



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **20th DAY OF MARCH, 2019** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Wheeler, Presiding; Commissioners Eudaly, Fish, Fritz and Hardesty, 5.

Commissioner Hardesty arrived at 9:36 a.m.
Commissioner Fritz left at 11:30 a.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Linly Rees, Chief Deputy City Attorney; and John Paolazzi and Christopher Alvarez, Sergeants at Arms.

Item Nos. 250 and 251 were pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

The meeting recessed at 12:09 p.m. and reconvened at 12:10 p.m.

COMMUNICATIONS		
239	Request of Maryhelen Kincaid to address Council regarding honor the legacy of Bonny McKnight (Communication)	PLACED ON FILE
240	Request of Hannah Kuhn to address Council regarding honor the legacy of Bonny McKnight (Communication)	PLACED ON FILE
241	Request of Claire Carder to address Council regarding recognizing Bonny McKnight's contributions (Communication)	PLACED ON FILE
242	Request of Chris Scarzello to address Council regarding honor the legacy of Bonny McKnight (Communication)	PLACED ON FILE
243	Request of Linda Nettekoven to address Council regarding tribute to Bonny McKnight (Communication)	PLACED ON FILE
TIMES CERTAIN		
244	TIME CERTAIN: 9:45 AM – Accept the annual report for calendar year 2018 of the North and Northeast Neighborhood Housing Strategy Oversight Committee (Report introduced by Mayor Wheeler) 45 minutes requested Motion to accept the report: Moved by Fish and seconded by Eudaly. (Y-5)	ACCEPTED

<p>245</p>	<p>TIME CERTAIN: 10:30 AM – Fixing Our Streets Annual Program report (Report introduced by Commissioner Eudaly) 30 minutes requested Motion to accept the report: Moved by Fish and seconded by Hardesty. (Y-5)</p>	<p>ACCEPTED</p>
<p>246</p>	<p>TIME CERTAIN: 11:00 AM – Accept bid of Paul Brothers, Inc. for Lynchview Park Play Area Improvement Projects for \$2,007,457 (Procurement Report - Bid No. 00001150 introduced by Mayor Wheeler) 15 minutes requested Motion to accept the report: Moved by Hardesty and seconded by Eudaly. (Y-4; Fritz absent)</p>	<p>ACCEPTED PREPARE CONTRACT</p>
<p>CONSENT AGENDA – NO DISCUSSION</p>		
<p>Mayor Ted Wheeler</p>		
<p>Office of Management and Finance</p>		
<p>*247</p>	<p>Pay bodily injury lawsuit of Anthony Schatz in the sum of \$20,000 resulting from a motor vehicle collision involving the Portland Police Bureau (Ordinance) (Y-5)</p>	<p>189423</p>
<p>*248</p>	<p>Pay property damage claim of Jorge Torres in the sum of \$5,058 resulting from a motor vehicle collision involving the Portland Police Bureau (Ordinance) (Y-5)</p>	<p>189424</p>
<p>Portland Housing Bureau</p>		
<p>*249</p>	<p>Accept a federal grant for \$245,666 from the Department of Housing and Urban Development Continuum of Care program for the administration of the regional Homeless Management Information System (Ordinance) (Y-5)</p>	<p>189425</p>
<p>*250</p>	<p>Approve application under the Multiple-Unit Limited Tax Exemption Program under the Inclusionary Housing Program for 815 W Burnside located at 15 NW Park Ave (Ordinance) (Y-4; Fritz absent)</p>	<p>189434</p>
<p>Commissioner Jo Ann Hardesty</p>		
<p>Portland Bureau of Emergency Management</p>		
<p>*251</p>	<p>Authorize the Bureau of Emergency Management to enter into Intergovernmental Agreements with additional subrecipients of the Urban Area Security Initiative 2016, grant no. 16-170 (Ordinance) (Y-4; Fritz absent)</p>	<p>189435</p>
<p>REGULAR AGENDA</p> <p>Office of the City Attorney</p>		

March 20, 2019

*252	Amend City Code Office of the City Attorney duties and responsibilities (Ordinance introduced by Mayor Wheeler and Commissioners Eudaly, Fish, Fritz and Hardesty; amend Code Section 3.10.030) 20 minutes requested (Y-4; Fritz absent)	189426
Mayor Ted Wheeler Office of Management and Finance		
253	Accept bid of Brown Contracting, Inc. for the HSIP 2016 Signalized Improvements Portland Project for \$1,047,900 (Procurement Report - Bid No. 00001092) 10 minutes requested Motion to accept the report: Moved by Fish and seconded by Hardesty. (Y-4; Fritz absent)	ACCEPTED PREPARE CONTRACT
254	Accept bid of Moore Excavation, Inc. for the Road 10R MP 28.77 - 31.85 Improvements Project for \$1,099,917 (Procurement Report - Bid No. 00001111) 10 minutes requested Motion to accept the report: Moved by Fish and seconded by Eudaly. (Y-4; Fritz absent)	ACCEPTED PREPARE CONTRACT
*255	Approve findings to authorize an exemption to the competitive bidding requirements, authorize use of the alternative contracting method of 2-step Negotiated Request For Proposals and authorize the Chief Procurement Officer to execute a contract with the successful proposer upon acceptance by the Council for Leach Upper Garden Project for an estimated \$6.8 million (Ordinance) 10 minutes requested (Y-4; Fritz absent)	189427
*256	Authorize South Park Blocks urban renewal and redevelopment refunding bonds (Ordinance) 10 minutes requested (Y-4; Fritz absent)	189428
Portland Housing Bureau		
*257	Amend contract with OPC, LLC to increase contract value by \$1,422,620 for relocation assistance payments to residential and commercial tenants of the Westwind Apartments (Ordinance; amend Contract No. 31001374) 20 minutes requested (Y-4; Fritz absent)	189429
Commissioner Nick Fish Bureau of Environmental Services		
258	Authorize a contract with the lowest responsible bidder for the construction of the NE Broadway & 94th Pump Station Upgrade Project No. E10783 for an estimated construction cost of \$1.2 million (Ordinance) 10 minutes requested	PASSED TO SECOND READING MARCH 27, 2019 AT 9:30 AM
259	Authorize a competitive solicitation and contract with the lowest responsible bidder and provide payment for construction of the Luther Road Restoration Project No. E10854 for the estimated amount of \$1,750,000 (Second Reading Agenda 230) (Y-4; Fritz absent)	189430

