand to at least eight school sites and after-school programming, partner with the parks bureau and expand our hours at the pal youth center, as well as adding a computer lab and actually having a computer tech. We have had a lot of issues with them. Kids know more about computers than some of us, and we can't keep them up and running so we are going to expand our program hours as well as the programs offered so for a lot of the kids, we were only able to serve in the summer, we will now have year around opportunities so we are really excited about it. As big expansion for us.

Katz: Questions?

Francesconi: Just one. Mora, the integration with the schools and the relationship with the schools, can you say a little by the about how this would work?

White: I would have maria tell you, it is working really well.

Maria Albourne?: Maria, project coordinator for the grant. I have been in partnership with eight different schools, and what I have done is made contact with the principles, first off, to find out if this is what they want us to bring into their school, and they have directed me to the person to work with. There are a number of schools that we are in that are community schools with the parks, so I am in partnership in working with those people that run the after-school part of the buildings, in working with parts and creating partnerships with each site to make sure that everybody is aware of what they need to do, personally. But, each site is unique to the needs of their community. Trying to partner with other programs that are already happening. Trying to enhance things that are already going on with the school, instead of recreating that wheel. If the wheel needs to be recreated, and they want to have something that's not currently being offered, for example, robert gray middle school wants to have some sort of drama or dance. The kids have been asking about that, so we are pursuing getting an instructor to come in and do that, which they haven't been able to offer to their youth in the past. Does that answer your question? Okay.

Saltzman: Is this just a one-year grant or a potential for --

White: It is a one-year grant but we steel strongly that, because we will do such a great job as a pilot site that we are hoping it will expand to become a 3 or 5-year program, and --

Saltzman: Are you talking about the federal?

White: Federal grant, and marilyn has many experiences with making these grants become many years so, we are hoping that she will help us, so it is a one-year program from the cop's program.

Laurens: The other thing I just would like to add is that maria has done an excellent job of reaching out and has had partnership agreements that will be in our planning and support division, that will talk about -- she just recently did one with st. John's community center, parks and recreation, george scoll, and boys and girl's club, so, and that's out at st. John's community center in north Portland and we are working with george out there. And the other thing is, is that what we are trying to do, in most instances, is tying an officer, that is in that precinct, to the projects, so each of the projects, even though there will be instructors, there will also be an officer that will be involved in the programming and in all of the programming, which makes it a little bit unique from other recreational programs because we are trying to build relationships with the officers.

Katz: Call that community policing. [laughter] All right. Any further questions? All right. Anybody else want to testify? Roll call.

Francesconi: Congratulations to the panel, as you can hear from this presentation, parks and pal have a, have a great partnership. I guess two other things I want to say. One is marilyn laurence, who was also trained at parks, is a tremendous resource for our city. [laughter] And she's doing all she can to kind of help implement community policing, and it has really been terrific. Third thing I want to say is cathy turner, since she's been relieved from the shackles of my office, and my idiosyncrasies, she's been able to focus on the schools and is really pulling this together. I have actually asked cathy to brief the council, individually, if you want, council members, about what's been going on. The reason I am mentioning this is because the relationship between sun and pal, we are trying to strengthen this as a partnership strategy with the schools. So, your answer to me was right, I mean, was what I wanted to hear. Let's not recreate the wheel. Let's use these partnerships to advance the educational, recreational and social needs of children and the school site is the place to do that. So, we are on the right track here. The last thing that I want to say is I have talked to the chief and charles has talked to the chief, about how we could work together even more in these partnerships in terms of getting additional resources, and so we are working on that. Thank you all, aye.

Hales: This program has brought a lot of happiness to a lot of kids and you can see it on the faces of these women that the joy that they bring to the work and the good it brings to the community, so I really appreciate it, and this is another affirmation from other sources that you are on the right track. Aye. **Saltzman:** Good work, aye. **Sten:** Terrific, aye.

Katz: I need to admit something that I have kept somewhat of a secret. I was a pal child. You didn't know that, did you. [laughter] And that -- I haven't said in that to anybody, but I want to let you know that this is a wonderful program. These folks do a wonderful job, and it is a partnership with police, parks, and pal. And congratulations on getting the money and congratulations on, you just won an award, and congratulations on that, as well. Aye. Thank you. All right. 157. Do a.

Katz: See here, romon bunton? Let's move to 158. All right, miss t.j., You have three minutes.

Item 158.

T.J. Browning: Thank you. I know I have talked to all of you individually and I know that I have testified before you -- T.j. Browning, Portland, Oregon. And I know that I have talked to you as a group about accountability and how important, but there's been recently -- recent events that compelled me to come out of my sick bed and talk to you today. And those are, um, lowering the standards of, for your college, for police officers, and the removal of the citizen input for the boards for selecting a police officer, to me, these two things are so interconnected with community policing that I now have some real grave concerns about where we are going with them. I am really glad to follow these ladies, and go yes, there is still hope here. You know, there is all kinds

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of things out there, we can document this forever about the relationship between training, education, and job performance. And it is out there. But, I understand the problem with recruiting minorities, and I am appreciative that you have that concern. But, I do think that there are a number of ways to go, other than lowering the standards to be a police officer. These men and women have the most complex job of anybody in this city, on a day-to-day basis, they have to deal with things that none of us have to deal with. And to send them out there unprepared, I think, is just not good. There is a federal program that would pay for college education if they will commit to being a police officer. We have two universities here in our city limits that both have criminal justice schools with good reputations, that we have no working relationship with. I think that there is ways that we can do this, besides lowering the standard --

Katz: T.j., That's not an accurate statement on the last one.

Browning: Well, I went to Portland state and talked to them about this so I was quoting them. The other thing that concerns me is the removal of citizens from the oral boards, having done this a number of times, I think that it is crucial to have a citizen be sitting there in the hiring process. You have got two police officers on either side conducting these interviews and they have come with one perspective, just valuable, I will give them that, but you need to have that citizen sitting there and that process to have that input to make community policing work. And the removal of the citizens from the oral boards is just awful to me. So, when I originally got involved in piiac, I just wanted to address accountability as a component of community policing but now I see these other things falling into place, I have some real concerns. I would, I really urge the city council, reconsider this four-year degree. We need to have that. We need to have qualified people out there, not only for the officers, but for the citizens that they serve. The other thing is, please, please put citizens back on oral boards. That is very important component of community policing, and please move forward with the majority report and adopt independent review board with independent investigative powers.

Francesconi: T j., On your first two issues, this is new, it is not something that we have heard repeatedly. Because you were kind of looking at me on two, so I wanted to --

Browning: Well, we had this conversation.

Francesconi: I know, and I want to be clear about a couple things. On the four-year degree, you mentioned studies, and you talked about the importance of training on police officers, and those studies, I believe, do exist, but I just want you to know for two years I have asked for studies from chief potter, from dan noley, from charles moose, and from chief kroeker, showing the link between four-year degree and police officers. And so, if there is a study out there, I want you to give it to me because I actually believe there is no study. So, if I am wrong, I would like you to get it to me because I have asked for two years, so I want you to be -- I don't want to have a debate here right now but I want --

Browning: No, no, that's okay. I had this conversation with will --

Katz: Well --

Browning: I will get them for you.

Katz: Hold, hold on.

Francesconi: The second point is, and your point is, by, quote, lowering standards, using your language, we are getting away from community policing. The point I am trying to make is, given all the opportunities right now, it is very difficult to recruit people of color into our force, and if we had more people of color in our force, we would actually be doing better community policing. So, I understand that you and I can debate this. But I guess I want you to, to at least understand that I think that we need to do more community policing, too. On your third issue, I was unaware of that.

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I guess I would like to make a -- your second issue, civilian review board and why they are not included --

Browning: In the oral boards.

Francesconi: In the oral boards, I guess I would like, not now, mayor, but a response from the police bureau as to why that change was made.

Katz: Thank you. Thank you. I am not going to permit conversations like this to go on. That's not the purpose of the three-minute communications.

Francesconi: Okay, I am sorry, mayor. 159.

Item 159.

Patrick Dinan: I am pat dinan, and I live in Portland. You have a packet of information I gave you last week. I want to tell you as of today, I still have not received a copy of an order that excludes me from the police department. And let me remind you that I have requested this through the piii, mr. Hesitate, the police department, the Multnomah county and the freedom information, you, mayor, as well as the assistant chief. I think you need to understand that there is no such document. That being the case, and the issues being before you, there are individuals that need to be directed to, and a general order needs to be required that this is handled in a way that the, the, they call for and your charter calls for it. Why aren't we acting on this as, as a council? It states in your, in your code of ethics under 1.03.02 trust, the purpose of city government is to serve the public. Elected officials have the duty to engage in dialogue with citizens to hear their concerns and to increase their awareness of long-term effects for the community as a whole. I don't think that there is any question in any of your minds that the public out here is not happy with the investigative arm of the police looking at these citizen issues. Now, if there is laws violated and you are aware of them, you have a duty to get something done. If you don't do that, then the public is going to lose trust in you, as our leaders. Now, I have tried to contact one of you, commissioners, and I have been rebutted. I would like to get this resolved without having to go further and do things. I have asked for and I have been denied by and you have copies of the letters. Assistant chief berke is basically told me not to come back. Commander foxworth, where the incident happened, I asked for a copy from him, and he turned around and says, contact your city attorney. Now, do I need to come before here or go to contact your city attorney and say, where is this action? I would like to have some direction from you, counselor says, because that's your job. And I appreciate getting a feedback from you, mayor, on the letter because you were graceful enough to get the information and asked both those people. Isn't it interesting that assistant chief that gets \$91,000 and a captain who is in charge of iad miss read the letter that you gave them and they had copies. They admit that they had copies, instead of using a may 2nd, they used a may 10 date that said there was no exclusion order? Of course there was one on may 10, I didn't show up, it was because of the may 2nd they claim that I couldn't come in on the 10th. So, I really request that you counselors, you commissioners of our fine city, do something to make the credibility of the police, as well as the city officials brought forth to us publicly.

Katz: Thank you. 160.

Item 160.

Richard Koenig: Good morning. Richard, I have got the handouts. Richard koenig.

