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CITY OF  
**PORTLAND, OREGON**

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OFFICIAL  
MINUTES

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A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 9th DAY OF MAY, 2001 AT 9:30 A.M.

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

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

On a Y-4 roll call, Consent Agenda was adopted. (Commissioner Hales stepped away)

**525** **TIME CERTAIN: 9:30 AM** – Convene Council as the Budget Committee for purpose of approving a budget (Mayor convenes Budget Committee)

**Motion to approve the budget as amended and that includes adjustments as presented in exhibits a through c:** Moved by Commissioner Saltzman and seconded by Commissioner Hales.

**Motion to approve tax levies:** Moved by Commissioner Hales and seconded by Commissioner Saltzman.

**Disposition:** Placed On File. (Y-5)

**526** **TIME CERTAIN: 10:00 AM** – Hear appeal of Richard Koenig (PIIAC #00-20/IAD #00-287) to the Police Internal Investigations Auditing Committee per City Code 3.21.085(4)(d) (Previous Agenda 498)

**Motion to uphold the decision of the advisors and decline the complaint:** Moved by Commissioner Hales and seconded by Commissioner Saltzman.

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

**CONSENT AGENDA - NO DISCUSSION**

**Mayor Vera Katz**

**\*527** Amend contract with Reward Strategy Group to increase the amount by \$35,000 (Ordinance; amend Contract No. 33098)

**Disposition:** Ordinance No. 175544. (Y-4)

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- \*528** Authorize amendments to the City Self-Insured Benefit Program for CityBasic for FY 2001-02 (Ordinance)  
**Disposition:** Ordinance No. 175545. (Y-4)
- \*529** Pay Claim of Matthew McClintock (Ordinance)  
**Disposition:** Ordinance No. 175546. (Y-4)
- \*530** Lease office space at 907 NW Irving Street for the Office of Sustainable Development (Ordinance)  
**Disposition:** Ordinance No. 175547. (Y-4)
- \*531** Amend contract with Brown and Caldwell to increase scope, and amount of compensation, for the Aeration Basin Modifications project at the Tryon Creek Wastewater Treatment Plant, Project No. 6083 (Ordinance; amend Contract No. 32746)  
**Disposition:** Ordinance No. 175548. (Y-4)
- \*532** Authorize contract with Parametrix, Inc. for engineering services to design upgrade project for Montana Pump Station, Project No. 7017, and for a predesign report to upgrade Terwilliger Pump Station, Project No. 7058 (Ordinance)  
**Disposition:** Ordinance No. 175549. (Y-4)
- \*533** Authorize a contract with HDR Engineering, Inc. for Tanner B, Fremont, Nicolai, and Balch Basins Combined Sewer Relief Predesign, Project No. 6675 (Ordinance)  
**Disposition:** Ordinance No. 175550. (Y-4)
- \*534** Authorize a contract with KnollGroup, Inc. for advertising and marketing services and payment in support of the Intergovernmental Agreement for the Regional Coalition for Clean Rivers and Streams (Ordinance)  
**Disposition:** Ordinance No. 175551. (Y-4)
- \*535** Authorize contract with the lowest responsible bidder for the Solids Lagoon Reconstruction Project Phase 1 at the Columbia Boulevard Wastewater Treatment Plant, Project No. 6072 (Ordinance)  
**Disposition:** Ordinance No. 175552. (Y-4)
- 536** Authorize application to Oregon Watershed Enhancement Board (OWEB) for a grant in the amount of \$102,893 for Johnson Lake and Hayden Meadows Restoration Projects in the Columbia Slough (Ordinance)

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**Disposition:** Passed To Second Reading May 16, 2001 at 9:30 a.m.

- \*537 Apply to Tri-Met/ODOT for Special Transportation Grant funds in the amount of \$152,541 to purchase and install audible pedestrian signals for pedestrian safety, particularly for the elderly and disabled (Ordinance)

**Disposition:** Ordinance No. 175553. (Y-4)

- \*538 Amend agreement leasing the Jefferson Street Branch Rail Line to City of Lake Oswego (Ordinance; amend Agreement No. 26233)

**Disposition:** Ordinance No. 175554. (Y-4)

- \*539 Authorize application to Oregon Parks and Recreation for a grant in the amount of \$25,000 to build and restore trails at Kelley Point Park (Ordinance)

**Disposition:** Ordinance No. 175555. (Y-4)

- \*540 Contract with Salmon-Safe to develop a salmon-friendly park certification program (Ordinance)

**Disposition:** Ordinance No. 175556. (Y-4)

- \*541 Authorize Settlement Agreement to purchase property for a Water Bureau Intertie Facility (Ordinance)

**Disposition:** Ordinance No. 175557. (Y-4)

- \*542 Amend agreement with School District No. 1 for the Home Repair Training Program by increasing the amount to \$493,609 and provide for payment (Ordinance; amend Agreement No. 33147)

**Disposition:** Ordinance No. 175558. (Y-4)

- \*543 Amend agreement with Central City Concern to add housing activities to Scope of Work, increase amount by \$25,000 and provide for payment (Ordinance; amend Agreement No. 33142)

**Disposition:** Ordinance No. 175559. (Y-4)

- \*544 Agreement with Central City Concern for \$70,000 to fund activities to provide a rental assistance program under the Transitions to Housing Pilot Project and provide for payment (Ordinance)

**Disposition:** Ordinance No. 175560. (Y-4)

- \*545 Increase agreement with NE Neighborhood Coalition for anti-displacement outreach and services to the Humboldt neighborhood residents by \$30,000 and provide for

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payment (Ordinance; amend Agreement No. 33336)

**Disposition:** Ordinance No. 175561. (Y-4)

- \*546 Agreement with Network Behavioral HealthCare, Inc. for \$89,000 to fund activities related to providing a rental assistance program under the Transitions to Housing Pilot Project and provide for payment (Ordinance)

**Disposition:** Ordinance No. 175562. (Y-4)

**REGULAR AGENDA**

- 547 Adopt Purchasing Board of Appeals decision and accept bid of Triad Mechanical, Inc. to furnish Tryon Creek wastewater treatment plant aeration basin for \$1,780,123 (Purchasing Report - Bid No. 100348)

**Motion to adopt the decision of the purchasing agent and board of appeals:**  
Moved by Commissioner Hales and seconded by Commissioner Saltzman.

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

**Mayor Vera Katz**

- \*548 Authorize final claim settlement payment of Copenhagen Utilities & Construction, Inc. for the NW Thompson Rd. LID Project (Ordinance; C-9912)

**Disposition:** Ordinance No. 175563. (Y-5)

- \*549 Amend City Code Sections 16.30.710, 16.20.720 and 16.90.400 to provide authority to move vehicles interfering with the operations of Portland Streetcar (Ordinance; amend Code Section 16.30.710, 16.20.720 and 16.90.400)

**Disposition:** Ordinance No. 175564. (Y-5)

- \*550 Amend contract with The Ultimate Software Consultants, Inc. for \$95,000 and authorize payment (Ordinance; amend Contract No. 33416)

**Disposition:** Ordinance No. 175565. (Y-5)

- \*551 Amend contract with EMA Services, Inc. for \$100,000 and authorize payment (Ordinance; amend Contract No. 31841)

**Disposition:** Ordinance No. 175566. (Y-5)

- \*552 Authorize submission of the Consolidated Plan Action Plan 2001-2002 and application to the U.S. Department of Housing and Urban Development for grants under the Community Development Block Grant, HOME Investment Partnership, Emergency

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Shelter Grant, and Housing Opportunities for Persons with AIDS Programs for Fiscal year 2001-2002 (Ordinance)

**Disposition:** Ordinance No. 175567. (Y-5)

**City Auditor Gary Blackmer**

**553** Establish the Office of the Ombudsman (Second Reading Agenda 519)

**Disposition:** Ordinance No. 175568. (Y-5)

**Communications**

**554** Request of Frank Bird to address Council regarding the Office of Neighborhood Involvement Request for Proposals for Neighborhood Association Services (Communication)

**Disposition:** Placed On File.

**555** Request of Willie Brown to address Council regarding the Office of Neighborhood Involvement Request for Proposals for Neighborhood Association Services (Communication)

**Disposition:** Placed On File.

**556** Request of Bob Ueland to address Council regarding the Office of Neighborhood Involvement Request for Proposals for Neighborhood Association Services (Communication)

**Disposition:** Placed On File.

**557** Request of Patrick Dinan to address Council regarding Portland Police Bureau and City Council accountability (Previous Agenda 521)

**Disposition:** Placed On File.

At 10:55 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,  
OREGON WAS HELD THIS 9th DAY OF MAY, 2001 AT 2:00 P.M.