March 20, 2019

260	Amend contract with HDR Engineering, Inc. for additional construction and start up support services for the Columbia Boulevard Wastewater Treatment Plant Renewable Natural Gas Facility Project No. E10033 not to exceed \$222,800 (Second Reading Agenda 231) (Y-4; Fritz absent)	189431
Commissioner Chloe Eudaly Bureau of Transportation		
*261	Amend Intergovernmental Agreement with the Oregon Department of Transportation to increase limit allowed to be paid to the City for services requested through a Work Order Contract by \$500,000 (Ordinance; amend Contract No. 30004620) 10 minutes requested (Y-4; Fritz absent)	189433
262	Amend Transportation Fee Schedule to charge fees associated with the Master Lease Agreement and wireless small cell permits and associated fees (Second Reading Agenda 234) (Y-4; Fritz absent)	189432 AS AMENDED

At 1:02 p.m., Council recessed.

March 20, 2019

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **20th DAY OF MARCH, 2019** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Wheeler, Presiding; Commissioners Eudaly, Fish, Fritz and Hardesty, 5.

Commissioner Hardesty left at 4:03 p.m.
Commissioner Eudaly left at 4:30 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Lauren King, Deputy City Attorney; and John Paolazzi and Christopher Alvarez, Sergeants at Arms.

263	<p>TIME CERTAIN: 2:00 PM – Appeal of Elliott Mantell against Hearings Officer’s decision of denial for a conditional Use Review for the Everett House Community Healing Center, in the former homes at 2917 and 2927 NE Everett St and 2926 NE Flanders St (Hearing introduced by Mayor Wheeler; LU 18-190331 CU) 3 hours requested</p> <p>Motion to tentatively grant the appeal and overturn the Hearings Officer’s recommendation, and grant approval of previously-approved uses from CU 26-82 (sauna, hot tub, massage therapy, relaxation and health counseling, tea house food service), with conditions: Moved by Fish and seconded by Eudaly. (Y-3 Fish, Eudaly, Wheeler. N-1 Fritz)</p>	<p>TENTATIVELY GRANT THE APPEAL AND OVERTURN THE HEARINGS OFFICER’S DECISION WITH CONDITIONS; PREPARE FINDINGS FOR MAY 1, 2019 AT 11:00 AM TIME CERTAIN</p>
------------	---	--

At 4:34 p.m., Council adjourned.

<p>DUE TO LACK OF AGENDA THERE WAS NO 2:00 PM MEETING THURSDAY, MARCH 21, 2019</p>	
---	--

MARY HULL CABALLERO
Auditor of the City of Portland



By Karla Moore-Love
Clerk of the Council

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

This file was produced through the closed captioning process for the televised City Council broadcast and should not be considered a verbatim transcript.

Key: *** means unidentified speaker.**

MARCH 20, 2019

9:30 AM

Wheeler: This is the morning session of the Portland city council. This is also the first day of spring. Karla, please call the roll. [roll taken]

Fritz: Here. **Fish:** Here. **Eudaly:** Here. **Wheeler:** Here.

Wheeler: Before we begin could the city attorney please read the rules of decorum.

Linly Rees, Chief Deputy City Attorney: The city council represents all Portlanders and meets to do the city's business. The presiding officer preserves order and decorum during the city council meetings so everyone can feel welcomed, comfortable, respected and safe. To participate in the council meetings, you may sign up in advance with the council clerk's office for communications to briefly speak about any subject. You may also sign up for public testimony and resolutions or the first readings of ordinances. Your testimony should address the matter being considered at the time. If it does not you may be ruled out of order. When testifying, please state your name for the record. Your address is not necessary. Please disclose if you are a lobbyist. If you are representing an organization, please identify it. The presiding officer determines the length of testimony. Individuals generally have three minutes to testify unless otherwise stated. When you have 30 seconds left, a yellow light goes on, when your time is done, a red light goes on. If you are in the audience, would like to show your support for something said, please feel free to do a thumbs up. If you want to express that you do not support something, please feel free to do a thumb's down. Please remain seated in council chambers unless entering or exiting. If you are filming the proceedings, please do not use bright lights or disrupt the meeting. Disruptive conduct such as shouting or interrupting testimony or council deliberations will not be allowed. If there are disruptions, a warning will be given that further disruption may result in the person being rejected for the remainder of the meeting. After being rejected, the person who fails to leave the meeting is subject to arrest for trespass. Thank you for helping your fellow Portlanders feel welcome, comfortable, respected and safe.

Wheeler: First up is the communication agenda, I understand all five speakers would like to come up together to honor the legacy of bobby mcknight. They have collected that collectively they be able to use the 15 minutes so if you could set the timer to 15 minutes and they will figure out how to use it. And.

Wheeler: The only rule is please state your name for the record, and if the microphone is six inches away, that's about the right amount. Thank you and good morning. Thank you for being here.