Katz: Next time, give it to Britta so that she can distribute it. Thank you. Britta, why don't you start this clock now. Restart if, when he starts.

Koenig: Well, I take it that you have had a chance to study my table of authorities that supports this crime report being filed today. There was one correction that needs to be noted. Under our constitution, which you folks swore to uphold, there are no special. I omitted the word "special" in my table of authorities. There are no special privileges and communities to be granted in this state.

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I would like to read the, the substance here. I have taken the opportunity to fill in the blank lines instead of the reporting officer. Oregon health science university december 7th, 1995, I attended ex parte restraining order hearings with a young single parent, whose domestic partner had threatened to shoot him. The petition was made of judicial officer, paula, for a temporary restraining order, which was granted. Requested the court -- request of the court was also made for temporary custody of the minor child. Who I was holding in my arms. I was sitting in the front row, and could clearly hear the repeated request for custody and paula curchner's repeated denials. The petitioner's name, chris kerry, is also the child's name, and such information had been duly presented to paula in the petition for temporary restraining order. Under the family abuse prevention act, paula was required to grant temporary requested custody upon request of petitioner. As a single male parent in physical possession of his child, chris kerry was in imminent danger of being arrested should mother contact police and merely allege kidnap. Such a scenario would have been inherently harmful to chris and chris kerry. Paula had long been a member of the longest divorce law firm in the united states. Menashe, and therefore knew or should have known of the potential harm that she was subjecting chris and chris kerry to by failing to do her duty imposed by law. In as much as paula routine the awards custody to similarly situated parents, she apparently committed perjury of oath of office to chris kerry by denying equal protection of the law to chris kerry, thus victimizing each and every resident within her court's jurisdiction. I would like to, to, in view of the fact that it has been such a long, hard struggle over a number of years to get this, this crime report handled appropriately, gotten to the district attorney's office, I am expecting that when I appear here next week, that I will have some kind of verification of transmission to the dea's office. Thank you for your time.

Item 161.

Thomas E. Mullen: Thank you. I am thomas, he reside at 950 lloyd center, Portland, Oregon, 9723 -- 232, zip code. And I would like to -- about the police, the way that they filed their reports, had slanted me, and technically will me arrested for a crime that I didn't do, as a drunk driving charge that I feel that they was motivated by drunk mothers at the time, that it was known that the drunk mother had an issue out that they wanted more arrests and proper more targets, and fully more time and more arrests to be done, in this matter, as drunk driver, but this was back in 1989, when drunk mothers was just getting started at this time, and I was wrongfully charge to do a crime that I that I was not driving a vehicle on 1988, 4, 7, 1, 7, 4, 1988, the drunk driver, at this time, it was a two-person car, which was a vet, and they say three of us was driving, so the charge never did get to the judge's office, the judge dismissed it because because in the united states, three people can't drive one vehicle so he dismissed it. But the actions, I am approaching that the, the officers, at that point in time, tucked the information they sent and forwarded to the dmv, dmv at this time didn't have powers to act without the knowledge of the court, the court didn't act on it, it never did happen. So, in a sense, the courts dismissed it but dmv went ahead and suspended my license and this has been plaguing me ever since they did this action to me in 1988 without my knowledge or consent, and so I went to the governor, and he sent me to dmv -- in 1989, they stopped again, the charge came back up and they had me arrested again for a drunk driving, for the third offense, which I didn't have no three offenses, so by the time we got to '89, the '88 case off of there, the '89 came up in 1992, where the judge -- I went to a jury trial, it was dismissed. Hung jury. Then the judge straight railroaded me because I guess he was looking at the prior charges of my record so whatever, I don't know who, to influence or like I say, I think a drunk mamas was pushing that for, for arrest. My criminal record, all the times that I have been put in my life, at that point in time, it looks like I have a problem with drunk driving but if they would have done their job the way that they was supposed to have done it, they would have seen that they have been

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stopped over seven times in marion county but if they would have read further, they would have seen that I won all seven of those cases. They was wrongfully stopped. I was wrongfully charged, and therefore, I went in front of a jury and every time I won all seven cases. And so this time that I feel that I was still being hazard now in Multnomah county and also judge redding said we do things a little bit different here, but still, I thought that they would still keep it with the court of the law, and I have not been justified, arrested or, or now I have, I have, I have lost everything, I lost my business, I lost my trucks, my cars, now due to this action of judge redding in 1992, I was only supposed to get ten days. He gave me 120 days for the amount of time. I filed charges, never heard anything back from the da's office or nothing, so then he violated me in 1993, christmas eve, I went into jail in 1993, and I was only supposed to do 26 days to maximum time that he could have gave me was a year. He gave me the year, I did --

Katz: Sir, your time is up. Do you want to just sum up quickly? Very quickly?

*******:** Very quickly?

Mullen: I've been wrongfully accused of drunk driving. I gave too much time, so i've been slandered, and defamation of character where I have lost all my businesses and everything, and they say it is due to me not having driver's license, and they could not, the city of Portland could not recognize me as a business because I don't have an adequate driver's license, and I have still injured, I need a surgery on my back because the 1993, when judge redding, I got in an auto accident, with the sheriff's office, and they refused to file claims and everything. I've been trying to get someone to reopen this claim so I can get my medical attending and everything, and they act like it doesn't even exist, so I have the copy of the, of the wreck and everything, so I need to -- they told me to bring it back to you since the officer had me put in everything, file wrongful papers, bring it back to the city, and then go to the county --

Katz: Thank you. Thank you. Everybody, we stand adjourned until -- oh, we have one more? Oh, right.

Mullen: So, was I supposed to wait from some comment from you or --

Katz: No, this is just communication, but mr. Hess is sitting there, and he will talk to you because this is very, very confusing, in terms of --

Mullen: 13 years to put in three minutes?

Katz: All right. 162.

Katz: I don't see todd here, is he here? All right. We stand adjourned until 2:00.

At 11:10 a.m., Council recessed.

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2:00 PM

Katz: Please call the roll. **Francesconi:** Here. **Hales:** Here. **Saltzman:** Here. **Sten:** Here.

Katz: Present. I hesitated a little bit because we have some guests that I want to introduce. They are still on their way? Okay, then we will do that. I might interrupt you folks in your presentation. Okay. 164. No, I am sorry, 163. All right. Who wants to come up?

Katz: This one sort of slipped my radar screen for a while because we were working on a lot of other things, but I am glad that it has come forward.

Item 163.

Michael Harrison, Planning Bureau: Thank you, I am michael eric harrisson with planning, with me is mark and in the audience, peter, who worked with us on this project. This is what we referred to as a back burner project. We worked on this for the last thee years when we could find time when we weren't busy with something else, so it was specializing that needed to be done, it was went a very high profile thing. Its origins go back to the satisfaction with some aspects of the central city fundamental guidelines adopted in 1991. Not the guidelines, themselves, but with the document, the language of the document, and then some intervening issues. We had five objectives in doing this project. One was to produce a design guideline document that was illustrated with good examples of how -- different ways, how each of the guidelines could be met, and it had always been the intent with simple city fundamentals, but for a variety of reasons, it wasn't published that way. Our second objective was to get the language more active, a little more user friendly document. Our third purpose was to take the small amount of content remaining in the downtown design guidelines, that wasn't introduced in the city fundamentals and shift that into the central city fundamentals, and allow us to have a new city fundamentals document and retire the other document, simplify and getting rid of some complexity and the design process from both the city and the applicant. Finally, when we developed the, the community design guidelines, and they were adopted in 1997, we introduced something in it, in streamlining the workflow, which tries to differentiate the set of guidelines that applies to the small projects, to those that would be applied to a brand new building with a couple of steps in between. And again, the way the emphasis of having a new chart is to avoid having to make findings against guidelines which are clearly not applicable.

Katz: Did you get to the fifth?

Harrison: And the fifth one was to address the design commission's long standing concerns about

--

Katz: Roof lines? It is about time. [laughter] hold on. Why -- why don't you get, take your seats and I want to introduce our guests or have ruth come up. We have some wonderful guests from thailand. Ruth, do you want to use the mike so that people -- I am going to hire her as the next international relations person.

Ruth Roth, Office of Management and Finance (OMF): In your dreams. [laughter] Ruth roth, office of finance and management. Mayor, please have a seat. Mayor surfong, from raon, thailand, as you probably remember, I hope you remember, Portland and the city of Portland and rayon, thailand have an agreement under the international resources city's program through the international city's manager's association, and I have had the pleasure of arranging with tim the schedule for a series of meetings this week and some of next week, and I would like to introduce each of the delegates to you. Mayor surfong.

Katz: Good to see you.

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Roth: This is the manager of finance, this is the head of education in raon, and this is a teacher in raon, and rataon has been in america for 29 years and is our interpreter and we appreciate all of them coming.

Katz: And tim, come on up before I let the mayor say a few words. Briefly, your visit.

Tim Grewe, Chief Administrative Officer, OMF: The program that the city is involved in is sponsored by the international city manager's association, and funded by the federal government, and as a result of this program, there are exchanges of delegations from throughout the united states, literally, throughout the world. We entered into a relationship with rawong because they have been very active in sustainable city programs, and in fact, the mayor, I believe, and others have been to Portland before to study our sustainability programs as a result the mayor requested this relationship. So I traveled with them, along with felicia, because the mayor is very interested in economic development projects, waterfront projects, and we have agreed to collaborate on a public outreach programs, replanning activities programs, both there and here in Portland, and we will be traveling back after the mayor's stay to help him on some specific projects.

Katz: Mayor is very interested in community outreach and a lot of the photographs were the mayor meeting with the community so that, in addition to economic development, is sustainable development, the community outreach is very important, would you like to say a few words?

*****: On behalf of the raon city, in thailand.

*****: He truly appreciates that you allow him to come in and study.

*****: For the last couple of days, three days here, he learned a lot, that he can go back and implement in thailand, in his own city.

*****: This opportunity is meaningful to him and his city.

*****: He is so grateful to the mayor, of city of Portland, and he, with this in mind, he will, you know, wishing you all the best health, prosperity, and the best for you.

Katz: Thank you. That was a good -- have a good rest of the trip. Thank you. The mayor and the delegation gave me two pins, they are beautiful. I don't have one on and I will bring them in tomorrow. They are made out of fish scales, so they recycle fish scales. We don't have the fish, so we can't get the scales, but they must have a lot of fish, and they are really, very, very lovely. All right, come on back.