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

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

**558** Tentatively deny appeal of Pleasant Valley Neighborhood Association and uphold  
Hearings Officer's decision with conditions to approve the application of Majestic  
Homes, Inc. and Alice Kisaberth, for a 31-lot Planned Unit Development subdivision  
with an environmental review at 14449 SE Clatsop Street (Findings; Previous Agenda  
522; LUR 00-00486 SU PU EN )

**Disposition:** Continued to May 16, 2001 at 6:00 p.m.

At 2:02 p.m., Council adjourned.

GARY BLACKMER  
Auditor of the City of Portland

By Karla Moore-Love  
Clerk of the Council

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

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**Closed Caption Transcript of Portland City Council Meeting**

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

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

**MAY 9, 2001            9:30 AM**

**Katz:** The council will convene as a budget committee, and I am going to allow for testimony. Usually we don't do that as a budget committee, but there have been enough changes that I thought it would be -- it would be fine. I don't know if anybody here is prepared to share some words with us. But it would be nice to hear from you. All right. Mark, why don't you come up and just do the summary of the changes. And see if the council sitting as the budget committee wants to make any additional changes.

**Mark Murray, Bureau of Financial Planning (BFP):** Mark murray. Bureau of financial planning. What we have in front of you today as the budget committee is the changes the council recommended yesterday in the work session which includes on the green sheet the recognition of the additional resources and then the reallocation of a number of items on the requirement side including the hr transition dollar reduction, the additional funding for our police bureau, one-time funds, the additional funds, one-time funds for parks, for mowing and the facility use agreement. And the four items mentioned by commissioner Francesconi yesterday. We also had the technical changes below for the auditor position, the license position, bhcd technical correction and a technical correction. Those four items were balanced by reducing contingency a little bit and other line item that we dug money from.

**Katz:** Okay. This basically reflects the discussion that we had yesterday.

**Murray:** That's correct.

**Katz:** Anybody want to add anything on to this or further discussion on that? All right. If not why don't we open it up for testimony if anybody wants to talk to us. I see some representatives from our union so why don't you come up.

**James Esther, 1441 SE Glenwood St., Portland:** Good morning, madame mayor, president of the council and city council members. My name is james esther and I reside at 1441 s.e. Glenwood street in Portland and I was at your budget hearings a couple of weeks ago and spoke and i'm here today as, again as a citizen of the city and also as a city employee with the Portland police bureau. I would like to speak on behalf of the 29 desk clerks that potentially whose positions could be cut in your budget. As you know we've been pretty assertive in maintaining, trying to maintain the integrity of the community policing program which everybody has been committed to. But I come today as their co-worker and union represent with the american federation of state, county and municipal employees and to respectfully request on behalf of all the 18 members of the dctu that the city council withdraw budgetary cuts involving those police desk clerks. I believe that, as I said two weeks ago, I believe labor and management working together can find a solution to this one particular problem. Together we can find equitable solutions to very difficult problems and solutions that will benefit the community and enhance public and officer safety. And enable all these employees to retain their positions and keep the essence of community policing going through the city of Portland. I do believe and the dctu and afscme believes that the loss of these jobs will negatively affect the work loads of police officers on the street, people in the records division of which I am currently assigned. We believe that it will eventually lead to overtime costs that will far surpass the cost of retaining these positions in their present status. And so I guess the question is, you're always looking for solutions and suggestions so I guess my, it brings us to the point what can

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wee do about this? I think there are three things that have been done and number one was the increase of fees charged for towed vehicles.

**Katz:** Let me just correct. It's been recommended. We actually haven't done that but we will before the budget is finally adopted.

**Hester:** Okay. Very good. Thank you. And assuming the responsibility for administration of the alarm ordinance is another one and the alarm fee increases. Before I just go on and close I would like to make one point that all these suggestions came from labor. These are suggestions that over the past year have been brought forth numerous times before bureau management, and even the tow increases for two, three years have been pushed for by labor. And it's only at this time that bureau management saw some credence in those suggestions as we look for ways of increasing revenue. So labor has done its part. Now my main point today is to ask you to direct the bureau management to work with labor in reassessing the figures of the, I believe it was about approximately \$150 three-point in the towed vehicle. \$150,000 to \$180,000.

**Katz:** Let me interrupt you for a second. It depended on whether we were going to move from \$15 to \$29 or from \$29 to \$60 and we stayed at the middle but there is potential because we're still working at those numbers to move a little higher if it is equivalent to cost of service.

**Hester:** Okay. Correct. And that cost of service I understand we're not in the money making business but we do want to look at administrative costs of what it takes the city to handle these process these towed vehicles on a daily basis. Our question is as a union is, it would seem that the estimate of the number of towed vehicles is fairly low and we'd like to work with management and reviewing that and see if we can come up with an assessment that would be agreeable to us and then apply those savings, again, to saving a few of those desk clerk positions. Thank you.

**Francesconi:** On that note the bureau of licensing actually administers that program. So when you including management in this make sure you include them and i'm saying this because they have some concerns as to whether you can raise that much revenue. I'm not saying they're right but I want to flag that.

**Hester:** Okay.

**Francesconi:** As a potential issue.

**Hester:** Very good.

**Katz:** There was an e-mail that came around. I'm not sure they're right, either but they do have some concerns so I think commissioner Francesconi's recommendation needs to be heeded. That's our goal between now and when the budget is finally adopted to see whether we can absorb as many of those desk clerks including vacancies currently where they, in fact, could take those positions. So thank you for offering your assistance.

**Hester:** Thank you.

**Katz:** Anybody else? All right. Then I need a motion to approve the budget as amended and that includes adjustments as presented in exhibits a through c. I crossed out the adjustments necessary to implement the water rate increase because we still have, we still are going to have a discussion on that. We can come back to that a little later on. And then see other technical adjustments necessary to complete implementation of the administrative services review.

**Murray:** Excuse me, mayor, if I could. On item c that's just to cover us so the changes aren't taken literally as we know there are sometimes last minute adjustments we have to deal with in technical balancing if there are programmatic or serious adjustments made that need to be made, we will get back to you immediately.