Claire Carder: Good morning, and a great morning it is. My name is claire carter. I knew bonny mcknight from citywide land use. Bonny mcknight, as many of you or all of you, I know, know, was a force of nature in Portland activist politics. I did not know her as long as plane, probably most people are sitting at this table did, but I certainly have grown to appreciate the value of her contributions, maybe more than many, as well. I first met bonny in 2011 when I was a brand-new neighborhood chair for maplewood neighborhood association. I soon got pulled into going to citywide land use meetings, and citywide land use group meetings, which was a group that bonny mcknight ran, facilitated, and did everything else to support for years and years. What I discovered in my journey of land use education is that there are no groups that talked about land use citywide at that time and still to this day at this time. Bonny facilitated citywide land use group. She set the

March 20, 2019

agendas. She organized city staff, got other professionals to come to make presentations, and always ran a clean, quick, and really interesting meeting. Bonny was really extraordinary in her ability to keep her fingers on the pulse of the community. She always had knowledgeable -- she was able to pull city staff, and other professionals to come to provide really great information to citywide land use, and she always seemed to know whatever issue was at full boil on the stove top of citywide land use concerns. Paul, who I did not see here, was a long-time staff person, expressed bonny's years ago of facilitating citywide was her great gift to the community. In recognition of bonny's years of service and depth of her commitment I would suggest that the office and this is for you, commissioner eudaly, I would suggest the office of community and civic life propose a special bonny mcknight award as part of the spirit of Portland program to annually recognize an individual or organization that has done extraordinary work in the field of community engagement in land use planning and outreach. This could be one small but very important way to acknowledge bonny's service to our fair city and ensure that the spirit of engagement in our city is nurtured into the future, even in the absence of a strong community advocate as bonny mcknight. Thank you very much.

Linda Nettekoven: Good morning. Linda here, since time is short I will slip right in and continue the conversation that Claire began. Bonny's ability to think big about issues facing Portland led me on a number of interesting adventures in community involvement. First there was the idea of having the planning commission spend an evening with community representatives from across the city sitting at small tables, discussing important questions about the future of Portland. Next came a series of bus tours for the planning commission. We work carefully with our liaison planners laying out routes through each coalition area to point out the challenges, opportunities, and sometimes the unanticipated consequences of planning commission decisions amidst the current zoning code. The trip to east Portland was particularly significant. Way back before the days of Portlandia and the great recession, bonny talked to Gil Kelly into hosting a mini summit on infill development. We called filling in the city. We involved planning staff, community volunteers, and developers of many stripes. Somehow we convinced them to be part of a very large panel discussion about how to make development work better in Portland. We engaged community participants, videotaped their thoughts on infill, and gathered a lot of great ideas. Unfortunately, the recession overtook us, and many of those are lost in the years. Bonny worked incredibly hard for the greater good. First fighting the annexation of her east Portland community to the city of Portland. And then striving for decades to make Portland the best city it could be. As the examples indicate bonny left with an important lesson. While having three minutes to testify on an issue is important, it's often not sufficient. Finding ways to bring people from many walks of life to go and settings that allow them to better understand each other, is what is truly at the heart of a vibrant city. Thank you.

Wheeler: Thank you. Good morning.

Hannah Kuhn: Good morning, I am Hannah Kuhn. Good morning, Mayor Wheeler, commissioners. Thank you for this opportunity to speak about Bonny McKnight. Bonny McKnight was passionate about Portland. She believed our city could be fair and equitable, protect the environment, preserve historic homes and provide affordable housing, and distribute sidewalks, parks, and swimming pools to all corners of the community. In 2005, bonny was one of a small group of citizens helping employees like me figure out what the authors of ballot measure 37 had intended and do it fast. The measure placed a 180-day clock on implementing rules in place. As you may recall measure 37, was the infamous and thankfully long repealed ballot measure that placed limits on how local governments could regulate private land use. Bonny called me late one night at the office, and asked when was the city going to start outreach to neighbors about measure 37 and how it might impact them? I told her, there was no city. There was just me. And I was working against

March 20, 2019

the clock to get the implementing rigs drafted, plus I shared one car with my husband, and well, none of my excuses persuaded bonny. She offered a solution. She would set up appointments with the neighborhood coalition offices, pick me up at city hall, and drop me off afterwards. This was clearly an offer I could not refuse. Thanks to bonny's persistence, Portland's neighbors got early information about the measure, and the impacts, and I got to spend quality time with bonny mcknight, her formidable intellect and passion for our city. Whenever bonny mcknight testified before this city council, people listened. Bonny knew her stuff, and she presented her positions in a calm, respectful way. Urging the mayor and commissioners by name to pay attention to the details because details matter. Ces wood once said, good citizens are the riches of a city. By that measure, bonny mcknight was a gem. She was like a tiny grain of sand, gently yet persistently irritating the layers of government, coaxing them to form a bright and shiny pearl. Bonny mcknight and her tireless efforts on behalf of our city will be missed.

Wheeler: Thank you.

Arlene Kimura: Good morning, I am arlene, and I can't top any of the things that people have said about bonnie, but I want you to know that she had a fun side, and one of the sides was that during time that we had the rose festival float, she was when blowing blue paint all over grains of rice to put on the float, and she was having a wonderful time doing it. I also want to honor alice, another long-time activist we just lost, and my memory of alice is that she introduced my grandchildren to the joys of canoeing and kayaking on the slough. Thank you.