Harrison: I wanted to mention, in closing, that what the council is actually being asked to adopt today are the applicability charts and the guidelines and statements, themselves. The illustration and examples, the drawings, background section, introductory stuff so not intended for adoption. It allows us to work with the design commission over time and put new examples in as to as worthy projects are built that they bring to our attending, and if we find a problem or something that's not clear in the background section, we can change that. The guidelines, themselves, are mandatory approval criteria, which must be met, and that makes the applicability chart important so that we aren't putting people through the rigger of developing findings and arguments I wanted for turn the presentation over to mark, who is going to present you a small change to the applicable chart that we would like to you make.

Mark Raggett, Planning Bureau: Good afternoon, I am mark with the bureau of planning. And I am just very briefly going to introduce an amendment, discussions with the office of planning and development review, have identified that on the applicant chart on page 59 of the recommended amendments --

Katz: We see that, mark.

Raggett: The categories, the five categories at the top of the applicability chart. We are proposing to match those types of proposal types to define definitions in the zoning code. Which would mean changing exterior remodel to exterior alterations and changing open space to sparks and open areas.

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The others have definitions. The other -- the second part of this amendment would mean is, is further identifying storefront remodel, which would add text to the bottom of page 58, basically, describing exactly a storefront model --

Katz: All right, I will take a motion.

Hales: So moved.

Katz: Second? Any objections? Hearing none. Thank you. Okay. Do we have anybody who wants to testify? Chris, are you going to testify? Come on up.

*****: The three design musketeers up here. [laughter]

Katz: My question to all of you is where are you going after this. Jeff, did you want to start?

Jeff Joslin, Office of Planning and Development Review (OPDR): Please. Good afternoon, I am jeff johnson with the office of planning and development review. And I am here with chris, current chair of the design commission, and charlie sacks, previous chair of the design commission. Ten years ago, we created a document that, for the last ten years, has been the single most important design review document in the city, in the central city, specifically. For ten years, we have also been guiding downtown development with what's been one of the crummiest looking design review documents. This project was largely prompted by the desire to come up with --

Katz: I thought you were going to talk about development. [laughter]

Joslin: Don't go there. [laughter] Different forum. It was largely prompted by the desire to add clarity and simplicity to the central city design review documents as well as to add some content that the design commission has been requesting. To put it mildly, for, for some time, as well as to come up with a document that was of an appropriate quality for, for its use and significance. Thanks to a dedicated effort by mark, michael, and peter, I believe that after ten years, we finally got a document that's as good as the guidelines, the process, and an appropriate tool for the design commission of the city and the city council.

Katz: Thank you. All right. We have two members here for the first time in a long time.

Chris Kopka, Chair, Design Commission: Okay. I guess I am going first. I am chris, downtown development group. I am the current chair of the design commission. We are pleased to be before you today with the document. I think you know what it does. It really does three things. It draws up language, adds some inconsistencies or lack of clarity. This provides pictures, and that may sound a little silly but I will talk about that more in a second. And then it cleans up some conflicting --

Francesconi: I don't think it is silly at all, chris. For my benefit.

Kopka: Oh, good. And it deals with some conflicting situations that we had and language over time where things were not closely aligned. The fun challenge of the job for us as design commissioners, and it was said earlier, you have guidelines, and they are mandatory approval criteria, so what you have to do is find -- you have to find a way to convey what you are looking for and say that it meets that, and if it doesn't, it can be challenged and it has been challenged, and we found that words, oftentimes, are enough, or that words have double meanings, as we all find and on occasion, you then pull out a picture and say, this is an example of what it is, and somebody pulls out another picture of another idea, the same is what we found is when we can get to the picture stage, beyond the words, it makes for a lot simpler conversation, at least you can communicate. You may not agree, but at least you can communicate. And that's what's so important here, so having these pictures, we think, is a very valuable, and it is a less directive way than words. I think that charlie would tell you, as past chair, I will tell you as current chair, that we like the idea of having guidelines, they are not all mandates, there are not all zoning codes. It leaves you the flexibility to come up with different ideas and different ways to meet the guideline. And the pictures do a nice way of illustrating that, other than with words, tend to come across a

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little regulatory at times, so I think for us, this was a sort of a perfect -- blending of ideas, and that's what's great about this document. Jeff told you it has been ten years that we have been working with this one without pictures. Now we have pictures. I don't want to take away from the glory of the moment, but I also would like to remind council that we have had some changes in vision over ten years. It looks like we might have some more. We are in the midst of discussions, and at some point here, we -- I would like to encourage you to allow staff the opportunity to work on revisiting the guidelines. We did not revisit the guidelines.

Katz: Immediately.

Kopka: We cleaned up what we had. This was, as michael told you, was shoe-horned in between other activities, but we would like to find a time to have the guidelines, help achieve the vision a little more closely, and given that opportunity, we would look forward to it.

Katz: As soon as possible.

Kopka: I should also mention, we did add two guidelines, I think it was said, c-12 and c-13, they are two items that we have been implementing ad hoc now as a committee for 6, 7 years, charlie?

Sax: Yes.

Kopka: And we just formalized them, they are the ex-treasure lighting of buildings, and what role that lighting should play. And it is more of an accent, as opposed to a feature, and how to integrate signs better into buildings. Those are the two additions straight up that didn't appear before and now appear.

Katz: Thank you, chris. I knew you when you had hair. It has been a long time. Is this the first time you have been testifying in front of --

Kopka: No, actually, this is my second, yes.

*****: Avalon.

Charlie Sax, former Chair, Design Commission: My three minutes of, of fame.

*****: Well, this is probably not a contested item on your agenda, I would like to underscore --

Katz: Charlie, just identify yourself for the record.

Sax: I am charlie sacks, architect and former chair of the design commission. While, again, this is not a contested item, I am sure -- I want to underscore the value of the guidelines. For years, and throughout the life of this document, this has been our bible. Said it has been the constitution, the fundamental item that, that is the grounding document that provides a basis for decisions and process. And it has been just an extraordinarily valuable tool not only the process, but for this community, and I underscore the effort that's gone into updating it and bringing it into its final iteration. We have a process in this community that's the envy of communities throughout the united states, and it -- periodically I have gotten calls from friends and how does this work, and I send them copies of this document. It is extraordinarily well done. And the simplest thing that I can say, and I think that we take it, take this -- the product and the process a bit for granted because we have been around it for so many years. This is really quite a valuable effort, and document. And just underscore that I want to take the process to task slightly. It is a pity, it seems to me, that the upgrading of this has to be a back burner process, and without, perhaps, front burner funding, and I urge you to, you know, take a look at those priorities, when these kinds of issues come before you because this is really one of the things that's made this community a great community. Thank you very much.

Katz: Thank you. Questions? Chris, I am going to let you off to easy? You talked about the next phase. If you needed -- wanted to go ahead and proceed, what would be the three issues that you would want the commission to address? Charlie, you, too, I want --

Kopka: Well, one item that charlie and I have been -- and the rest of the commission have been laboring over for quite a while is the concept of signature buildings. The regulations tend to, to,

although they are general, they tend to, to form sort of a directive about how buildings had looked, and do these kinds of things, and what we have got in our good buildings, but they tend to be more alike than not alike, and it seems like we should find a way to allow buildings to be -- some buildings to be signature buildings and how we have that happen and where we have that happen and how they just don't -- they can just set aside all the or guidelines because their signature is that balanced, and we labored with that a little bit, and low and be hold, there is a couple of projects you haven't seen great ground -- break ground yet, but they received design approval, and they tested us on that. They came through with some adjustments and said, we are not just going to run through this process as fast as we can, we are actually going to take a slightly different path. So we put aside and said, you know, if people really want to take on that idea, they can. There is a way to do it in the process, but I think that we have got a lot of frame buildings going on right now. We don't have very many picture buildings going on, and I think every once in a while, a picture building isn't bad to have.

Hales: Tell me a bit more about that. I think it is a good question, mayor. The coin tower, and the fox tower, were all built under the guidelines. Did they hold back either the architect or the developer and if they are not signature buildings, what is?

Kopka: Well, that's an interesting point because a couple of those buildings are earlier buildings, and I will tell you something about the process, and others should participate. This is a legal process. We shouldn't kid ourselves. It is a very good process. Clear fluid process but it is a legal process. And on occasion, actions of the design commission have been taken to task legally, and so what happens, what happened procedurally is that people come in as late in the process as they can, knowing as much about the building as they can, and as a result, they need those approves when they walk in the door. They used up all their time. They have used up all their money, and the idea of coming up with another idea or revised idea isn't entertained all that well. And I would like to -- and so what they tend to do or what people tend to do, and I have been through this process myself, you tend to take the path of least resistance because there is little assurance out of the process that you will end up with what you thought you were going to get, so why take on more than need be. And that's gotten more -- that -- that happened more and more over the last decade, anyway, I would say, maybe the last five or six years, my tenure with the commission, to where you find people coming in, not willing to talk about ideas because they have already had to formulate their idea to the 9th degree, they have charged their client for it and lined up their construction financing behind it. They have a precommitment from a tenant and they really don't want that conversation, so I think that you are -- the buildings you point to generally are older than six or eight years old because that process is sort of forced people to, to, you know, not intentionally and deliberately to be mundane, but you have to balance getting the commitment for a tenant, with delivering a project within a budget, and limiting the amount of exposure that you have and the approval process.

Hales: So maybe I distracted you from the mayor's question and I want to return you to it. So if -- and go on beyond the first one, but flush out the first one a little bit. If one change you would make is encouraging signature buildings, how might we do that?