**Saltzman:** So moved.

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

**Hales:** second.

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



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**Francesconi:** This is a good budget with pain in it. I'm not saying it's all good results but it is a good budget that I can support. With the flattening of the economy and of revenue, it's important that we be a leaner and more efficient organization. So there has been \$4.5 million cut out of administration in this budget, and \$7.7 million over two years. And that is good. We're also more efficient in terms of how we operate. We're moving closer to being one organization instead of separate silos especially the hr functions and i.t. Functions that have caused pain I think he is specially in transportation. It makes us a more efficient organization and we're doing this without sacrificing diversity. The fire apprenticeship program is intact and not cut despite the fact the fire bureau is the only bureau that takes the entire 1.4% cut in terms of real dollars that I can see here. The parks program we're working on the apprenticeship program and we have a very good preapprenticeship program. These are good things because we have a long way to go to diversify our work force. That's one reason I can support this. The second is this continues a partnership with the schools. Given what the school budget did. The schools were on the edge. We're fraying the school parks project if they had charged us those fees. This recognizes the school district for some fees for joint use of buildings. We're going to get whittaker ponds in exchange but we're now taking additional steps like cutting their grass in their fields. In fact, this morning vic rhodes and I had a brief discussion about how a school looks that he just happened to drive by this morning. He can't be having more families and children in our schools without cutting the grass. So I thank the parks bureau for their creative approach and being willing to ask for money for this instead of one of their own programs. We have more exciting things to do with the schools. We will talk about later. I guess I would like to thank the mayor, tim grew in particular, mark, also yvonne for the work they've done. I would like to thank parks for the approach they've taken and the police chief and the police union, the police bureau that have taken significant hits in this budget, including the pain that we just heard about with the desk clerks and yet they're even assuming new responsibilities to keep our children safe with the help of the schools themselves selves. There is a concern that i've got that we're at the edge here, folks. And we've got to be very careful especially given a slowing economy. We're on the edge of raising fees, cutting services, and then adopting programs that don't relate to our mission. And that is something that we've got to be much more careful about in the future and more strategic with our partners. Or else this is all going to fall apart here. So I do think that the effort to, the small effort to try to encourage small businesses to contribute to our economy is a good effort because it's within our mission and hopefully it will produce more revenue. I thank the mayor and I thank the council for that. Now it's incumbent upon me, the mayor and pdc to make sure this works in a way that generates additional revenue, and is fair to small business. And I appreciate your support on this. I do think, though, that we've got to be careful again on where we're going as a city and as a city government. And I do think that we do need a retreat among ourselves at which we define our mission so that in the next budget, we're a little clearer on what our role is. That's number one. Number two is I think we need, once we have the county, new county commission in place, we need another meeting with them to talk about how we're going to jointly approach common issues especially given the more severe situation the county finds themselves in. Number three is we need a meeting with the school board to talk about how, and the other districts, about how we're going to continue at a time that I think we're on the edge really now of losing families. And finally, my last point, is the whole question of citizen involvement. In decision-making. We have to really address before the next budget. There is one person who deserves in all seriousness some commendation -- not condemnation -- which frankly has had an effect on me and that's vic rhodes. The work he's done out in the neighborhoods and with businesses on a very difficult issue deserves special recognition by me and by the council. And it's it needs to be a signal before the next budget of how we're going to involve our bureaus, labor, and the public in educating the public about some of the tough choices we have to make now and how we can't say yes to everything. That has to be part of the next discussion. So i'm doing

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some things within parks and the fire to create more citizen involvement within those bureaus to prepare for the next budget. But all in all, given a very difficult situation, this is a budget that I can approve without reservation. Aye.

**Hales:** Mayor, I want to thank you and your team because you have done a good job of balancing all the difficulties with the tight budget with lots of ideas on the council and lots of ideas in the community for how we would like to do more. I think this has been a good piece of craftsmanship and I appreciate that and appreciate the fact that it's been a very collaborative part on the process to get to this point so thank you for that. And I especially want to thank you, mayor and the rest of the council for taking the suggestion that pdot has taken with dealing with transportation funding in the city. That was not an easy decision for us to make and I really appreciate everybody on the council being thoughtful about that and, mayor, you taking some of the brunt of the effort to explain this to the community but particularly I want to thank you vic rhodes and dick and mark and others at pdot for proposing an effective solution to a community problem. We have been stuck in this city for ten years trying to figure out how to cure the anemia in transportation funding. These folks made a responsible suggestion and as you said, jim, went out and explained it over and over and over again to the community to the point that people understand it and most people accept it and when talking about more revenues that ain't easy so thank you, vic, for your great work putting the city on a much more responsible footing for a basic responsibility which is keeping the streets usable for our citizens. So thanks to all concerned. Aye.

**Moore:** Saltzman?

**Saltzman:** I want to thank you the mayor and the office of finance for your calm guiding through this process and keeping your crew on board here. Always a delicate exercise but you have always done it with tremendous grace in the two budget cycles I have had the pleasure to serve with you and I think you deserve a lot of commendation for making difficult choices and I think we all deserve credit for moving ahead with the administrative services reform. I think we've made some real bold structural moves that are very necessary to really get down the cost of government. I mean, that's one of our missions. If nothing else, is to reduce the cost of government and we need to do what so many other private sector companies take for granted so many other public sectors take for granted which is you have one human resource department. You have one information technology department. And we had frankly too many people doing too many different things. And i'm really proud and believe this is the right step. We made the right step and it's going to pay off. We're already sort of reaping the dividends of that directly and retore rhetorically and I believe it's a good step and we made the right decision to do this. Thank you for your leadership, mayor. Aye.

**Moore:** Sten?

**Sten:** I am also delight to do support this. It's a more difficult time than just a few years ago. We, revenue is tighter and the challenges are bigger but I wanted to just join in a couple of quick thoughts. I think it's very important to frame, and it was not easy, and it will still be a struggle but last year tim grew and mark murray and all the bureau managers and the people in the departments, the employees, worked very hard to find ways to bring down administrative costs and I don't have the number right in front of me but I believe that's over \$7 million and if that was not done, we would be looking at much more severe cuts and certainly no ability to lend a hand to the schools and do other things with small businesses that are in this budget. So I think it's really important and you can't always do more with less but I think there has been good work done and I really appreciate it. Also I would like to thank the mayor's office for, some year we will actually have a second year budget that looks like we just pass a two-year budget and go on in the second year. This, of course, is not going to be that time, and there is, you know, a lot of tough decisions and tough politics and substance to try to figure out how to deal with the school police issue and I want to thanks the mayor and commission Francesconi on the parks issue, wringing our hands and

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figuring that out. It's a good budget. There's certainly things I would like to have done we can't do. There's certainly a couple decisions in there I wish weren't the case but I think it's a very good budget. We'll get back to water rates at the utility hearing in the next couple weeks so for people who want to argue water and sewer rates and the good and bad sides we'll still have a chance to do that. I think it's the right decision to do that in a separate hearing. I vote aye.

**Moore:** Katz?

**Katz:** Thank you for the nice words. I want to thank you you all for looking at the administrative service reductions. That was \$7.7 million in cuts over two years. If other jurisdiction were as aggressive as we were they probably wouldn't be sitting with the same kind of size problems that they currently are sitting with. So I want to thank you. It is a new way of doing business. It makes perfectly good sense and we'll be looking and reporting back to you how we're reconfiguring the way the city does business. The second one which was even more difficult for many of us was the transportation funding. And we'll come back to that issue once an ordinance is crafted by pdot. We need to come back to you with a couple of things. One is the desk clerks. After we bring to you some of these fee increases for false alarms and taking over the alarm ordinance and the towing release fees and walk through with you how the commanders are thinking about reconfiguration of services at the police precincts. And the second we'll need to come back to you as well on the reconfiguration of how we're going to deal with school police. The third thing we need to come back to you with is we have an -- we haven't identified all the fire bureau reductions yet. We have identified them in general terms but you haven't heard the details yet and we've given the fire chief, since he was brand-new on the job, a little bit more time to work with his staff and the union to work through those issues. But I need to reiterate that the major burdens in this budget really have been taken by the police bureau. The desk clerks' reductions are real cuts and the fact that they have absorbed about \$1.6 million in additional responsibilities. I tell you right now that in the next two-year budget I will be back in trying to restore some of these cuts. And tell you that this bureau cannot take any more reductions if things, if the economy weakens. I've never come, i've never come to you and asked you for money that I didn't think we needed. And but i'm telling you right now, we're at the edge. And all of you have recommendations for the bureau to do more of this and to do more of that and add more offices here and do a little bit more patrolling there. Well, that's not going to be as easy this time as it was in the past. But it was something we needed to do. We needed to protect the safety of our children. Aye. Okay. Now we need a motion to approve tax levies and I read the motion the city hall levy its full permanent rate of \$4,577 in \$8,332,431 for the payment of the bond principal and interest and \$62,969,651 for the obligations and the police department and retirement fund. Do hear a motion?

**Hales:** so moved.

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

**Saltzman:** second.

**Katz:** Roll call.

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

**Katz:** Mayor votes aye. Thank you for your cooperation. I want to thank you the bureau managers and mark and the team. All right. We now are at our regular agenda. Consent agenda. Any items to be removed off the consent -- consent agenda? I need one of you back. All right. Anybody want to move anything off the consent agenda? Roll call.