Linda Robinson: I came this morning to speak on behalf of alice blatt, as well. I met alice blatt 20 or 30 years ago, and she introduced me to the columbia slough. She -- it was because of her that I met her and signed her petition, and some how the next day I was before city council for the first time that I had ever been here, and I trounced around, and she showed me all the treasures of the columbia slough. We went through more mud and weeds and things and when the bond measures, the bond measures came we had the information, we needed to put some quality properties on that list of ones that should be acquired. I also worked with alice on the columbia south shore issue. There had been a columbia south shore plan, and she did an appeal to the luba, it got referred back to the city and we spent a couple years negotiating with landowners and pdc and others to get a better plan that addressed the minimum buffer along the slough. So through that process I learned how to -- I just followed her to all those meetings, and I observed how she did things, and her calm way of asking clarification questions. Her way of saying, can you see that in words that people like me can understand? Through that process I became a neighborhood advocate and a park advocate, and she worked a lot for parks and open spaces, in particular.

Wheeler: Thank you. Good morning.

Roberta Joitner: Good morning. Mayor wheeler, members of the council, I am roberta jordaner, and thank you for doing this tribute. I retired from the city in 2016 after the fortune of working for 25 years here with the water bureau and then with environmental services, and my last 14 years with planning and sustainability. I can tell you from this experience that bonny mcknight and alice blatt were standouts in terms of the community leaders and activists. I think of bonny, the words balance, patience, respect, and gratitude come to mind. Specifically, bonnie balanced her very strong opinions and passions with patients. She understood that making real policy and practical changes took time, in some cases with our projects, years, and it takes time to flush out the issues, hear from community members and both identify and evaluate solutions. She prioritized progress over perfection. She supported solutions that she and everyone else were a part of what they wanted but not necessarily all of what they wanted, and sometimes in the short-term and sometimes in the long-term. Over the years I never witnessed bonny speaking

March 20, 2019

disrespectfully to or about anyone, whether it was to their face or in another room. Even if she disagreed with them or even when she was telling them that she thought that they were being disingenuous she had a way of bringing people together and moving the process along by that. She always welcomed new people to the process, and community members and staff and as a staff person I can say that she mentored a lot of staff helping us do right by the public and the public process, and also thanked staff for their work making us feel that it was important to her and the community. And one of the last emails that I received from bonnie, she was expressing gratitude for good friends and people to work with and closed her email with this statement. The absolute best reward is brought about by working together towards common goals. I will say that one more time, the absolute best reward is brought about by working to go towards common goals. I leave you with this bit of bonny wisdom. Thank you.

Wheeler: Thank you. Good wisdom. Good morning.

MaryHelen Kincaid: Good morning. Thanks for this opportunity. I am specifically picked this day because you would all be here, and I knew some of you might not have known bonny, and this would give a good experience to those who have not experienced her.

Fish: Was this your idea to organize the tribute?

Kincaid: It was a number of people. It was my idea to call Karla and say we need to get on the schedule right away and that was January and said was the first date that five seats were available.

Fish: We will have a chance to give you feedback, but the council will have a chance to say a few words but I am thinking back on my last ten years on this body, and it's been extremely rare that someone has organized such a tribute, and I just compliment you for doing this.

Kincaid: Compliment all these people.

Fish: I compliment everybody. It's a wonderful way to start a council session.

Kincaid: Great. I have a little prepared speech and something at the end. My point is that bonny impacted many in many ways. I want to share two stories. Upon hearing of bonny's death, former mayor sam adams sent me a message and said this is something you can share, and he wrote one, he said this might not be to share but I am going to anyway. And so sam if you are watching, he said that he always knew he was in trouble by the size of the folders that bonny brought to you. If she came in empty handed, he knew it would be a good day. Sam's message was I am so sad to hear about bonny's death. She did so much good for so many people. The countless hours that she gave advocating for east Portland and all Portlanders to get fair treatment, smart land use and great government services. Her passing is a huge loss to all of us. God bless her, I hope that she is at peace knowing what an inspiration she was to me and so many other people. The other person impacted is mary sipe, and she will speak to her experience.

Mary Sipe: Good morning, I am mary sipe. And I met bonny about five years ago through maryhelen. I put "met" in quotes because I never met her face-to-face. When bonny learned about the work that I was doing on the pile driving initiative, she immediately began advocating and she was a constant source of guidance and support and encouragement. It was her support that really often was the thing, the one thing that kept me going when all seemed hopeless. I thought of bonny as the wizard behind the curtain. Since I had never met her in person, yet we had numerous email exchanges. She wrote so many emails to so many people. Gave me information on who I should be working with. And when I say the wizard behind the curtain, she was the person that I never met who magically made things happen. I just want to say that what I realize is that even though bonny is gone, and again, air quotes, her spirit will continue to live on in people like me who she influenced and guided and supported. Maryhelen?

March 20, 2019

Kincaid: Those were two instances where bonny was -- affected people that were not citizens, like us, that went through the city, and a former mayor and someone she'd never met, and they had big impacts, she had impacts on all of them. And bonny brought passion to her beliefs and while she requested no memorial service, in this 15 minutes it's scaring me that it's a full moon, and first day of spring, and we're doing something bonny didn't want to have done. I am keenly aware of my surroundings today, but I think the best memorial, and I support clair's idea about a special spirit of Portland award, and -- but I also think that the best memorial we can give bonny is a living one. Her passion influenced, as I said, elected officials and people that she never met. We need to work to continue her legacy of advocacy and actions so we can make this world a better place. She would like that. Statutes and plaques cannot do that, but our actions can. And I just want to recognize all the people that are here today in that made it down here and the traffic to recognize bonny. I guess thumbs up? That's -- there. We made it 21 seconds under.

Wheeler: You timed it perfectly.

Kincaid: Bonny would be scolding us that we did not use that 21 seconds.