Kopka: We started to -- charlie may want to talk to you here. I don't want to do all the talking. What we wanted to do was try to find a way that you wouldn't just have the signature building say, we can abort all the other guidelines of the city because it is signature and we have to find that right solution, and we didn't, in this process, because we wanted to get this cleaned you, we just didn't invest that much time, it is a priority of ours and a priority of the other planning and design commissioners and would like to get back. I don't have an exact answer for you. The other thing is, you know, visions are changing. You know, north mcadam is probably going to go through some revisions here of change, and possibly the mid town park blocks, we will see what comes

there, but some of these guidelines, there may need to be some different guidelines. They wouldn't be changed, they may be different for those areas. They may still be fundamental to a large area, but there may need to be some rethinking that would go with that changed vision. We have tried to keep them generic enough to where that wouldn't have to happen very often, but I am going to suggest when you get to be a decade or more old, at some point you do have to go back and take a look and make sure that things are still lining up as well as they could, especially with this next round of planning we are looking at, charlie?

Sax: One of the things that I think is brilliant about this process is that the guidelines are part of an ordinance of the planning, and they have quazi-judicial standing. And if you read the ordinance, one of the last paragraphs in the ordinance is a, are, sort of an escape clause, it gives the commission the power to supersede, override a guideline when the, the overwhelming evidence suggests that the solution better meet the intent of the guidelines. This can get a little fuzzy, but it does provide the commission with a very, very flexible tool. The problem is chris identified is we are not getting the quality of initial proposals because clients and developers want to play it safe and the safe way is to follow the letter of the guidelines. One process, one initiative could be, in fact, through the city, in other words, for city, or city projects, to say to your design team, let's, let's go for the signature statement on this project. Let's see if this is an applicable time to make that statement, and what, what better place than from a city initiative.

Joslin: I think another, further answer to charlie's question, that these guideline documents play is educational. Long before we see a development team in the door they have these documents in hand, and they are looking to them for guidance. , and they are trying to identify the city's expectations and aspirations from, from those documents, not just from the, the ordinance language, but from all the other language that's, that's, that's specifically directive, less regulatory, more visionary. And I think that's -- that's one of the cues that they are not receiving is that, yes, you may be -- you may be able to do something extraordinary within the framework of the guidelines, and I don't think that the guidelines have ever gotten in the way of, of a great project. But, the, you can neither read in the lines or between the lines that that's something that we are looking for in projects that are extraordinary that are exceptional, that, that break out of the box a little bit.

Katz: There are always incentives. There is a timing issue that I just heard, a problem with the timing issue. There is also the issue that we could provide some incentives. We don't like to do fast track. We have done it for green buildings, but it is something that I hope at the next phase of your work, would begin to explore because you are absolutely right. The signature buildings are a few and very far apart. And this city deserves better than that. So that's a goal. Any further questions? Does anybody else want to testify? All right, everybody. This is not an emergency ordinance, so does anybody want to say anything while our members of our commission are here?

Hales: Thanks for good work, both on this project and on a monthly basis. In applying the guidelines to cases. I think we have done a lot of good work. Like others on this, council, I wouldn't mind more stringent guidelines and a higher level of performance by some of our applicants. I certainly am open to the suggestion, and you followed it here, that education and encouragement are powerful forces, too, not just regulation. I am not willing to, to seed our authority to the market and hope for the best, but I think that you are giving people, you have raised the bar and hopefully people will notice and if they don't notice, you have the authority to push them higher.

Francesconi: I just wanted to say one thing, not that I disagree, because I think the mayor and commissioner Hales are right about the signature buildings, but chris mentioned the park blocks and the mid town park blocks. The mayor and I had an opportunity to walk around the central city,

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the downtown, with these outside experts that are really highly qualified, and I think it is good that we get from outside looks at what we are doing, and we sometimes think that we do everything automatically better. But, to see how they -- just, I mean, they were amazed at how well we are doing here, and I think that the design guidelines and your work has a lot to do with that. And the other thing that they are amazed at is kind of the -- and I was amazed at, is how much our citizens care about our downtown, it is really everybody's downtown and there is so much pride in that, and you are seeing that through this process, but I think what your work is doing there, really, contributes to that. We can do better, but we are doing well.

Katz: Okay. I have high expectations for the commission. I am like charlie, I think we need to raise the bar. I have told the architects and developers when they ask me to cut ribbons if the building doesn't meet my standard, I don't come and cut the ribbon. [laughter] And they can asterisk on their resume, mayor shows up, mayor doesn't show up. I also think we ought to have an annual awards for the best buildings in town, and begin to get the architectural community and the development community to really begin thinking about a better, better buildings and signature buildings in the city. So, think through the, the notion of annual awards for the good designs and have a competition or you do it, yourself, directly, but I thank you for, for all your work. You serve on a commission, and you do good work, and we are going to expect even higher quality of work from all of you. Thank you. All right. Everybody, we stand adjourned until tomorrow, 2:00. At 2:35 p.m., Council recessed.

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2:00 PM

Katz: All right. [applause]

*****: White chocolate.

*****: Oh, the good stuff.

Katz: Catherine, are you ready? Come to order. Britta, please call the roll. **Francesconi:** Here.

Hales: Here. **Saltzman:** Here. **Sten:** Here. **Katz:** Present. Item 164.

Item 164.

Kathryn Beaumont, Senior Deputy City Attorney: Catherine Beaumont, city attorney's office, before we begin the hearing today, I have some opening announcements concerning the type of hearing this is and the order of presentation. This is an on the record hearing. This means that people who are testifying have to limit their testimony to materials, material and issues in the record. Witnesses can't bring up anything new. This hearing is designed to decide only if the landmark's commission made the correct decision based on the evidence that was presented to the commission. If you would 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. We have two appeals before the council today. Generally, in an appeal, we begin with a staff report by the opdr staff for approximately ten minutes. Following the staff report, the city council generally hears from interested persons in the following order. The appellant goes first and will have ten minutes to present his or her case. Following the appellant persons who support the appeal, will go next. Each person will have three minutes to speak to the council. Next, the principle opponent will have 15 minutes to address the city council and rebut the appellant's presentation. After the principle opponent, we will hear from persons who oppose the appeal. If there is no principal opponent, the council will move directly to testimony from persons who oppose the appeal after supporters of the appeal conclude their testimony. Again, each person will have three minutes. The appellant will have five minutes to rebut the presentation of the opponents of the appeal. The council may then close the hearing and deliberate. After the council has concluded its deliberations, the council will take a vote on the appeal. If the vote is a tentative vote, the council will set a future date for the option of findings and a final vote on the appeal. If the council takes a final vote today, that will conclude the matter before the council. Turning to the guidelines for the hearing, again, this is an on the record hearing. It is not an evidentiary hearing. This means you must limit your remarks to arguments based on the record compiled by the landmark's commission. In presenting your argument, it is permissible to refer to evidence that was previously submitted to the landmark's commission. It is not permissible to submit new evidence today that was not submitted to the commission. Opdr staff and I will be listening carefully to your argument and if it strays from the evidence or argument presented at the initial hearing, I may interrupt and remind you must limit your argument to issues and evidence in the record. If your argument includes new evidence or issues, the council will not consider it and it will be rejected in the city council's final decision. If you believe that someone who addressed city council today did improperly presented new evidence or presented a legal argument that relies on evidence that's not in the record, you may object to that argument. Finally, under state law, only issues that were raised before the landmark's commission may be raised in this appeal to council. If you believe another person has raised issues today that believe not raised before the landmark's commission, you may object to that issue. That concludes-

Katz: Let me make one correction on here. It says northeast hoyt. It is northwest hoyt. Okay. Okay. I just -- I notice it had here. All right, conflicts of interest? Announcements? Announcements of ex parte contacts by city council members? I need to say that, I think about a month ago I went to the site and got an education about hotels, none of this was discussed, so I feel -- I have no biases with regard to this appeal, but I did -- I did go and see the site. Anybody else? All right. Staff report. [inaudible]

Kara Fioravanti, Planning Bureau: Today we are here to hear two appellants for the final findings and decision of the landmark's commission type iii historic design review. The first appellant was the

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pearl district neighborhood association. Second was the dpr construction for the owner, fowler and flannigan. The summary of the proposal from the applicant at the beginning of the review was to renovate an existing structure, to accommodate electronics equipment facility, a generator yard for 21 generators with a new screen wall enclosure around the yard. A pedestrian path connecting 14th through 15th avenues by way of vacated irving street or gating off vacated irving street, and a ground floor window modification for all four levels of the building. The landmark's commission decision approved the following items. First, several exterior building alterations to the landmark, which include new entry, canopy, street level lighting, mechanical louvers, a loading dock enclosure on the south elevation of the building, new signage, building repair, removal of fire escapes and new paint. The commission also approved a minimum of 45-foot wide public pedestrian path at vacated northwest irving street, approval of a generator yard and fence enclosure and also approved the ground floor window modifications for the building. Just to give you an idea of the site. It is in the central city, in the pearl subdistrict, the central city plan district. It is zoned exd, central employment with design overlay. The site is approximately 72,000 square feet and includes a four-block, which is about here, that includes the designated historic landmark, the meier & frank warehouse. It also includes vacated irving street and then to the north of that, a half a block, which is currently undeveloped. The site is also in the central city pedestrian district. It is across the street from the 13th avenue historic district, and finally, the site abuts the historic gann building to the north. And street designations around the site include vacated irving street, 14th avenue to the east is a city bikeway. Hoyt street, 14th and 15th avenues are city pedestrian streets, and finally, interstate 405 is to the west of the site. Just to give you an idea of the site plan, this blue area here indicates the landmark. The original building was built in 1923, and 1958 there was an addition that took up this half block. However, the historic nomination is for the entire building. The site also includes vacated irving street here and here in the yellow is where the generator yard was proposed. I will begin talking now about the first item from the neighborhood's appeal, one of the issues they brought up is that the yard and the path should not have been reviewed as a historic design review. They were, in fact, correct, they went back to the zoning code to find out what went wrong with the review. The code states that historic design reviews are required for exterior alterations of the landmark and other historic features that are identified in the national register nomination that attribute to the historic value of the landmark. The area planned for the yard and the path was not identified as an attribute in the national register nomination, it also didn't mention any features identified as attributes. Therefore, that space should not have been reviewed as a historic design review. It should have been reviewed as a type ii design review. Once we figured this out, the applicant came in with the new proposal for a type ii design review for the yard and path, and that has been processed and a decision for that review is issued and mailed yesterday. So staff is actually encouraging council not to consider the yard and the path during this review because it was unnecessarily --

Katz: So the yard and the pedestrian path issue is not before us today? Is that what you just said?