**Francesconi:** Aye.

**Moore:** Hales? Saltzman.

**Saltzman:** Aye.

**Sten:** Aye.

**Katz:** Mayor votes aye. We have a time certain of 526.

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**Katz:** There's nobody here. Let me tell you i'm going to ask this be carried over one more week. I wanted to get to closure on the questions mr. Koenig had asked about his rights. I have got the city attorney, who responded on it, none of his rights are taken away by coming here on his appeal. I can't reach mr. Koenig. I think his phone has been disconnected so we're going to have to reach him by mail or by some other way. So if it's all right with everybody, then we'll delay this for another -- huh?

**Saltzman:** He walked in.

**Katz:** Maybe he can tell us where to reach him. Any objections? Hearing none so ordered. Okay. 547.

**Item No. 547.**

**Sue Klobertanz, Director, Bureau of Purchases:** My name is so clover thompson. I'm the director of the bureau. Item 547 before you as you just heard is to do two things. One is adopt the purchasing board of appeals decision and accept the bid of triad mechanical. By way of background the city advertised and received proposals on this particular bid. For tryon creek water treatment plan for the bureau of environment services. This particular bid had an engineer's estimate of \$2 million. Bids were opened in late february, and four bids were received. Per our procedures, the notice of intent to award was send out to the bidders and for public notice in, on march 15th. The notice indicated the intention to award the bid to triad mechanical for an amount of \$1,780,123 because we found it to be the lowest responsive and responsible bidder for this project. Stellar jay corporation filed a written protest asserting that triad was not responsive to the invitation to bid with regard to the requirements concerning subcontractor disclosure. After a they are row review, in my position as purchasing agent, I rejected this protest and found that I believe that the award should be made to triad. Per our new procedures which were put into place january 1, stellar jay then appealed the purchasing agent's decision to reject the protest to the purchasing board of appeals. Just to refresh your memory this is a new board which was formed in, by co-change in january and implemented in february. There are three individuals on this board of appeals, brandt williams sitting as the city engineer, fran hathaway, purchasing manager for Multnomah county and an outside industry representative, daniel knaus who has held the position of president of the national association of purchasing managers in the past. The board heard about three hours worth of oral and written testimony. And the board held that the city was entitled to award the contract to triad mechanical and that the protest by stellar jay should be rejected. Stellar jay has now appealed the board's decision to the city council. The decision before you today is to whether to hear that appeal of stellar jay per our code the city council may decide not to hear the appeal in which case the decision of the board of appeals is final. If the city council decides to hear the appeal of stellar jay, it shall be scheduled by the council clerk for a hearing by the council at a future date. I need to tell that you this subcontractor disclosure law which has been the focus of this discussion is very difficult. This is a law that was put into place in Oregon during the last legislative session. All of the local governments are struggling with the implementation of this particular law. The city of Portland, in fact, had a court case last summer where judge redding made a ruling on our interpretation of the law, and gave us some further direction and it is based on that ruling from judge redding that we have, that the purchasing agent concluded that the award should be awarded to triad and I believe the board of appeals also reached their conclusion that the appeal should not go further. So in lighted of the fact that the purchasing board of appeals has made its decision based on lengthy testimony, it is recommended that the board's decision be adopted and that the low bid of triad mechanical be accepted at price quoted in their proposal. Someone is here from the city attorney's office to answer any legal questions and dennis carroll from triad mechanical is here to testify as is robert kinghorn from stellar jay.

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**Katz:** Okay. So why don't we get jim, come on up and we'll ask the two parties to say a few words, and then the council, this is very much like pf -- fpd&r, you decide whether to hold a hearing.

**Francesconi:** Can I ask a question? You are saying not only don't change the decision but don't even have a hearing? Is that what you are saying?

**Katz:** That's their recommendation.

**\*\*\*\*\*:** The code gives you that ability.

**Francesconi:** Can you just summarize, you said it and I must not have heard it. Why not a hearing even? Why do you recommend no hearing? Or, jim, you could address that. Somebody could address that.

**Jim Van Dyke, City Attorney's Office:** Francesconi, jim van dyke, city attorney's office. We're recommending that a hearing not be held by the council because bid protests are typically fact-intensive, and sometimes lengthy proceedings. We had a three-hour hearing in which testimony was taken, sworn testimony, with a court reporter and which we had a record taken in case it should go further to the court. And it just seems to us this would be duplicative of what we've already been through but, of course, the council can decide to have the hearing fit wants to under whatever format it chooses.

**Katz:** Could you give us just kind of a snapshot of what the issue was? What did you hear for three hours?

**Van Dyke:** The issue is, concerns subcontractor disclosure. Under the recent legislative changes, bidders on public improvement projects over \$75,000 must list who their first tier subcontractors will be on city projects. And all public projects. We encountered the situation where one bidder has alleged the other bidder hasn't complied with that law. In that situation and in the court case that went before the court last summer the court ruled that you did not have to list your subcontractors if you weren't sure at the time of the bid who you were going to use. In some bids, the testimony has been, and our experience has been in discussing this between legislative sessions with members of industry, that sometimes prime contractors truly do not know who they're going to use. It's a two-year project. You might not know who's going to be selling you the pipe that you're going to buy next year, and they're not going to commit to a price to it today. You may guess. You may have an idea who you're going to use but you're not sure yet. The court also ruled that if somebody did not list a subcontractor supplier, the city did not have an obligation to go out and investigate whether or not that bidder's submission was corrected. We believe that is a correct decision for two reasons. Number one, and I think the primary reason, is that this puts the bidders in charge of whether they want to bid or not. If you go out and ask them did you comply with the law? If they submitted a low bid and they decide, oh, we don't wanted this bid today, they can simply say, well, we didn't comply with the law. Guess you'll have to take our bid away. That's typically not how bid evaluations are done. They're usually done on the documents presented to do city. And the second reason, simply the city is not in the position, does not have the resources to go out and investigate what is really a mental process, a mental decision on the part of prime contractors. We understand that this leaves bidders and contractors and subcontractors sometimes frustrated when they see other bidders not listing as many people as they do. We understand that. But we're not in any position, and we have no evidence to suggest that they're not playing by the rules.

**Saltzman:** I have a question.

**Katz:** Go ahead.

**Saltzman:** How does this apply, and I think we've know we've had decisions like this before and i'm not sure if this was before the new law but how does this apply if the supply subcontractors who are minority, women, or emerging small businesses? If they list those, and they're awarded the bid,

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and then they substitute a nonminority, a nonwoman-owned, a nonsmall business, and isn't that a serious issue? Is this issue covered here?

**Van Dyke:** It isn't the subject of the particular protest before the council, commissioner.

**Saltzman:** Not this particular protest but this could happen? Could this happen?

**Van Dyke:** Yes, it is a serious issue and it's covered both by state law and city rules. State law prohibits substitution unless certain conditions are met. City regulations would say that if you have awarded a subcontract to a minority woman or emerging small business, you must get the purchasing agent's permission before substitution can be made.

**Saltzman:** So the issue here is whether you simply have to list at the time you submit your bid who your subcontractors are. List or not list? This doesn't get into the whole issue of substitution?

**Van Dyke:** That is correct, commissioner.

**Saltzman:** Okay.

**Katz:** Further questions. Does the council want to hear from triad and stellar jay?

**Hales:** You mean do you want to have a hearing?

**Katz:** No, no. They're here to add a few minutes words. Why don't we give them three minutes each.

**Dennis Carroll, Triad Mechanical:** My name is dennis carroll representing triad mechanical. Stellar jay has two issues in this protest. The first is a claire colorado oversight on a statement that we left off of one form. The director and the both ruled it was waived. The second regarding the disclosure of the subcontractors is we fully complied with city requirements. We fully complied with state requirements and judge redding's ruling. The issue that's stellar jay has they feel we did not list enough subcontractors on the bid day. Again, getting back to the issue of listing them, we listed the ones we knew for certain that we were going to use. Virtually all the subcontractors that submitted bids that were low bidders we have no experience with. And we have been burned lately by a few subs that were not familiar with and used to working with. So we took an extra day and investigated further, look into some of these companies. We did list the subcontractors the next day. They're the same subcontractors stellar jay would have listed and the same at. His contention we were doing it to engage in bid shopping is just not borne out by the facts. His disclosure forms so the same amounts as ours do. This project was bid almost three months ago. We're asking the council not to let it drag on any longer and to get the project underway.