Wheeler: She probably would. She would say there is an entire message that you could put into that 21 seconds. I want to thank you for coming and remembering the great legacy of bonny mcknight. And we all have, in some way, been touched with her great knowledge and her experience. I remember as a new elected official, as the new Multnomah county chair, the whole issue of adjudicating measure 37 cases fell squarely in my lap and in the laps collectively of my colleagues on the Multnomah county commission. As many of you remember we were firing somewhat into the dark at that time. She was very active and engaged. The way that she could communicate these complex ideas and help us to understand what the choices were that we had to make, and what our options were, was highly valuable to me. And that's just one way that her legacy has touched me, and second of all, look what it can do. Look at all the leaders here in this room sitting here at the table. Who are inspired by one person, not even, you know, not a government official, not somebody who may be on paper would be seen as having great prominence, particularly, the community and desire to make this a better place had this incredible pull on everybody that she came into contact to bring people to the table and truly live what I think is, you know, what we talked about when we talk about this concept, it's not just about people sitting up here and making decisions and everybody else dealing with the consequences. It's about the public coming forward and shaping those conversations and policies and guiding us as elected officials in terms of what the community wants and expects, and that's a powerful legacy, and just seeing all of you here and mary sipe, who continues to come to council on a regular basis, what a great story, what a great legacy. I can't tell you how much we appreciate you being here today to share it with us.

Fish: Mayor, I just want to add a couple of remarks. First I want to thank hannah kuhn because I think it was hannah that first introduced me to bonny. Once you are introduced to bonny, you become a lifelong correspond, and I was the beneficiary before I was elected and after to regular tutorials by bonny. Lots of nudging. Lots of advocacy work, and she was singular. There was no one else like her who was as focused and persistent on land use issues with the citywide perspective. She was the most knowledgeable person that I think that I have ever dealt with from the community. I had a chance to visit with bonny when she was at an assistive living facility in sylvan, so she was before she went into the final care. And it was not a particular nice place, and it was -- we visited in the sort of living room area in the front of the place. And she clearly wasn't wild about her settings and comfortable, but she say all business. She was lobbying for more money for her projects, and she was deeply concerned about lots of things that were going on. I have had the chance in the last ten years to work with a lot of really wonderful people from the

March 20, 2019

community that have helped me to do my job at a better level and have helped the council see things differently and have done great work as advocates, and she was singular, so I am so appreciative that you took the time today to come and offer a tribute, and I can't think of a better way on a beautiful sunny day, first day of spring than for us to pay tribute to someone who really lived a good life and made a difference. Thank you for taking the time to share your tributes.

Wheeler: Commissioner eudaly.

Eudaly: I want to say that I didn't have the pleasure of knowing bonny or alice, so I really want to thank you for coming here today and I don't want to call this a memorial. I would be happy to be remembered in such a loving way, and it is also a lovely way to start our day here at city council. It's also women's history month, and it's a time in history when more women are seeking and winning public office, so it's really wonderful to be reminded whose shoulders we are standing on. And I am going to bring your suggestion for a special award to the bureau and to the people involved in that event and see what they think. So thank you.

Wheeler: Commission hardesty.

Hardesty: I will be very brief. I just want to say as I look at you beautiful women out here today, it does my heart good. Each and every one of you have been living your passion, and most of you, I know, personally, so I know how hard you work for free. It's just absolutely wonderful to see you come together to honor such good souls. Thank you.

Wheeler: Commissioner Fritz.

Fritz: I was going to cry, and for my colleagues who did not know bonny, but bonny was a spirit of award-winner in 2004. She was my friend. And I miss her. I thank all of you, Chris scarzello is here, another retired employee, and Linda and Alice's family, and just so many people. I think we would have liked to have had a memorial for her, a whole thing, at least I would have, but bonny had wishes, and so this is a celebration, and it's one that we share with the community because it's on wish, and now it's recorded in the archives of the city of Portland, and so I remember she was involved in the planning of the red and blue lines, the tri-met, she worked for TriMet and was really involved in making sure that those lines went in. And when I was learning from her and we were plotting together in the community, we would have lunch every month at the old wife's tale. I still want that recipe for the mushroom goulash. And she didn't have much money. She did not have a big retirement saved up, so often when I had lunches with friends we take turns, and very early on I said, would you mind if I pick up the tab, and she said, you know, I have never considered the amount of money a person has is any indication of their value. And yes, I would be very happy. I visited her in the assisted living close to my house, and was actually quite scared because she was really feisty, just like, this, that, and the other, and in the last phone call that I had with her, from my office to her, in the assisted living in sylvan, we just laughed, and she was -- I think that she was at peace that she was recognizing that she had led a good life and got a lot of things accomplished, and inspired a lot of us, including, as commissioner Hardesty noted, a lot of women have been inspired, and a tribute to Alice blatt, and thank you for including Alice, losing two east Portland leaders in such a short time. It's a blow. I learned from Alice many things, but one of them was just show up. Alice would come to the meeting, and she would come for the last five or ten minutes, and I knew that she would come from another meeting which is why she would late but she would come and whenever Alice would come out, oh, Alice thought this was important enough to come to my meeting. And so that's the lesson for all of us, too, even if you can only go for a few minutes, go, and show up. And be kind and thoughtful. So, thank you very much.

Wheeler: Thank you, all of you for being here. Appreciate it. [applause] the first item is 244.

March 20, 2019

Fish: Are we going to do the consent agenda?

Wheeler: Why don't we go ahead and get that out of the way. Have any items been pulled off the consent agenda? Karla? Have any items been pulled off.

Moore-Love: Yes, 250 and 251.

Wheeler: 250 and 251, is that correct? Please call the roll on the remainder of the consent agenda.

Fritz: Aye. **Fish:** Aye. **Hardesty:** Aye. **Eudaly:** Aye.

Wheeler: Aye, the consent agenda is adopted. First time certain item 244, please.

Item 244.