Fioravanti: Pretty much -- right. It should not be under historic design.

Hales: But it is subject to a separate application now?

Fioravanti: That's right --

Katz: Which we don't have and we will come back --

Fioravanti: Well, actually that review is a type ii, so it is an administrative decision and is going to go to design commission if there is an appeal.

Katz: So that is not before us now? The building is the only thing before us? All right.

Fioravanti: So just to give you an idea of the correct process, with the correct approval criteria, the alterations landmark should be reviewed through type iii historic design review, which we are looking attitude, and the criteria are stated in the code, 33.846.140c.1-10. The proposed exterior alterations to the space planned for the yard and path, we currently have it in progress and the guidelines for that are the central city fundamental design guidelines and the river district design guidelines. So, these are the

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basic points that I am going to summarize from the pearl district, pearl district's appeal. First, the yard and path should have been reviewed as a design review. The second item is the fence design is not compatible with adjacent development, and because the fence is subject to type ii design review, we are recommending that we don't look at that today. The third issue is that the neighborhood does not support enclosure of the loading dock facing hoyt street. When we go out to the site, on the south elevation of the ground level, this loading dock here is -- did receive approval from the landmark's commission to be enclosed. The neighborhood does not support that. They feel that this gained historic significance over time. However, when the building was constructed, this loading dock was not there. The building wall came out flush with the rest of the building. The loading dock was actually here to the southwest portion of the building. That was enclosed in 1997. And to look at the elevation that was approved by landmark's commission, this is the enclosure with new windows and then the applicant is also proposing three new windows for this end of the building. The final issue raised by the pearl district neighborhood association was the location of the new entrance on 15th avenue. When we go out to the site looking at 15th avenue, the west elevation, there is an existing overhead loading dock door here, and then the new entrance would be in place in this area. This is the approved design for that entrance. The neighborhood association would rather see a public entrance off 14th avenue. The applicant has proposed the entrance here for ada accessibility, and just for your information, the historic entrance of the building is actually on irving street, which is located here. And this is the 14th avenue elevation showing the existing door that I believe the neighborhood association would rather have for public access. However, this door is proposed just to serve as an egress door, and what the landmark's commission did approve for this area was a new canopy, and a new light overhead the door. And the second appellant was the applicant of the land issue review. The appeal stated that they would voluntarily create a 20-foot wide pedestrianway, but not be mandated, minimum 45-foot wide pedestrianway. This was put in place by the landmark's commission but as we said, because the yard and the path are not under the historic design re any more, we should bereaving the yard and the path during the type ii that we currently have in --

Katz: So, this issue, also, is not before us?

Fioravanti: Right. Just going to take you around the site quickly before I conclude, looking north along 14th avenue, this is the historic meier & frank warehouse. Irving street here, this is hoyt street, and 14th avenue. This is at 14th avenue and hoyt street across the street from the property. This is the southeast corner of the intersection. This is the northeast corner of that intersection. With irving street lofts beyond. Looking further north along 14th avenue, this is irving street. Irving street is here, this is the meier & frank warehouse. And the next item we are going to look at this building at irving and 14th, which is there. And just north of the site, the other historic landmark area is the historic gann building at johnson and 14th avenue. This is looking east among hoyt street. Into the, the historic district. This is looking east on irving street also, within the 13th avenue historic district. And this is looking west along irving street. This is the meier & frank warehouse. And just take you around the building quickly. This is the north elevation. This is the 1923 original building. This shows the loading docks, the ground level of the north elevation at vacated irving street. And there is another shot of the north elevation. What was approved by the landmark's commission for the north elevation were louvers, within existing window openings, as you see here. New canopy and signage, and finally, lighting at the ground level. On the east elevation facing 14th avenue, we see the 1923 building and then the 1958 addition. There is another shot of that elevation. And what was approved by landmark's commission were more louvers in some window openings, ground level lighting, and a canopy and light above the entrance at 14th avenue. The south elevation faces hoyt and this is the 1958 addition. We see here the loading dock that is, that received approval to be enclosed. And this is looking east at hoyt street, at 15th and hoyt, south elevation. And what was approved here, again, is the enclosure of the loading dock with new windows, and then these three new windows at the, at the southwest corner of the building. In addition, street level lighting was approved by the commission. And finally, the

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west elevation faces 15th avenue. We see loading docks at the ground level. This is a shot of the loading dock. And at Irving and 15th, this is where the new entrance is going. What was approved for the west elevation were a few more louvers and existing window openings. Street level lighting and the new entrance and canopy. So, in summary, today we have an on the record appeal. The proposal for the yard and path designs are not subject to historic design review according to the zoning code. Therefore, the issues to consider today are limited to the exterior alterations of the landmark, and I might remind you the landmark is the entire building, the 1923 building and the 1958 building. And finally, the council alternatives. First, to uphold a portion of the neighborhood's appeal that the yard and path are subject to design review, thereby, upholding those portions of the landmark's decision that relate directly to the exterior alterations of the landmark and eliminating the portions of the decision that relate to the path and the yard. Today, you can also uphold the neighborhood's appeal. Thereby, denying the type III historic design review application. And that concludes my report. Do you have any questions?

Katz: Okay. Let me make it clear, the applicant now does not have an issue before -- they don't have an appeal?

Fioravanti: No, we withdraw.

Katz: Okay. And the only issue for the neighborhood appeal is the exterior loading -- the loading dock area.

Fioravanti: And the entrance.

Katz: And the entrance, okay. Questions? Of staff? All right. Let's put the lights up. Jeff, did you want to add anything?

Jeff Joslin, OPDR: Jeff, office of planning and development review. We are recommending that you do not review the nonhistoric portion of course, it is still part of the record, so we are asking you to sever that portion of the landmark's decision --

Katz: Okay. Further questions? All right. The appellant, ten minutes.

Daniel Kearns, attorney for the appellant, the Pearl District NA (PDNA): We are only going to talk about the building. I have a memo that provides legal issues about what we will be talking about.

Katz: Why don't you give it to Britta and she will hand it over to us and we won't start the clock until you are seated.

Kearns: For the record, my name is Daniel Kearns, and I am an attorney. I represent the Pearl District neighborhood association. My address is 610 Southwest Alder, Suite 803, here in Portland, 97205. I am going to provide some of the legal foundation for the design issues that we have raised in our appeal. And this, this issue we are going to raise, isn't really pertinent to the fact that this is a Telco hotel, but rather that it is a historic landmark, within several design districts. Now, under your code, and staff correctly pointed out, that when you have a historic landmark, and it is, and its proposal comes in for modifications or alterations to it, the design review section of the code says that it goes by way of a historic design review process. So, that's, that's section 33.420.045. So, we head to that process, and then the landmark's commission addressed the ten historic review criteria that it normally does for normal reviews in the historic districts or landmark, however this is a pretty comprehensive change, or at least it has a lot of exterior alterations as part of it. And normally, when there are exterior alterations in the downtown area, there are a host of other design guidelines that are applied. In this case, the historic landmark's commission said that it wasn't going to address those issues. It wasn't going to address the design issues related to the design criteria, only the ten historic review criteria in -- that were addressed finally in the decision. The fact of the matter, though, is that the design review criteria still applies. It is in the central city district. It is also in the river district, and the city council has adopted pretty stringent set of design criteria for it, and nothing in the code exempts this review from those criteria. I am not aware of any reason why this building would be subject to just the historic criteria and get out of the really more rigorous, more stringent design criteria that you have adopted as part of the central city and also the river district, and I have attached to this memo some of

the ordinance by which you adopted the central city design guidelines and the fundamental design guidelines, and significantly in that ordinance, it says, and I will quote, "the design commission, the historic landmark's commission in the case of design review in historic districts of historic landmarks," that's what this is, "and the city council on appeal shall conduct design review and design zones in the central city using the fundamental central city design guidelines. The river district guidelines, and I have a complete copy here, it is a pretty thick document, but it similarly, apparently, it incorporates the pertinent central city design guidelines, but still, when you read through what it provides, it says the central city plan, fundamental design guidelines must be met by every project within the central city, including those within the river district. That's where we are. All projects within the river district must meet the river district design guidelines. And then to come to the close here, projects located in historic districts, historic conservation districts or that affect the city designated landmark are reviewed by the historic landmark's decision or design review staff. The landmark's commission uses these guidelines, the river district guidelines, as their approval criteria when they have the responsibility for design review for a project located within the river district. Again, that's exactly where we are. And if you look at the historic criteria, the final one, which is the first appeal issue that we have raised, talks about the hierarchy of compatible, and it anticipates that the historic landmark may, in fact, be in design districts and other kinds of district guidelines will apply. But yet, the historic landmark's commission refused to entertain any of those issues.