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

**\*\*\*\*\*:** I have --

**Katz:** Identify yourself. You have three minutes.

**Bob Kinghorn, Stellar J:** Thank you. My names bob kinghorn of the stellar jay corporation and I was instructed by your purchasing people to distribute any information. Should I --

**Katz:** No. Give it to the auditor clerk.

**Kinghorn:** Here we go. Just a quick comment about the minority issues before I begin. I believe that this matter of reporting subcontractors in a requirement to report subcontractors is on point with minority business, women-owned business and emerging enterprises. It is the funnel in which all of these programs flow to. If the prime contractor does not report at the time of the bid as required by law the minority contractors that he intends to use, then there's no obligation to report them at all. So what in effect has happened is that by not being required to reported anything, then there is no obligation to perform any of the minority enterprise requirements. I have prepared a text for this. And if I may I would like to read this into the record.

**Katz:** I'm only going to give you three minutes.

**Kinghorn:** Of course. The Portland bureau of purchases publishes a standard of conduct that promises procurement processes that are openly and clearly articulated. And that are predictable, logical streamlined and fair. We're here today to tell you that it isn't. There's some facts involved in here. First of all if you look at the Oregon law that requires reporting it states that within four

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hours the time and the, of the date and time when the bid is due, we have to submitted a disclosure of any first-tier subcontractors to be furnished, not suppliers, subcontractors. That's in exhibit 2. Another fact you should know is that the purchases bureau issued a call for bid on the 22nd at 11 o'clock of this year. Included in that solicitation was a notice that Portland was going to follow the requirement of the state law, and it also said that the city has adopted the disclosure requirements for subcontractors that exceeds the disclosure required by state law. That's in exhibit 3, page 2. When you go to the Portland website, it provides the same information as part of the good faith effort program and says that the penalty for failure to comply with reporting requirement, that's form 2, is that the bid is going to be rejected. The apparent low bidder, tryon, failed to disclose any first-tier subcontractor but one. The apparent low bidder submitted a form showing the subcontractors a full day after the mandated time. We made timely notice. The protest was denied.

We were afforded an administrative hearing and in that hearing we learned that the threshold of compliance is that you turn in a blank form. So the form 2 which tells what minority contractors we're going to use, what subcontractors we're going to use is essentially, has no value. If you turn in a blank form by the admission of your purchasing manager, you have complied. In addition to that, in exhibit 4, you'll sigh that -- see that -- i'm over?

**Katz:** Yes. Just finish your sentence.

**Kinghorn:** There was an admission that there was, that this was not the intent of the law.

**Katz:** Thank you. Questions? All right. Thank you, gentlemen.

**Saltzman:** I guess, not for them. For sue.

**Katz:** Sue and jim, come on back up again.

**Saltzman:** I guess I think the point stellar jay raised looking at our bid document about saying we've adopted disclosure requirements, for subcontractors that exceed the disclosure required by state law, and we're doing that because it says right at the top of the page, this is part of our good faith effort requirements for our sheltered marketed program. So I guess I hear some resonance there that perhaps, and maybe the state law, how can we say we're going to require contractors to go beyond state law, and then simply deny a bid based upon sort of the state law interpretation and not our own exceedance requirements? That's what i'm confused about.

**Van Dyke:** Mayor, commissioner, let me try to respond to that question. The city asked for additional disclosure of some smaller contracts below the \$75,000 threshold. That's partly to gain some understanding of who is bidding and who is participating in city contracts so we can keep statistics of that. We haven't adopted standards that exceed the state law regarding when you have to disclose that. So that if folks don't know who they're going to use, our city requirements are not any different than state law whatsoever. I know that just by perhaps an initial glance on looking at the form that you were provided, it may seem that this is the same thing as good faith efforts but it's not. What we have tried to do is the city's good faith effort program already asks for some disclosure in order to evaluate good faith efforts. When the legislature added additional disclosure requirements, we tried to fold that into the same form so bidders didn't have a plethora of forms, see we said put it on the same form you've already used and put some more folks to it so we have tried to kill two birds with one stone in a sense by using the same form.

**Saltzman:** So our exceedance requirement applies to they should hold but not with the timing? Of when they should report? That's governed by state law?

**Van Dyke:** That's correct.

**Saltzman:** Okay. Thank you.

**Katz:** Further questions? All right. I'll, anybody have further questions? If not I need to hear what the council's decision is with regard to adopting the recommendations of the board of appeals or going forward with a hearing.

**Hales:** I move we adopt the decision of the purchasing agent and board of appeals.

**Saltzman:** Second.

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**Katz:** Discussion? Roll call.

**Moore:** Francesconi?

**Francesconi:** It is time to move on this one. Aye.

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

**Katz:** Mayor votes aye. Thank you. I was in error. Mr. Koenig was here. He was outside and it was probably a few minutes, a minute before ten o'clock. So let's read 526.

**Item No. 526.**

**Katz:** We'll run quickly over the procedure just to remind everybody where we're on this.

**Mike Hess, Police Internal Investigations Auditing Committee:** Okay. I'm Mike Hess, PIIAC, and I do apologize for not being here before ten o'clock.

**Katz:** That's all right.

**Hess:** What I think I'll let our citizen advisor summarize what she said last week.

**Katz:** Okay.

**Hess:** Mrs. Karl.

**Mrs. Karl:** Thank you. Mayor, city council, thank you for having us. On this case, came before us first time on April 13th, 2000. The appellant, Mr. Koenig, filed a complaint with Portland Police Bureau assistance chief Mike Parisi. The general theme of the claim was members of the Internal Affairs Division and Northeast Precinct submitted a false police report. But the complaint was categorized as conduct and declined. The IAD declination was supported by the chief's office. In a follow-up letter to the appellant, assistant chief Lynnae Berg documented her review of the base and her support of the declination by Captain Smith. A.C. Berg's letter is attached. I reviewed the file in its entirety and listened to the audiotape. Only one tape in the file. The case was originally scheduled for PIIAC hearing on December 14th, 2000. On or about the day of the scheduled hearing the appellant stated he did not wish to appear at the scheduled time and the PIIAC chair granted him a postponement. He was offered another hearing date which he also declined. He was advised at that time there was a waiting list and his case would be placed at the bottom of the list. On March 9th, 2000 the PIIAC citizen advisors heard the PIIAC case regarding an associate of the appellant who had been cited at Northeast Precinct for criminal trespass. It was stated in the PIIAC hearing that the appellant. The sergeant at IAD aided and abetted by sergeant at Northeast Precinct and other precinct personnel lied in a police report by stating that the appellant had been trespassed. He maintains in his complaint that Captain of IAD share culpability due to their command status. There was no interview of the appellant. He submitted his complaint in writing to assistant chief Mark Parisi. The appellant has a lengthy history of complaints against law enforcement and court officials. This was documented in the IAD file. This complaint falls within the pattern of previous complaints and was found to have no merit. Since Captain Smith is named in the complaint, the PIIAC advisor reviewing the case felt that a higher authority should review the complaint and Captain Smith requested that a chief, assistant chief Berg review the complaint. Assistant Berg's letter to the appellant, she stated that she had reviewed the complaint and that she concurs with the decision by IAD to decline any further investigation. Assistant chief Berg's letter specifies that the reason for the declination was lack of merit.

**Katz:** Questions? Captain Smith, did you -- did you want to add anything to this? No. Okay. All right. Mr. Koenig, you have about ten minutes.

**Richard Koenig:** Ten minutes for what, Mayor? To make my opening statement?

**Katz:** Ten minutes to make your statement.

**Koenig:** Will you be withdrawing the offer of all rights that an American citizen has the city attorney said that I would not relinquish in this proceeding?