Wheeler: Colleagues, the north, northeast housing strategy oversight committee report being presented today is the annual report on the progress of the north, niece housing strategy. This takes considerable time and effort, so I would like to thank the entire north, northeast oversight committee, and especially the subcommittee members that worked on this report, and in 2018, I mentioned that quite frankly I was disappointed in the results and progress that we were making in the north, northeast housing strategy. This year I had the chance to interact personally with the oversight committee members, including a quarterly meeting with the committee chair along with conversations in various spaces with the participants. And I came to appreciate that the expectation to reverse discriminatory policies enacted in the city of Portland over decades won't be fixed in one year or two years or even in five years. We must have a steady and consistent commitment to this effort. And I am committed to the progress in this plan. Here to present today is dr. Steven holt, the chairman of the north-northeast housing strategy oversight committee, and jillian is also going to present, as well, is my understanding? Good morning.

Dr. Steven Holt: Well, good morning, commissioners, and morning mayor. Good to see you and good to be here. It is our fourth annual report, and an opportunity to talk about this daunting task. As you so eloquently identified that we are addressing the decades, intentional activity that impacted specifically african-americans and other people of color as it relates to the common right and opportunity of home ownership, and-or safe dwelling. And so the oversight committee is very committed to the work associated with it, and it is a significant lift, if not daunting task, and look forward to sharing what happened this past year. It's amazing that we started, it seems like, just days ago to take this on and the work that happened has been slow, arduous at times. Sometimes difficult, but are absolutely necessary and look forward to talking about all of that. Our scope, just to highlight few -- before I say that, I want to say that I am extremely privileged to work with a gifted, talented, capable, and thoughtful group of people who bring expertise and view in lens. If you look at the community members these are folks committed to community way beyond just their own personal, professionalized, but even in their personal commitments, and I am grateful for that work. So I wanted to say that. If you look at the scope that we are charged with, it is to advise on, review, program proposals and planned development. It is that we will be informed by any activity going on in the interstate through Portland housing bureau, and anything that happens around the decisions or plans, proposals that we monitor the implementation of policy and programming and associated outcomes, and that we advise the housing director, the housing commissioner on progress issues and concerns associated with north and northeast Portland. Now, our hope is that we don't just simply function as a group that points out issues and challenges and trouble, but that we offer some strategy and insight planning to be thoughtful around how to equitably engage the talent and the capacity within the city. Offering opportunities not only for people to have housing and ownership, or say safe rental, but also opportunities to build wealth and capacity and workforce opportunities associated with it. While we are predominantly focused on our charge at housing, we know it is not exclusive. It involves a variety of other dynamics, and we are concerned about those, as well. This will reflect the

March 20, 2019

accomplishments and some of the challenges of 2018, and we will talk about what we see for 2019. Jillian was going to be kind enough to take us through the accomplishments.

Jillian: Two rental buildings were opened, in the north, northeast area. One is the Beatrice Morrow Kennedy and the Charlotte B. Rutherford that had 51 units. The policy, which prioritizes folks displaced from the north, northeast community, was utilized at three buildings. One that, actually, opted in to use the policy that was not required to, which is, to me, very exciting. And that was the Charlotte B. Rutherford and the Beatrice Morrow are using this to fill their buildings. We also have down-payment assistance forgiveness, so part of the strategy, which I will go over in a minute, is home ownership, and these home ownership loans came due after 30 years, and council this year approved a forgiveness strategy over time, so that at the end of 30 years when someone is paying off their mortgage they don't end up with another loan that may be they thought was a grant. We were also able to increase the boundary for the home retention funds so they can be suicide for the entire urban renewal district, and three projects received additional funding in Lyft funds from Oregon housing and community services, or OHCS, the Bridge Williams' project, Magnolia II, and Proud Ground, which is a home ownership building, the 5020 condos. So is the strategy of the oversight -- of the -- there is four strategies in the URA, and the first one we are tasked with is preventing displacement, and we are accomplishing that through home repair grants and home repair loans. The second strategy is to create new homeowners. And we have two pathways to create new homeowners. One is to build new units. And the other is to provide down-payment assistance to purchase exist, properties. Our third strategy is to create new rental homes, and the fourth is for land banking. So I will go over the first -- excuse me -- the preventing displacement, so we received updates on the deployment of funds for home ownership grants, and here you can see the repair grant and loans broken out by race and by year. These are used to help people stay in the homes that they already have, and prevent further displacement of the most vulnerable population in north, northeast Portland. The second strategy is creating new homeowners. And I am happy to inform you that since we produced this report, that another person has been able to close on a home purchase, so there are 11 more families that have become homeowners, and there are five that are currently shopping with funds. Not everybody that came through the referenced policy process used the funds allocated, so there is seven people using the down payment assistance from the housing authority, three from -- sorry, down-payment assistance from Prosper Portland. Two using the construction excise tax, and four were actually able to go through the process of becoming mortgage ready and buy a home without any subsidy. The next strategy is creating new homeowners through development and we have two properties currently under development, one is the Habitat for Humanity, the Olan townhomes and the Pcri townhomes, and those are under construction and hopefully will become available in the first half of the year. The date on here says March 2019, but I would think that the -- it would probably be filled later in the year. We are also creating new rental homes, so there are 51 at the -- so there are 501 dwellings in the pipeline. There are 146 under construction. And 131 up in units available to lease now. And of those, are 51 units are leased up at the Charlotte B. Rutherford and 81 units, the Beatrice Morrow, and I believe it's about halfway when. The Magnolia II is under construction.

Fish: Can we stop there for a second? Why is it taking so long to lease up the Beatrice Morrow? We have a tremendous housing crisis. There is a huge need. We have lots of people looking for affordable housing. It's wonderful that Charlotte Rutherford is leased but Beatrice Morrow lagged for some time, what do we know that explains why we are only at 50%?

Dr. Holt: You go.