Patricia Gardner, PDNA: Okay. I am patricia gardner, I am at 1116 northwest johnson. I am the newest member of the pearl district neighborhood association. So, I know. [laughter] I am moved, I am moved. So, just so I could be the fifth member on the advisory committee, but. [laughter] Commissioners and mayor, I am going to be very succinct, then. So, what are the design issues and what would the pearl district like to see? In essence, it is this simple. This building should be part of the neighborhood, and it is not acting that way. Per historic approval guidelines and the hierarchy of compatibility and per the river district and central city fundamental design guidelines, 5.1, which reinforces the pearl district, a-8, to add to the city-scape, b-1-2, orient primary entries to pedestrian ways. C-3, design for compatibility. Our opinion is that the front door to this place should not face the freeway. It should face the neighborhood. It is really that simple. Why should the front door face the freeway. Physical really going to be part of the neighborhood, then let's make it part of the neighborhood and have the 10 to 15 people who are going to be working in this, you know, I think it is 40,000 times 7 floors of building, the 10 to 15 people working there, let's see them on the street walking up the doors, going into their building, if they are only going to add that much to the city-scape, that's important, we don't want to have things facing the freeway, it is that simple. And face the neighborhood, face the historic district across the way. Face your historic neighbors that are on all sides to you, and be part of the neighborhood. The other thing is, is these 10 to 15 people may have offices, can we please get them grouped on the ground floor so that we can add to the city escape. Another point is approval guideline three, historic changes, also, again, historic approval guideline 8, which is architectural compatibility, I am sorry, got that wrong. Let's take this back. Historic approval guideline 3, historic changes, a-8, contribute to the cityscape, c-3, compatibility, designing for compatibility, and a-5-1, which is reinforcing the identity of the neighborhood. This is the point on hoyt. What they did not tell you is that the changes that have happened to hoyt happened eight years after that building was made in 1958, I believe they said, so eight years after that, so 43 years in the history of this neighborhood, loading bases have been on hoyt, and as you know when you go to the neighborhood, we have many successful loading bays, you know, and they are used in a number of ways. We have an architectural office that is faced with glass that's been put in the loading bays, and they add to the 13th avenue historic 13th avenue would be nothing without those loading bays being active. And this is the only ground floor, the only ground floor part of the building that faces the neighborhood that has the ability to add to the cityscape. It is the only place. Everything else is five to eight feet above height. Now, I will say that five to eight feet is not an impediment in the pearl district

to having a successful business. We have tons of successful ground floor uses in things that are below ground and above ground, but the number one thing is that's the only place that touches the ground floor, so add to the neighborhood. Put something in there, and moreover, as a record of historic changes, since it has been there longer than the building has, you know, eight years, is not historic record. If it wants to be a record of its time and it wants to be part of the neighborhood, then it should have loading bays. We are not afraid of loading bays. We like loading bays. We like them tremendously, so that, in essence, that should be kept, and if they want to put glass there, more power to them. If they want to leave them open, and that one man who plays the saxophone wants to play his saxophone there, which he does, late at night, then so be it. So be it. But add to the neighborhood. Don't just put up walls with no life behind them, and so that's, that is, in essence, our point, is that, you know, we are welcoming, welcoming hotels, absolutely. We are not saying anything about that. We are just basically saying, look at the historic fabric of that building and look at it in context for this neighborhood and be part of the neighborhood. So, that's about it.

Katz: You have got about two minutes, did you want to close?

Kearns: I would just -- just a few more comments. So we are asking the city council is, based on these criteria, you have the authority to make these sorts of changes to the design if you feel comfortable doing that, or you could remand it back to the historic landmark's commission and have them do the full job and review all of the appropriate criteria. But in any event, the changes we are asking for, the appeal issues that we have raised, essentially, they have the authority to grant them, but also, it is difficult to see how compliance can be achieved with the criteria, unless these changes come about. For this building and for any other building that goes into the central city district, subject to these criteria, and also those of any applicable subdistrict.

Katz: Thank you. Questions? Thank you.

Baumont: Mayor Katz, one comment to offer, as I was listening to mr. Karen's raise the issue about whether the right design criteria were applied to the building, it did not see that raised in their notice of appeal. I conferred with staff and I am informed by staff that that was not an issue that was raised before the landmark's commission. And so I think that there is a question as to whether that is properly before you today.

*****: This was raised before the landmark's commission.

Kearns: I understand that it was raised in the oral testimony at the beginning of the landmark's commission proceeding, and then the requirements of the design district, the specific design requirements were raised at different points through oral testimony.

Gardner: And basically, we raised numerous times the hierarchy of compatibility, and that also fits into and talked about the pearl district, specifically. So, and --

Katz: We weren't there. Were they raised -- thank you. Were they raised in oral testimony?

Fioravanti: The hierarchy of compatibility approval criteria is actually one of the historic approval criteria, which is -- it is the correct approval criteria. The river district -- what I recall the river district guidelines and the central city fundamentals, the neighborhood brought those issues up for the yard and the path. When we were talking about the building, we were focusing on the criteria and the code, which are the historic criteria, which is -- that was just referenced, hierarchy of compatibility.

Hales: Well, maybe aside -- I don't think it is inappropriate at this point to ask a question of staff to get this clarified. Aside from the, what's admissible question of what got raised below, can we have sort of a staff response to this argument that, that a landmark should be fully subject to the other regulations and that this one wasn't? The other guidelines? I am sorry.

Joslin: The code is clear on this question. 33.420.045 a, under exemptions states that landmark's and other properties in the historic districts are exempt from design review. They are subject to landmark's review. So, by virtue of that exemption, you don't get to an application of those other guidelines, you go directly to the historic resources chapter, which identifies the criteria as the landmark criteria that we are recommending and the landmark's commission did apply correctly to the building. The other

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documents that I believe mr. Karen's was reading from were forwards to other guideline documents that were not adopted by ordinance, that are not, not regulation. They were advisory comments in the forwards of some of the design documents that applied to the district.

Hales: Okay. So your understanding is that it is for the portion of this project, which remains before us in a landmark's appeal? The landmark -- the historic landmark track in the code was followed and it was reviewed by the landmark's commission, and therefore, the central city design fundamentals and the other design regulations that were referenced were not applicable.

Joslin: Correct.

Hales: This portion of the project. Okay.

Katz: Can I get a double check? Catherine, do you agree with that?

Beaumont: Yes, that's my understanding of the code.

Katz: Any further questions? On this? How do you want us to rule, council, on the issue? Should it be actually -- should we allow it to be introduced or not?

Hales: I guess I don't -- I am not worried, mayor, about it being introduced or not. I think that we can deal with the question, whether it is, whether it is introduced or not. I suspect -- I guess that creates the, the silver of a possibility that somebody could take an appeal up based on a purely procedural issue, but I guess I would rather take that risk than split any more hairs.

Katz: Okay. All right. Thank you. Supporters of the appellant? Come on up.

Guenevere Millins: 513, northwest 13th avenue, sweet 300, Portland, 97209. Mayor and commissioners, I volunteered -- It is one of the Portland's most observed and the neighborhoods. The pearl district developers have an obligation to strive not only for the economic good of the area but for a social and humane good for the district residents and workers, and therefore, for the city as a whole. Activity on the ground floor is a hallmark of the building and ground floor activities -- They have also used an argument that the market wouldn't support human activity in this building. But there are a number of examples of offices, restaurants, and retail establishments that couldn't be seen into on the sidewalk next to the building, much the less in our neighborhood. The Kennedy building and other structures at 13th avenue come immediately to mind. Up until the telecommunications hotels entered the picture, the pearl developers understood the value of people using the ground floors of their buildings for living, working, and shopping. I am puzzled as to why this developer, while changing their building's use from warehousing to basic utilities should be allowed to get away with ignoring central city design guidelines and the ideals this city espouses. Those issues were brought up in oral testimony at the landmark's commission. The landmark's commission said that they would not consider them. We are not asking that the city kick telco out of the neighborhood, we simply want their facilities to develop in a way that's compatible with our goals for active, lively streets. Thanks.

Katz: Catherine, thank you. Questions? In the ordinance, the design commission, the historic landmark's commission, in case of design review and historic districts or of historic, historical landmarks and the city council on appeal, shall conduct design review and design zones in the central city using the fundamental central city design guidelines. What am I missing here.

Beaumont: I think you are missing the section of the code that Jeff cited to you, which provides a hierarchy for which, where you go when you, you are dealing with the landmark.

Katz: Okay. That's what I wanted to clarify.

Beaumont: That diverts you off on the track using the historic guidelines. One other correction I would make, mr. Karen's asked me to point out, I think it was indicated to you that what he was reading from was prolonged in the introduction, I wanted to point out the central city plan fundamental design guidelines of the river district design guidelines were adopted by ordinance to the extent that that has any factor in your thinking. With that clarification made.

Katz: Okay. Principal opponent. You have 15 minutes.

Stephen Janik, Ball Janik, attorney representing the applicant: Good afternoon, members of the council. My name is Steven Janik, I am an attorney at 101 southwest main representing the applicant in

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this matter, and with me is John Tess, the historic consultant on the project. Also here available to answer any questions is Don of the architecture firm and Darryl, the owner's representivity. I would like to start by responding to some of the opponents recently raised issues. This might be a bit redundant with what you just heard from the staff but I want to make sure our record is clear on this. Mr. Karen's argued central city fundamental design guidelines and river district design guidelines should have been applied here and they were not. That argument is wrong, and it is very clear that it is wrong, from code section 33-420-045 that says the following, "the following items are exempt from design review. A, if the site is a historic or conservation landmark, or in a historic or historic district, it is, instead, subject to the regulations for historic design review, as set out in chapter 33.445. I don't think the code could have been any clearer in saying that there is a fundamental fork in the road, if you are not a historic structure, you then go through the design, which incorporates whatever the applicable design guidelines are, such as the central city fundamental design guidelines or the river district, if you are historic, and you go in an entirely different direction, subject to chapter 33.445, historic resource protection, and that's exactly what occurred in this case. Secondly, design review in chapter 33420 applies to development. The code defines the development different from exterior alteration, and what we were talking about here is exterior alteration, not development of a new structure. Third, this argument was never raised below. Fourth, this was never included in the appellant's appeal statement. On the issue of what was raised below, Miss Gardner referenced the hierarchy of compatibility. The hierarchy of compatibility is guideline 10 under the historic design guidelines, and what it talks about is trying to be compatible with the historic building, itself, in your alterations, trying to be compatible with neighboring historic buildings, and trying to be compatible with the historic district if you are in one. That is an entirely different subject matter than complying with central city design guidelines or complying with river district design guidelines. The two have no logical connection. Third, one of the other opponents stressed her desire to see ground floor retail activity. She did so without reference to any historic design guidelines that require or compel ground floor retail activity because there aren't any, and I think that you are familiar enough with the, the elevations to see the problem this building is challenged with when the base of the existing windows is so far high above the sidewalk, as to be above the, the elevation of people of my size. So that's one of the physical problems in trying to have anything in terms of ground floor retail activity.