**Katz:** Mr. Koenig, I mentioned that I had asked the city attorney to respond to you. None of your rights are going to be taken away by --

**Koenig:** Do I have a right to make my presentation? Its entirety?



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**Katz:** No. There's a time limit. And i'm saying --

**Koenig:** So I don't have a right to make it in my entirety.

**Katz:** How long is your entirety?

**Koenig:** Perhaps as long as mrs. McCrae.

**Katz:** Which was about, was less than 10 minutes.

**Koenig:** Two hours and 40 minutes in her matter. By that clock right there. Okay.

**Hales:** Let's stay with the time limits, please.

**Koenig:** Which time limits? The mccrae time limits?

**Hales:** No. Ten minutes, please, mayor.

**Koenig:** Let me --

**Hales:** I don't want to get into a debate but we have 500,000 people in this city. If each of them had as much time as you've had we would have to have six city councils meeting around the clock so ten minutes should be plenty.

**Koenig:** Thank you for reminding me. If everybody in the city stood in line for six years waiting to talk about police accountability, not much else would get done in this city either, mr. Hales. Let's started with the reading of the general orders at 343 to see what we're talking about didn't happen the way it should have. I would like captain smith to read the general orders at 343.

**Katz:** Mr. Koenig, we have rules about how we do this.

**Koenig:** And I know that you have frequently stated that you don't care about the city ordinances at 3.21. You have gone on the record here, mayor.

**Katz:** I'm not asking captain smith to read anything. If you want to reference it, you read it.

**Koenig:** Okay. But I will insist upon my right to confront my accuser which means captain smith, apparently. Thank you, mayor. Don't look that way. It's not becoming. All right. The purpose of this general order, the maintenance of the integrity effectiveness and efficient see of the police bureau and the community policing goal of accountability can occur only when allegations of criminal law violations against bureau members are thoroughly investigated. In general order explains the responsibilities and procedures in processing allegations of criminal conduct by bureau members. Policy. Allegations of criminal conduct by bureau members will -- no discretion here -- will be investigated as criminal complaints prior -- prior, that's before -- initiation of an internal affairs investigation. Now, i'm sorry to be, you know, reading this. I don't have it all memorized. But I think that some of you probably haven't read this before. I know captain smith hasn't. Procedure. Any member who receives a complaint of criminal conduct by another police bureau member or who observes criminal conduct by another bureau member will -- will: -- immediately identify notify one of the following. Let's just put it, let's select one here. The reporting members are manager which appearance to be lynnae berg. Did that happen? No. The issue here is, was this a criminal issue? That captain smith lied about or is lying a criminal issue? Well, let's review what the context in which his alleged untruthfulness occurs. It was in order to prejudice the citizen advisors group regarding a case where an appellant named patrick dinan when complained about being thrown in jail or attempting to gather evidence pursuant to the request and instruction of an officer of the court. The Portland police bureau members in northeast precinct particularly arrested mr. Dinan and precluded him from following that lawful order of an officer of the court. That is described as regardless of whether it's true or not, is described as a felony crime under the united states code at title 18, sections 241 and 242. It's deprivation of civil rights. We have rights under the constitution that you folks swore to uphold. To gather evidence to defend ourselves against charges. Okay? The charge was against me for trespassing in the police bureau. Except there was no lawful order for me to leave. Therefore, there was no conviction. I was similarly deprived of rights. I was arrested for complaining. Okay? So what we have here is a frequently repeated theme of criminal conduct and assault against the first amendment rights of Portlanders, Portlandians. That is a crime. Captain's smith participation in that is at minimum grounds for an investigation.

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That didn't happen. And all this, this investigation is supposed to happen before captain smith gets ahold of it. There's one little question that we don't know. That little question is, how did, if what shirley carl said is true, let's assume that she's telling the truth. That I submitted my complaint to mark parisi and let's assume for a minute that I will call witnesses in my behalf maintaining all my rights here, I will call a witness here who tell you I was directed to submit my complaint to mark parisi to avoid a conflict of interest. How did that complaint end up in the hands of cap taken smith for disposition? Excuse me. So that's kind of my opening statement. But there are other issues here which chief kroeker has recently spoken to, which govern your decision. I'll just touch briefly on that before I get started. During a piac quarterly monitoring meeting a couple months ago, chief kroeker particularly addressed some concerns of the piac or at least the citizen advisor. I don't know if you shared the concerns. But that concern was that there is a perception that sometimes officers are involved in conflicts of interest. So chief kroeker sat right here, captain smith sat right over there and he said, Portland police bureau doesn't place officers in situations where there is a conflict of interest. Now, you tell me, how close chief kroeker was to the situation at hand wherein an officer who is accused of lying and up for summary dismissal can get away with deciding whether he keeps his job by not investigating. You tell me how that's not a conflict of interest, folks. And you'll be educating the rest of Portland, too. There's some unusual circumstances here that I think need to be addressed, and that's what i'm here to do. I am not here to waive any of my rights. I retain my right to call kroeker, mike hess, bob ulin.

**Katz:** No, we're not going to do that, richard.

**Koenig:** Are you withdrawing that written agreement or that statement of the city attorney that I do not relinquish any rights?

**Katz:** Richard. We have a procedure here. It's a procedure in the code. And --

**Koenig:** Mayor, I have heard you abdicate. I have heard you abandon the code. I have heard you repudiate. I have seen you point.

**Katz:** And I have heard you not telling the truth. So I just don't want to hear about this anymore. Why don't you continue. You still have some time. To make your case. Before the council has any questions. And if they have any questions --

**Koenig:** I want to call my accuser. I want to call my accuser and ask him a couple of questions. Captain smith, would you come up here?

**Katz:** He's not on trial.

**Koenig:** I'm on trial. I am on trial here.

**Katz:** You are not on trial.

**Koenig:** Excuse me. Shirley Karl, is the reason that i, that the investigation was declined because of my pattern of complaining? Was that it?

**Katz:** I read it.

**Koenig:** I think you forgot something, mayor. That's why my investigation was declined or the investigation was declined.

**Karl:** Because of a pattern?

**Koenig:** Uh-huh.

**Karl:** No.

**Koenig:** What is it?

**Karl:** It's because your complaint has no merit.

**Koenig:** Oh. I thought it falls within the pattern of micron nick complaining.

**Katz:** That was an aside. That was part of the report.

**Koenig:** Okay.

**Katz:** That wasn't the reason.

**Koenig:** And, shirley, if no investigation has ever been done of any of my complaints, how can it be determined that they are without merit?

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**Karl:** It was done by captain smith and also lynnae berg.

**Koenig:** I thought the investigation was declined.

**Karl:** Oh, a complete investigation was declined because there was no merit.

**Koenig:** Were the general orders --

**Katz:** We're not going to continue this. Do you have any else to --

**Koenig:** Were the general -- have the general orders been followed, mayor?

**Katz:** Do you have anything else that you want to say on your behalf?

**Koenig:** I want to call -- I want to call my accuser who says I complained so much that my current complaint is without merit.

**Katz:** No. This was not the time. That was the advisor made that statement as part of the record.

**Koenig:** What did captain smith -- how did captain smith draw his conclusion? That's what we need to know. That's what we need to find out.

**Katz:** Fine. Thank you. I'm going to ask you then to all of you sit back there and i'm going to call captain smith. Back there.

**Koenig:** I want to confront -- I do not relinquish my rights.

**\*\*\*\*\*:** This isn't a court, required.

**Katz:** You're going to sit back there.

**Koenig:** Do I get to be deprived of --

**Hales:** You get another minute and 41 seconds and then you're done.

**Koenig:** Do I get to deprived of my right to the process described in general orders --

**Hales:** You get to hire a lawyer and to go court any time you want. But in this proceeding in front of a legislative body you're not a lawyer, we're not a court. You don't get to cross-examine people. You have a minute and 26 seconds more and then we're going to could the business of the city of Portland. Mayor, let's not call anybody else. Give this man his minute and 17 seconds and then get back to work. Please. We don't get to cross-examine her or the rest of us. You get to make your statement and sit down.

**Katz:** Finish making your statement and please take a seat in the audience.

**Koenig:** If you insist there will be no investigation of the allege the misconduct, the alleged conflicts of interest, the alleged abridgement of general orders, I think it's time for us to quit. I will take your instruction that I am deprived of due process rights as an accused. All right?

**Katz:** Thank you. Captain smith, do you want to come up for a second? Chief berg, did you want to add anything to this? Because your name was mentioned as well. Okay. Make it very brief.