Leslie Goodlow, Housing Bureau: No, you go. [laughter]

March 20, 2019

Dr. Holt: That's an excellent question and that's been one of the concerns, questions that we have asked, and there has been an uncertainty in response. As much as we know, as there was an interruption in leasing for --

Fish: Hold on, can we fix the screen? We don't have anybody on the screen. We just have a blue, so we don't -- we are not seeing the speaker or the power point.

McClymont: I will find out what's wrong.

Fish: Okay, thank you.

Wheeler: You have got it. There: She did it. Excellent.

Fish: Sorry, as long as you are speaking I wanted to make sure that people could see that.

Dr. Holt: Thank you. I appreciate that. So it's been something that we've been very concerned about to understand. There was an interruption or a pause in the leasing process. And in my conversation with the director of pcric, that they put the pause on the lease up for a variety of reasons, not fully understood yet. So, at this point, my anticipation and expectation is that the beatrice morrow will be fully leased, but all of the details -- it's a great question and concern of ours, too.

Fish: Let me ask you this and put you on the spot. Is the developer committed to the program?

Dr. Holt: Is the developer committed? I think that you would have to talk more specifically with the developer, honestly. My understanding is that there is an agreement to work through the program.

Fish: Let's be clear, this is not discretionary. We gave money, and we have a preference program, and we have goals in terms of the leasing up. Are you encountering resistance to the idea of implementing the preference policy to these units?

Dr. Holt: I don't think that we are now. I am not sure what the issues were, and if I did know I would sell you. I have no reason not to. I don't think that we are now. I think that there were times of uncertainty and clarity, I think that we've been able to resolve that. At least that's my hope. And my emphasis has been, even as you articulated, this is not discretionary or optional, that all of the dollars that have been associated with interstate funding are to go through the preference policy process.

Fish: That's helpful. Thank you.

Hardesty: If I might.

Wheeler: Yes, commissioner hardesty.

Hardesty: Thank you. Commissioner Fish, one of the things that I know about this project is that there was a difference of agreement between the developer and the project managers about how to use the preference policy in a way that ensured that people who are living in inner northeast, who really were displaced, were the first ones to have access to this housing. I also don't know if those issues were resolved but it was a fair question for the developer to raise based on the preference policy of the city has nothing to do with race. We know most of the people displaced from inner northeast were african-american people, so I applaud the developer, taking a pause to make sure that we were not exacerbating the fact that african-americans were pushed out of inner northeast Portland.

Dr. Holt: Any other question about that? At this moment?

Goodlow: Where was i, magnolia ii is you should construction and will be completed and scheduled to be completed in january of 2020. The king park, to be named something else, broke ground last month, and the bridge williams site will be breaking ground this month, and I think that tomorrow. And I believe the construction loan closes today. And the reach argyle site construction has begun. And should be completed in 2020, and there is a community event planned in june of 2019 at that location. The fourth strategy is land banking, and as I am sure that everyone in this room is aware, land prices are not going down, and they have not in a long time, and one of the best strategies that we can employ is to buy land and hold onto it and for development even if he don't have a project ready to

March 20, 2019

go because that land is not going to get less expensive. And phb, the Portland housing bureau is in negotiations with a property owner to acquire a parcel within the district. And also was able to purchase a property on Kerry Boulevard from the water bureau. For future home ownership development. And this is the oversight committee approved and has going to prosper Portland to be included in the URA.

Dr. Holt: To talk about how the work is, I mentioned our concern is not just people getting in units but capacity building and workforce development and supporting minority women and emerging small businesses, and business is contracted and participating in the process. So under rental development, here you have information with how dollars were disseminated and the opportunity afforded. You can see the breakout, our concern continues to be that specifically African-American companies, companies of color, continue gaining access opportunity to these possibilities and are those employed doing this work. And with home retention, part of that being to help people not be displaced. We want to make sure that the same thing is happening. Minority women, emerging small businesses are gaining opportunities to participate in this process. So specifically, in 2018, you noticed the numbers dropped considerably. And we are not sure as to why those numbers are so impacted. We are concerned that there be adequate, adequate communication and engagement and opportunity be afforded, and not so sure if the boom that's going on in the economy, reflective of the number of minority or specifically African-American companies, in the city, if they are just busy with other projects that are generating more revenue. That's something worth understanding and being clear about, but we certainly would like to see those numbers increase.

Hardesty: Dr. Holt, if you will go back one slide, please. So I am concerned that it did not just drop. It disappeared for African-Americans. The slide is not up, but from 41% of contractors for home repairs to a net negligible amount. So to just say that we don't know, what's being done to find out why that happened.

Goodlow: We are asking the questions. We are asking.

Hardesty: Who?

Dr. Holt: We've asked Portland housing bureau to help us understand why that number is reflective of what it is.

Hardesty: Do you know if there is anything that's changed between 2017 and 2018 that would account for that extreme drop?

Dr. Holt: I do not have fully specific information at this point. No.

Hardesty: I am disappointed in not knowing that, because I think the report would have been more robust had we understood what the ebbs and flows are, so I just want to put that on the record. I am not holding you personally responsible.

Dr. Holt: I agree.

Hardesty: But as the chair of the committee, I just think it's an important message to send back that we are not going to accept numbers that don't make sense without data behind it.

Dr. Holt: I support that, and you need to know that's exactly the conversation that we are having. We need to understand that. Yep. And as much as possible, see the strategy for improvement.

Fritz: Once you get the answer, if you could let the council know. I think that we are all curious.

Dr. Holt: Absolutely. It will be our delight.

Fritz: An email would be fine.