*****: Couldn't we have a tougher criteria than that? [laughter]

Janik: That's a tall order. [laughter] So, what we get down to here is once we saw that the yard area, where the neighbors were correct, should not be part of this historic design review, that appeal has been withdrawn, so we are now down to simply those minor alterations that Cara pointed out to you at the end of they are presentation that we are making to the exterior of the building. Let me now go through the specific arguments that were included in the neighborhood association's appeal. We start with historic guideline one, and three and they make a couple of arguments under those two together. Guideline one says that the historic character of the property, meaning the building, itself, will be retained and preserved. Guideline three notes that buildings change over time, and that those changes that, that acquire a historic significance that are to be preserved. Now, the first argument that they make under that is they are dissatisfied with what we, the staff and the design commission or the landmark's commission are proposing for the Hoyt Street elevation to the south. Let me just refresh your recollection of the history on this, and Mr. Tess will show you the elevation we are referring to. This Hoyt Street elevation has gone through some changes. When the building was built in 1958, the western side of this facade had loading bays, three of them, and the eastern side had windows. In 1972, 14 years later, the western side where there were three loading bays were closed, and the eastern windows were changed out to have loading docks. What we are trying to do and what we propose to the landmark's commission was to go back to what was the original condition of the building, back in 1958, and what Mr. Tess is showing you now is from the Bureau of Buildings that shows you what the original condition was. You can see that you have the loading bays -- the three of them on the western

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side, and you have windows, five windows on the eastern portion of that hoyt street facade. Now, we have proposed to the landmark's commission that if you want windows all the way along there, we will be glad to do that, or if you want us to go back with those three bays on the western side and put in rolling curtain doors to make it look like it did in 1958, we will do that, too. Their preference was to have the windows in those bays, and that's what they require that we do. I might say that, that the discussion here has really advanced a novel proposition, and that is that somehow those open loading bays are a pedestrian amenity or a pedestrian value or a tractor or something, I don't think that I have ever heard that before, and quite to the contrary, the city council has heard a lot of testimony about how those truckloading bays are not conducive to pedestrians, and that's why we think the windows in that area are superior. And again, the thrust here is to take it back to its 1958 historic condition. Now, the second argument they make under guidelines 1 and 3, has me really confused. This argument has to deal with where the location, primary entrance to the building is. The primary entrance to this building has always been off of 15th, at the northwest corner of the building. We are not changing that. We are leaving it there, but what we are doing is we are complying with the ada requirements and along 15th, we are putting in an ada accessible entrance. Now, if you look at their appeal, what they complain about is the following -- they say primary pedestrian access for new offices will be moved to 14th avenue. I am sorry, moved to 15th avenue from 14th, which is not in keeping with the building. Well, we are not moving the entry from 14th avenue to 15th. It has always been 15th. It is going to stay 15th. There will be a new ada compliance access on 15th. What's got me confused is patti, just a moment ago said, that what she's arguing is that the primary entrance should be moved from 15th to 14th. Yet, they are -- their very appeal statement says they don't want that to happen, so I am confused about what their position is on that issue. The fact is, there is an exit-only on 14th, that will remain an exit-only, and it will be enhanced by a canopy and an exterior lighting that the neighborhood association asks for and which we agreed to provide. The next argument that they make is under guideline 10. Guideline 10 says that exterior alterations should be compatible first with the original building, second with the adjacent properties, and finally, if located in a historic district, with the rest of the district. Now, on this argument, they don't offer you any real argument, they just make a conclusion that the exterior alterations we are making are not compatible. They say it is not compatible with, with the gun building immediately to the north, but they don't explain how it is not compatible. The landmark's commission thought that it was. Secondly, the gun building is a different period of architecture, and therefore, a different looking building. And I think that we should all sort of defer to the expertise of the landmark's commission and the staff that found there was no problem with compatibility with the gun building to the north. The association also argues that we are not compatible with the 13th avenue historic district, and they reference a provision in that design guideline that says because new construction should be two to six stories high. There is no new construction before you today. I don't think that that argument no -- any longer pertains. I would point out that even if, if that argument did pertain today, we are not within the, the northwest 13th avenue historic district, so those guidelines do not apply to this. And finally, they say that we are not compatible with the alphabet historic district. Again, we are not within the alphabet historic district. That's located approximately a mile away, separated by the 405 freeway. And it contains buildings that are of a much different age, use being residential, and architectural design. So, that conclude can say our prepared testimony. We would urge you to take the following actions, accept the withdrawal of our appeal, terminate any action with respect to the neighbor's appeal pertaining to the yard area, and uphold the decision of the landmark's commission as it pertains to the exterior alterations on the building, itself. Thank you and if you have any questions, we would be happy to respond.

Katz: Questions?

Saltzman: I guess I am a little confused about the entrances on 15th. The main entrance to the building is on the, the northwest corner or the southwest corner?

Janik: Northwest. Northwest.

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Saltzman: Okay. So the new entry that they were talking about in the appeal --

Janik: Is on is the 15th elevation.

Saltzman: So that's an ada dr you are adding that entrance, but the main entrance is actually on the north? Northwest?

Janik: Well, the historic entrance was on 15th. This is the entrance, the ada entrance. So you go back through hoyt street --

Saltzman: The old --

Hales: The old entrance is going to remain and this entrance is going to be added and they both access the same space in the interior?

Janik: Correct.

Saltzman: And then on 14th, you have got an exit that will remain but it will be enhanced?

Katz: And it was always an exit?

Janik: Yes.

Saltzman: Thanks.

Katz: Questions? All right. Further testimony from the appellants? One second, and nobody else? All right, then come back for your rebuttal.

Kearns: Thank you. For the record, again, dan karen's for the pearl district neighborhood association, I would like to respond to some of the legal points. The only thing that, that staff and the developer came up with as to why these design district criteria don't apply is the section I have quoted in the footnote on the front page of my memo. It just says if you have a landmark designation or if you are in a historic district, that you go through this process. You are subject to, quote, the regulations of the historic design review. And it cites chapter 33.445, which is all the procedural sections. The historic design review criteria are in 33.846, a whole different chapter, so it doesn't say it is subject to the criteria for design review, it just says historic design review, just the process, and that's clear, that's what is done and that's what any kind of historic district modification or modification to any landmark, they go through that kind of design review process. And that's all this section says. The two sets of, of design district standards were adopted by ordinance, and I cite the ordinance numbers, and quote, extensively from the ordinance, as well as the, the documents, themselves, and as you know, when it is adopted by ordinance, it is binding, and it explicitly says that in these criteria, in these standards and these adopting ordinances. So the only way to interpret section 33.420.045 is the way the city has always interpreted it. You are in this historical category. You go to the historic review -- the historic landmark's commission for your design review. It doesn't mean you get out of all these other criteria. And --

Katz: Let me -- let's hold the time, I have about 3 1/2 minutes. Is that true, catherine? What he just said? Were you paying attention?

Beaumont: I understand his argument. I don't have the full code in front of you, but -- in front of me, but I believe that chapter 33.445 refers you to chapter 33.846, which contains the design review -- the historic design review criteria. So, I think that, that, while I understand his argument, while I think it is creative, I think that the staff is still correct, that when you have design review, of a landmark, the historic design review criteria apply in lieu of the other design review criteria.

Katz: All right, we stopped your clock, so go ahead.

Kearns: With all due respect, though, of course, when you are in the historic review process, you have to deal with historic review criteria, so there is going to be a cross-reference there. But, this section that we are dealing with just refers you to the procedural section for historic review, which makes sense. Nothing in here says you get out of the design criteria for the district. Why would the, the ordinance and the, the criteria, themselves, say that the historic landmark's commission shall apply these criteria when they do design review. That's what they did in this case, was design review by the historic landmark's commission. That would render meaningless the section on page 46 my memo, the landmark's commission uses these guidelines as their approval criteria when they have responsibility

for design review of a project located in the river district. And so that means the way you interpret this section and the code is that's a process you follow. It doesn't cut out two-thirds of the approval criteria.

Gardner: Now, I am going to talk specifically about the historic guidelines which, which Steve was talking about. A couple of things, now keep in mind we had two parts to our appeal, one of which was the lot, and in the number of the guidelines, and things that he was talking about, were specifically aimed at the lot, and so I can go through that. Approval guideline, hierarchy of compatibility, a lot of that had to do with what was going on the lot, and what they were, what they are intending on building there, so, so, but it also has to do with, again, the river district design guidelines and the fact that all of the historic structures in the area have active ground floor uses and that is also something that is called out for in the 13th avenue district. Approval guideline one, and approval guideline three, that is germane to the building. Approval guideline 3, historic changes is exactly that point, so 14 years there were loading bays on one side and there were no loading bays on the other side, and then they came in, and the year has jumped from 82014. But, then they put in these loading bays that face Hoyt, and so that is -- and we can all do the math, but loading bays have been there longer than they have not been there, and as we all know, and in regards to Mr. Janic's height as a gauge, if we use Mr. Janic's height as a gauge, that would mean that full upright position should not be successfully businesses in regards to their -- how they exist on the street. It also means that, you know, his argument in regards to -- [laughter] To, to loading bays, is, again, the same thing. Loading bays are very successful if you put glass in front of them and again, we do have that one lone saxophonist, which you can only hear if you live there, he comes and plays at night, and I swear one citizen using that building is better than no citizen using that building. So, again, we specifically -- approval guideline 8 --

Katz: Regardless of our decision, we are going to ask the applicant to find a spot for the saxophone.

Gardner: Thanks. [laughter] Approval guideline eight, architectural compatibility, that, again, had to do more with the lots than it did with the building, although it does have this one, one little detail, which again, is the, the -- we had a mistake, believe it or not, we had a mistake, and as the staff can have a mistake, we had a mistake, and that is in our appeal where we switched 15th and 14th. What we are really going for in our testimony shows, is that we feel again and again that 14th avenue has potential, and so we would prefer to see the entry on 14th, you know, you can scratch it out and make arrows, but the entry should be on 14th and face the neighborhood, and that is, and that is reinforced by approval guideline 8, architectural compatibility, which all the, the adjacent historic structures and districts face towards the neighborhood. So.

Francesconi: One question, maybe two. So the loading dock, so, is that -- the loading bay, is that what you think the historic amenity is? Is that what you want to preserve?

Gardner: That has been there longer than it has not been there, and the decision that was made was not pure. It was not purely what existed -- it wasn't purely what was drawn, and it was not purely what has been there for the length of the building, and so we would rather have it be pure, and just, just, you know, keep with what we have got.

Francesconi: So the answer is yes, it is the loading bay?

Gardner: It is the loading bay.

Francesconi: But what if this proposal had come in with an active use eliminating the loading dock, would you be appealing?

Gardner: I don't know since that didn't happen. So, I would hate to play a what-if game, but the truth of the matter is, is there is no active use on the ground level, and so we have to appeal what we can.