**Captain Bret Smith, Portland Police Bureau, Internal Affairs Division:** Captain smith, Portland police bureau, internal affairs. I don't have anything really to add. The declination that I wrote was very clear. It's based on the merits of the investigation that was based on the letter that was sent on the 13th of april. I had had nothing to do with patterning. I didn't indicate that in the letter. Had to do with a prior investigation and the completeness of that investigation that was reviewed by ppiac. The results are it was also reviewed and heard here and was based on that we had covered that ground already.

**Koenig:** That's why you're a liar, captain.

**Katz:** Thank you, captain. Does the council have any questions of anybody that's before us in the last few minutes?

**Hales:** Ready for a motion?

**\*\*\*\*\*:** Point of order.

**Katz:** This was not a debate team.

**\*\*\*\*\*:** No, i'm asking, I am a witness to captain smith withholding information.

**Hales:** It's not a court, sir. Sit down.

**Katz:** Patrick, please have a seat.

**\*\*\*\*\*:** They have already finished --

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**Hales:** Mayor, i'm ready to make a motion. Let's get back to work.

**Katz:** Please have a seat.

**Hales:** Then we can do that.

**Katz:** Why don't we take a motion.

**Hales:** I move we uphold the hearing -- i'm sorry -- the decision of the advisors and decline the complaint.

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

**Saltzman:** Second.

**Katz:** Roll call.

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

**Katz:** Mayor votes aye. Item 548.

**Item No. 548.**

**Katz:** Anybody want to testify on this one? Roll call.

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

**Katz:** Mayor votes aye. 549. vicky, come on up and tell us what you're doing because we're going to hear about it.

**Item No. 549.**

**Hales:** Vicky, the enforcer.

**Vicky Diede, Office of Transportation, Engineering and Development, Project Manager:**

Good morning. Vicky diede Portland streetcar manager. We are currently, as you know, testing streetcars in the streets of Portland in anticipation of our grand opening on july 20th. And by early, late may, early june we're going to have three more cars out on the road. One of the things that can impede our ability to test the cars or impede our ability to provide the service is if we have illegal on street parking. What that means is in the parking lane that's adjacent to the streetcar track slab we have drawn a solid white line and what that line is to indicate to folks is no part of your vehicle should be on or over that line because you will be in danger of getting hit. Excuse me. So what we're doing is on routine patrols, the parking enforcement division will be ticketing and towing people who are illegally parked. But since they really can't follow us around all the time of our operations, what the code will do is allow the traffic engineer to delegate the authority streetcar operators are two city employees and our three superintendents to be able to call tow dispatch and have them move the car. We're not having them site the cars. We'll have them move it and the reason we're not doing that has to do with the fact you need to be deputized to be able to tow and cite. And these are not city employees. They are in contract us to. So that is the purpose of the code amendment.

**Katz:** And you're moving them to?

**Diede:** We will move them to one of the lots where we take cars. If someone comes back and see there's their car is not where they left it they will call police --

**Saltzman:** Are we doing this pretowing, no citation for the interim trial period? Or in perspective perpetuity?

**Diede:** We are going to do it in perspective perpetuity. We will review as we go along. Our sense is that it's notice going to be a large issue. It's just one of those issues that we need to deal with in case it comes up. We've gone through the entire alignment probably four or five times, and when cars were parked illegally we put a notice on their windshield just indicating what the line means and what it really would mean if a streetcar was going by. And so far, I mean we've had I think to tow a u-haul truck and a couple of cars and that's been it.

**Francesconi:** I'm going to need the city attorney here in a minute. So you're saying we don't have the authority to tow. Right? But we do have the authority to move? Is that what i'm getting?

**Diede:** No.

**Francesconi:** Sounds clinton-esque here. [ laughter ] I couldn't resist. I'm sorry.

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**Diede:** Parking enforcement patrol has the authority to ticket and to tow. What we are seeking is part of the streetcar operation is for our drivers who will encounter this or our managers or our superintendents when we are encounter a situation we be able to call-tow and have them move to do a lot. And the reason that is is because, again, we don't see how we can really deputize these people to do tickets and tows.

**Hales:** It's more gore-esque. We don't have controlling legal authority.

**Francesconi:** I got it. [ laughter ] I want to make sure towing and moving are different things and they're two different things because we don't cite?

**Diede:** Yes, it's the cite piece.

**Francesconi:** Then i'm looking at the city attorney just so we're clear about this and that is the legal distinction as well?

**Ben Walters, City Attorney's Office:** But, well, it's the distinction that is drawn within the code. We tow for violations and then there's a subsequent hearing by which to, and we charge for the tow when we move, generally, the city pays for the removal of the vehicle, and it's just the -- the inability of the person to find the vehicle when they come back. It's not in the same location they left it before. That is the cost that they bear. But there is a means by which we let them know where the vehicle can be found.

**Francesconi:** Okay. Okay.

**Diede:** We've run this program previously for things like street cleaning and repaving of streets.

**Francesconi:** Okay. I guess that's answers my question. I just and we can handle this fiscally because we don't think there's going to be much?

**Diede:** Exactly. The tow charge and should the car be there a full 24 hours, the charges will be \$72.

**Francesconi:** And we will take this from the streetcar budget?

**Diede:** We will pay this from the streetcar operating budget. As I said we'll have the ability, of course, to track the expenses, and track the activity. If it becomes onerous to us, we may seek a change to code whereby we will find a way to deputize these people so they can ticket and tow.

**Francesconi:** Okay.

**Saltzman:** So we're not going any back door overnight parking privilege to northwest Portland residents?

**Diede:** For \$72.

**Saltzman:** Park it over the line and it will be stored overnight. [ laughter ]

**Diede:** I don't believe so.

**Saltzman:** Let's keep are eyes on that perverse dynamic.

**Hales:** Do you think free overnight parking on st. Helens road you have got a great deal for you.

**Diede:** The other thing for that 24-hour period, you know, we would pick that up. If someone has decided that it's truly an abandoned automobile and it sits there for over 24 hours they would then charge them for the additional days of storage time.

**Francesconi:** I guess, how do we let people know where their car is going to be?

**Diede:** They're within the blue pages under the police bureau, there's the auto towing/impound number. And it's the way anybody who has had their car ticketed or towed would find out where their car is.

**Katz:** Are you going to put something on their windshield?

**Diede:** The car's not there: [ laughter ]

**Katz:** That's why I don't drive.

**Francesconi:** Leave the windshield there.

**Hales:** A post-it noted on the parking meter.

**Diede:** I thought this was so simple:

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**Katz:** So because the car isn't there, they're not going to know where it is they're going to have to look in the blue book?

**Diede:** Yes. Yes.

**Katz:** All right.

**Hales:** You can see why we don't want to do this very often.

**Katz:** You're answering e-mails.

**Diede:** Absolutely. It will be our number on the bottom of the little form.

**Hales:** This is one of the more fun parts of vicky's job.

**Katz:** Anybody else want to testify to this nightmare? All right. Roll call.

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

**Katz:** Mayor votes aye. Fine. 550.

**Item No. 550.**

**Katz:** Anybody wanted to testify on this one? Roll call.

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

**Katz:** Mayor votes aye. 551.

**Item No. 551.**

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

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

**Katz:** Mayor votes aye. 552.

**Item No. 552.**

**Sten:** The block grant is an entitlement but you have to apply for it and we try to make it a little more than a pro form ma piece of work and take a look. Although our goals and aspirations for what we do with our housing system the are the same the meaning to the there have to change with the marketplace and the new challenges we see. This is this year's version the housing community development has a lot of time and looks at 24 and we thought we would just give a brief overview of what the submission says this year for the folks throughout that are interested and the council. Beth and mike.

**Beth Kaye, Program Manager, Bureau of Housing and Community Development (BHCD):**

Thank you. Good morning, mayor Katz, commissioners. I'm beth kaye, the program manager for the housing and community development commission. I'm joined today by mike, whom you all know with the bureau of planning. He's also part of the housing and community development commission staff. We're here today on a fairly routine matter to adopt the consolidated plan action plan for fiscal year 2001-2002. This was approved by the housing and community development commission at its public meeting on may 2nd, 2001. The budget for the bureau of housing and community development, which is part of this document, is as you know from the budget process, very similar to last year. There are no material program changes. There are no major, there are no funding shifts to speak of. The activities are consistent with the activities in the strategic plan of the consolidated plan for fiscal year 200100-2000-2005 you adopted last year. That was the big-fat bound document with the data in it. We plan to submit this action plan to hud on may 15th with a few housekeeping changes and we'll also have some of the data presented differently in a format that is required by hud called hud 2020 but we wait until the budget process here is completed before we input that data. We're here to answer any questions that you have.

**Katz:** Mike, did you want to --.

**\*\*\*\*\*:** No, I have nothing to add.

**Katz:** I enjoy getting this report. I just need to tell you, there's some interesting information in here. So I urge the council if you haven't looked through it to take a look through the data.

Interesting. At the year, if i'm reading this correctly, the year 2000, our hispanic population has increased so that it is the number one minority group in Multnomah county.

**\*\*\*\*\*:** And in the state of Oregon.

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**Katz:** The state of Oregon, I knew. But I didn't realize, and that also reflects, you don't have the city of Portland broken down. You don't have the percentages there. But is that the same thing for the city of Portland?

**Kaye:** I believe it is. Certainly the asian and hispanic populations have increased much higher rate than other ethnic minority notice city of Portland. Whether they overtake african americans I haven't memorized that.

**Katz:** Why don't you send that on the e-mail to us. But there is an interesting information there. Thank you for putting all that work together.

**Kaye:** Our pleasure.

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

**Francesconi:** Thank you. Actually, the information you give i'm kind of some of the growing gaps in our city is the most accurate from you folks. It might be interesting at some work session where we actually have a little discussion about what you're finding and what you're saying and so we could talk about it. I think as well as your strategies. We had a good discussion but it's usually in this format. It might be good to do that if your commissioner thinks it's a good ideas. I guess the second thing I wanted to thank you for is your continuing efforts to close those gaps in our city. Aye.

**Hales:** Good work. Aye. **Saltzman:** Aye. **Sten:** Thanks again. Aye.

**Katz:** Mayor votes aye. Thank you. Thank you very much. 553.

**Item No. 553.**

**Katz:** Second reading. Roll call.

**Francesconi:** I said the reasons why I think it's a good idea. It's a very good idea. Aye.

**Hales:** Aye.

**Saltzman:** My phone's going call forward today. [ laughter ] aye. Oh, july 1. That's right.

**Sten:** Aye.

**Katz:** That's what I was afraid of. I've already heard of at least two, if not three issues that you could take on. One but we'll wait until july 1. Aye.

**Saltzman:** We all have our list.

**Katz:** 554 communications.

**Item No. 554.**

**Moore:** He will not be coming.

**Katz:** How about 555.

**Item No. 555.**

**Moore:** He will not be coming.

**Francesconi:** Good work, commissioner saltzman.

**Katz:** 556.

**Item No. 556.**

**Moore:** He will not be coming.

**Katz:** Let me just explain to the public that's listening in and watching. Commissioner Saltzman had sent out a memo --.

**Sten:** I want to hear you explain this copying i'm going to do it for him. But this is how I read it. Has sent out a memo to everybody and on this particular issue. Do you want to add anything else on that?

**Saltzman:** Well, yeah. I think what I did was to withdraw the request for proposal for this year and will be bringing before you per city code sole source exceptions for the neighborhood coalition contracts for this year. But also as I have discussed with each one of you we have put language into the contracts this year that speak to the issue of coalitions doing outreach to new neighbors, emerging ethnic minority groups, developing better working relationships with neighborhood business associations, obtaining letters ever support from their constituent neighborhood

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associations, each coalition obtaining that light rail and finally full budget disclosure and quarterly financial reporting to us. These are all measures that I have spoken to you all b I believe you all are in agreement with me these are sort of inalienable obligations of our neighborhood coalitions and these will be in the contracts this year.

**Katz:** Inalienable. All right. And that's the reason why frank and willie and bob are not here. All right. 557.

**Francesconi:** Commissioner Saltzman. Your went all long was to do this and valid and your objective all along is valid. This is a more appropriate way of getting there so thank you.

**Katz:** 557.

**Item No. 557.**

**Patrick Dinan:** Good morning, council. My name is patrick dinan. Been before you. I've seen the attitude that's been portrayed here and I apologize as a citizen that it has to come to this pointed.

I would like to quote you a couple of people that have made the backbone of this country. One is mr. Jefferson and he said when you simply accept what a government employee says as truth, you have surrendered authority absolute authority of your person and your rights. We cannot afford to do so if we wish to continue in a free society. Mr. Patrick henry said, stand up for what you believe in peacefully if possible, or to whatever level you feel you can." we as the public have the right, all 500,000 of this in this city to come before you mr. Hales and show you and share with you our concerns with government if it is not working properly in our mind. I have come before you. I have tried for three years to get an answer. I cannot get an answer from the mayor's office on issues. I cannot get answers from the police department on a very simple issue that brought all this brought forth and that was where is the lawful order of exclusion or now as ms. Katz has changed, I wasn't excluded. I was trespassed. Yet when I asked ms. Katz why I was excluded and she said that it was because I raised my voice, it was interesting that I send that fax over by fax so how could I raise my voice over the fax? That's when ms. Katz turned her back on me. Ms. Katz you're the mayor and commissioner of police. Why don't you help us people find a simple answer and make sure that the police are doing the job that they're supposed to? I have asked for a lawful order. I sent you a letter on january 29th and it says just produce the lawful tress mass or exclude order claiming the issue to me on or before may 2nd. I had the police deny me access to gain evidence for a defense evidence. That is a felony. That is wrong. Captain smith has covered up. Captain smith came before you in the piac meeting, mr. Hales, and you asked him if he had written reports.

Mr. Hales, I would challenge you to ask him in open council meeting to produce that for you because he doesn't have it. They do not have it. Therefore, they're in violation of the law. The law is only as good as we the public can have you our elected officials enforce it. I come before you and I ask you to enforce or to investigate why, after three years, we can't get a simple answer. And then have paperwork like this. This is from ms. Berg. The assistant chief. She says "in review you found no exclude order or any lawful instrument which would deprive me of my right to enter the northeast precinct to collect evidence. If I am in error -- that's my letter to her. She came back and said she didn't have one. You were not given exclusion order in reference to this incident. I didn't ask for the incident. I asked for an exclusion order. Therefore i'm sending your money back. On the bottom line it says the Portland police bureau has concluded this investigation of all matters relate to do your disputed with commander foxworth, captain smith, sergeant stevens and all matters in any way related to your exclusion for northeast precinct. Well, am I excluded or was it not excluded? If it was excluded or trespassed, show me the written elements because the charter requires it. If they cannot, you are aiding and abetting felony charges against these officers. And I would like to see something done about it. And if you don't want to do something about it tell me you don't want to do anything and you are acting outside of your commission position.

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

**Dinan:** Is my time up?



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**Katz:** Yes, your time is up. We stand adjourned until 2.  
At 10:55 a.m., Council recessed.

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

**Francesconi:** Here.

**Saltzman:** Here.

**Katz:** Commissioner Hales and Sten are stuck in traffic. [ laughter ] all right, let's read the number.

**Item No. 558.**

**Moore:** Tentatively deny appeal of pleasant valley neighborhood association and uphold hearing officer's decision with conditions to approve the application of majestic homes home, inc., and alicia kisaberth, for a 31-lot planned unit development subdivision with an environmental review at 14449 southeast clatsop street.

**Katz:** Commissioner Francesconi, you just received a call. You want to share that with us? Then we'll make a decision.

**Francesconi:** Linda bauer called today and had not had a chance to review the findings. She requested that we delay this for one week so she could review the findings. It's my understanding from our prior conversation that they were first available yesterday. We still have time within our 120 days.

**Katz:** Okay. Mr. Saltzman, is that all right with you?

**Saltzman:** Uh-huh.

**Katz:** If there's no objections, we'll bring this back next week. Thank you, everybody, and we stand adjourned.

At 2:02 p.m., Council adjourned.