Francesconi: So it is the active use that is the issue.

Gardner: It is, although we were told, numerous times, for the landmark's commission that we were not allowed to talk about use, and so I am loath to bring up the subject now just to get shot down again. Obviously, you could read through everything we are saying, which is be part of the street, be part of the street, no matter how you do it, and so everything comes down to that use and that ground floor

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level if you want to get down to the truth of it. Now, is that legal? Do we have the right to do it? I don't know. But, you know, we have to -- we have to go with where we are going, so.

Katz: The entrance was never on 14th.

Gardner: I understand that.

Katz: You are right, it would be wonderful if it was, and it would orient that street, but it was never there.

Gardner: Sure. Again, it is -- to use it as a back door, to use it as a back door, and maybe I have a, something that's bent in my brain, which basically says that you have to have a balance. You have to have a balance between taking a historic building and putting it in its neighborhood, and even -- and certainly, there are numbers, you know, how pure do we have to be? How pure do we have to be, and how much do we turn our back on the neighborhood in the process? I mean, that's the question. And we are being very pure in a lot of other areas, and so, that's, that's something that you get to deal with.

Katz: Okay. Thank you. Okay. Council, you heard some legal arguments, and then you heard the arguments with regard to the history of this building, and what would be nice and what's historic and patti raises the question, of purity, so do you want to have a discussion on that?

Hales: I am ready to make a motion if there aren't any questions.

Katz: Okay. Go ahead.

Hales: Well, first of all, I guess I can't resist a footnote, very early in my service on the city council, mr. Janik appeared here and made an argument in another case that we should be bound by precedent in our decisions rather than having the council review the code and apply it to cases, and we had a very energetic argument about that, and I rejected that notion that he was promoting, and given this discussion today about your height, steve, you should be very glad that the council will not be, you know, using precedent in future cases based on this little, little interchange. I am going to move that we, that we deny the appeal and uphold the hearings officer's decision, and that we instruct that findings be returned, which reflect that the council is reviewing the decision of the landmark's commission as it applies to the building, with an understanding that the issues dealing with the design review of the, of the pedestrianway and the equipment yard are being reviewed in a separate proceeding by opdr.

Francesconi: Second.

Katz: You also have to accept the withdrawal --

Hales: That's right, and accept the withdrawal of the applicant's appeal of the, of the landmark's commission's decision.

Katz: Okay. I heard a second. Discussion by the council?

Hales: Well, let me just say a little bit more about that because rather than just waiting until we are voting, I think that mr. Karens and the neighborhood here made a thoughtful and earnest argument, but I have to say no to it, and it is with some reluctance because this is not a nimbe neighborhood, this is a neighborhood, I don't know if it has ever appealed a land use decision, or it hasn't appealed very many, and this is a neighborhood that, in general, is trying to guide positive development, rather than just fight change or fight this or that perceived negative development, and I appreciate that. But, in this case, I think that we really have got hoisted on our own rope here, with the, with respect to the fact that this is a landmark, and is being reviewed under the historic criteria, which, if you look at that item number ten, basically say, you know, in other words, in the ones there, that the bricks and window frames in this building, as they were originally laid, matter more than our other design objectives for the neighborhood. That's what the code, in effect, says. And there are plenty of historic buildings in the city where I think that we would all say, that's great that it is so strong and so explicit and it basically said nothing else matters, as much as the history of this building and the respect of the architecture of the original conception. The trouble is we have been pretty generous as a community, that's one way to put it, in the application of that historic designation and it means whether it comes around to a case like this, that we have to honor the building more than we might honor the

neighborhood. And that was the deal behind the landmark's process in Portland and behind the separate review track, which I am not going to proceed to an argument that we put people in double jeopardy. If we have landmark's and we have development and we have a separate review process, landmark commission in one case and the design commission in another, we just need to do a good job of sorting out which buildings truly are historic. And our predecessor's said this one is, so unless the council -- we can change that policy. We could have historic landmark's subject, subjected to more than just the landmark's criteria, but that's not the deal that we -- that's not the rules that we now have in place and the deal, in effect, that we have with each of these historic buildings. So, I have to, you know, sort of stand by that. In that in a way, this is a little bit like our other telco issue, in that the historic criteria are essentially defensive, trying to keep what you have got, just as our strategy about industrial zoning in another part of this neighborhood was, essentially, defensive, and I guess again, the moral of the story is when it comes to new development, at least, and maybe even when it comes to landmark's, we need to be very explicit about what we do want, rather than about what we don't want or what we are trying to preserve. But for now, the rules say, preservation is first, you know. The hierarchy of decision is preservation is first, other considerations are secondary. And I think that the staff concluded rightly. Finally, I think the neighborhood did us a service by ringing the bell and saying, wait a minute, the equipment yard and the, the, and the pedestrianway are not subject -- not historic and they should be reviewed under design review criteria and I appreciate that and we were wrong and we are now rectifying that.

Katz: Let me ask you a question -- have you had a conversation during your tenure on the issue of historic design and --

Hales: No, we haven't had very many cases that is really sort of stressed the system. Of course of course, we had the cosco case, where somebody was torturing the historic landmark's designation to try to get something very different in place. But, we haven't had, I don't think that we have had this conflict in the eight years that you and I have been here so there haven't been many cases that caused us to really look carefully at, you know, at how the structure is working, maybe, maybe something that we at least informally ought to do, but one case in eight years might indicate that we are not too far off of, of the public policy.

Katz: I would like for you at least to formally review that because I am going to support your motion but I do agree with patti, that it would have been much nicer to have the front door, for all the reasons that she says, on the 14th side. Just because the 15th is, is at least today, isolated, maybe some day it won't be, but today it is isolated. So the discussion on, on high do you overlay the design review of a historical district is something that you might want to look at.

Hales: Yeah.

Katz: Further discussion? There was a second?

Saltzman: So, I guess I just have a question. Under your line of reasoning, which I tend to think that we are bound to follow, we have not -- we do not have the discretion to sort of inject a, a, sort of a design element decision, such as this location of the entrance, even though we may like it better. Acting in this quazi-judicial role that we are in right now we have to basically go with what our guidelines say, so long as we accept the fact that our historic guidelines are really what governs this decision, and not design review, is that --

Hales: I don't know if I would be that definitive about it, in that I think, mr. Containers made a good argument, but I think that that hierarchy provision essentially says we better have some really, really good reason to, to, to not go with, with the historic basis of the building, versus other desired objectives in the district, and I have got to say, you know, given this particular use, you know, it is pretty hard to work up a sweat over, you know, for me, somebody who really believes in ground floor retail and who believes in the ideals that we heard described here or the design objectives that we heard described, this building will have 15 or 20 people working in it. There is not going to be a lot of activity in and out of that entrance regardless of where it is. I wish that this building were going to be

remodeled to a more people-oriented intensive use but this is a legal use, and it has been properly applied for. So, I guess it is -- I don't see a lot of upside in, in the location of the entrance for those 15 or 20 people. So, that's not a good enough reason for me to really try to use our maximum amount of discretion and try to force the entrance to the other side of the building.

Saltzman: Thank you.

Katz: I want to -- I want to take care of the saxophone player. [laughter] You have a place, because of the, of the design, when you make a place for the saxophone player, to sit and play late at night. [laughter] Assuming that there are no drugs or, or anything else, that's illegal? Yes? Okay. So we -- we saved a home for the saxophone, a bench or something nice for him or for her, it is a him, to sit and play. Okay. Roll call.

Francesconi: I think commissioner Hales said it really well. I guess the only thing that I would add, if we are going to start changing historic guidelines by what we currently think, that defeats the purpose of the historic guidelines and we could get ourselves into all kinds of other trouble so I don't think that we want to go there and I don't think the neighborhoods want us to go there. On a legal side, I accept the staff's and the planning commission's, design commission's interpretation of the statute. I think I have got it right, 33.420.045. And then the only other thing, it was a nice try with the loading bay, but I think that that -- it wasn't -- we couldn't quite get there with that. So, for all those reasons, aye.

Hales: Aye.

Saltzman: Well, I think I sort of took my hand, I think the others were sympathetic that the entrance should be on 14th and maybe the applicant might rethink that before this is all said and done, but I think given the intensity of the pedestrian use here this does not rise to the level where we might overturn the hierarchy established by these historic guidelines on this case. Aye.

Sten: Well, I think that the guidelines are interpreted correctly by staff. We have had a lot of conversation the last month or two, three, maybe, at the council about design guidelines for telco hotels and I think this would be a good case study as those come forward. I appreciate the neighborhood agreeing this is probably as good of a place as you are going to find if you make the assumption you have got to put the hotels in the core area and I think that that's an assumption the economy will bear out, that this is up against the freeway, not a bad place for telco hotel, but maybe this is one that we can think through as we look at the design guidelines that we are going to require, you know, what can you do on the ground floors to make them as active as possible, and maybe being, maybe I am optimistic here but it sounds like this was an opportunity to still debate the walkway and some of that more and maybe there is a place there to get the neighborhood and the developer -- actually, who I think are not that far apart together and think that through rather than, you know, take the adversarial process because it seems to me that more people are going to be walking by and through than are going to be coming in and out of the building. Whether it is better or not to have it on 14th so, I think that this is a right decision, but maybe there is still a little bit more tweaking that could be done, and we found the saxophone a home, maybe we could put camp dignity over there. [laughter] I will stop now. Aye.

Francesconi: I get an off-leash area if he gets that.

Sten: It is obviously too long a day, aye.

Katz: The appellants raised some very good issues, and I would like for you just to informally review it. I think commissioner Hales is absolutely right. On this particular case. But, as we look at the telco and the design standards, we might want to kind of be a little bit more flexible, but in this particular case, I think that they have meant the guidelines, and have found a home for our musician so I am pleased to vote aye. Okay. Everybody?

*****: So this would be a -- cone tentative finding.

Baumont: It needs to come back before february 28th when the 120 days expires so I think that two weeks will get us there.

*****: Two weeks it is.

FEBRUARY 8, 2001

Katz: Okay. Thank you, everybody. We stand adjourned.
At 3:18 p.m., Council adjourned.