Dr. Holt: It would be our delight. So here are the opportunities then. Here are the things, and you highlighted one of them. Improvement, advertising marketing efforts to increase awareness of participation and communities of color. Especially African-Americans within the home repair and the home grant program. To reestablish a quarterly newsletter that

March 20, 2019

keeps school informed of the work that the partners and the housing bureau is doing. And to decrease the barriers and increase the opportunities for the mwesb participation minority women and emerging small business participation, at all levels of construction and development, from multi-family rentals and single family home repairs and increased initiatives for economic development, and via the prosper Portland and the northeast community development initiatives work. There is a gap for community development services and programs that cannot be funded through a tax increment financing dollars, and we need to figure out how we address those things. We are suggesting a maximization of the indebtedness of the ura for the purpose of expanding the reach and creating greater opportunities to communities that have been impacted. And reducing the communication barriers with community partners, that continues to be challenging at times, and figuring out how can we pass the things that are not relevant, pertinent, or necessary so we can do what is most impactful and beneficial. We are pressing our partners to present their work, learn about serving families experiencing the displacement and to be specific in how they are serving and being willing to serve the african-american families as they report out to the committees. I will read this and make a few comments, we have an incredible opportunity to do generational good. It is incumbent upon all of us, the city of Portland, partners and oversight committee to recognize and understand that this work is not about any one of us. This is about and for the community of people negatively impacted by intentional acts of displacement and gentrification, and I will say more specifically it's about the african-american people would live in the city of Portland, who have consistently been impacted by these acts. This is about offering hope to the many who want to take advantage of the possibilities and return to their historic roots. The community deserves the best efforts of all participants to achieve our goals. The preference policy continues to be the best tool for insuring this aim. It is imperative that we function with emotional intelligence and clear vision, and our time is limited. This moment won't last forever. We implore each of you to give your best effort so that the promises made will be promises kept. I sat here years ago and began with the statement that the promises made must be promises kept. And for the last five years, four specifically in this seat, giving time and energy to address the various issues and bringing this back to the core and bringing this back to the center. I would say with the help of each of you as influencers doing what you can to leverage your voice, your authority and understanding about this moment. We can do something amazing that will impact generations. This is a lift. It is difficult work. It is necessary work. It is our work. Let's do it.

Wheeler: Colleagues, any further questions? Commission hardesty and Fish.

Fish: I would like to go back to the 11 homes that have closed that you referenced. I am interested in learning what has been our most effective tool in helping people close the gap and achieve the dream of home ownership. So I think you know, first of all, I would be interested in knowing, of those 11 homes where we have new homeowners, in the district, what was the average subsidy that we invested, and so that we can understand what this public return was. What's the average subsidy of those 11 homes?

Dr. Holt: That's an excellent question, do you know that? I will say this, if you recall we adjusted the subsidy because of the challenges. I think we had three challenges related to getting people into home ownership that we did not know, the oversight committee and we stepped into it, and one was the rapid rate of increase of home pricing. So we adjusted subsidies from 65,000 to 80,000 to 100,000. And you recall that process. Secondly, the other challenge was just the amount of time to help families get through clean credit, raising their credit score, and reducing the debt and so forth, so that was a challenge, and then the third one was just all of the -- from my perspective, the third one was all of the issues associated with the training, the educating, and the getting people through the

March 20, 2019

elements and aspects around the policy, so all those things took time to get us to this moment. The average subsidy.

Goodlow: Currently the subsidy is \$100,000 within the ura to provide opportunity based on home pricing. That's what it was increased to earlier last year, so it's \$100,000.

Fish: Does the 100,000, I don't remember from past briefings, can that be used as the down-payment?

Goodlow: Currently, the -- with tif dollars, 80% is down-payment and 20% for home improvements. We'll be coming back to council in a few weeks about potentially changing that percentage, but 80% of that 100, so 80,000. 7,000, because 3,000 of it is a fee would go as a down-payment.

Fish: So someone looking at a 300 or 400,000 house within the district can use that money towards the 20% down-payment, which is one of the biggest barriers that people have?

Goodlow: Right.

Fish: Simultaneously we are helping people improve their credit scores and pool sheets and third working to make sure that people understand how the preference works and how to access these benefits. That summarizes it?

Dr. Holt: That summarizes it, and dealing with the credit, that's the work of the partners. To work people through the process of credit scores, debt reduction and etc.

Goodlow: So one piece that changed last year was that we hired Portland housing center to do a single lift management for people coming through the preference policy to purchase the homes, so they are managing all of the folks that are interested and have had -- significant success to getting people ready. We have had several people purchase since the last report, and we have five people shopping. One person closed last week, and we have another person closing in approximately two weeks, so we have tripled the number of people that have purchased since the last report.

Fish: My second and final question has to do with home repairs. In the slide that we saw earlier, it seemed that with african-american homeowners, the program seemed to be focused and having some success. The numbers for hispanic, asian, native american were very low. Almost negligible as you went down the line. And to what do you attribute that?

Goodlow: Well, I think that part of it is because this program is located in interstate. And the numbers of those families living in that area that own homes is probably smaller than other populations. I think that that's the greatest impact on those numbers.

Dr. Holt: And I think, commissioner, it goes back to my comment at the end where we are talking about improving the advertising and the marketing. That there is need to make sure that as many people possibly know about the programs that exist. So how we do the marketing, how do we do the advertising, that's a concern that we carry. And how that happens. So that we increase the numbers of people who take advantage of the programs that exist.

Fish: Okay. Thank you.

Hardesty: Commissioner hardesty.

Hardesty: Thank you, mayor. Thank you very much, panel. I appreciate the information, and please know my questions have -- are more related to whether or not we are headed down the same path. This program started in 2015, and what I am to understand is that we have less than 200 homeowners who have had their homes repaired. We have about 11 people who are homeowners, and how many african-americans are part of that 11 group?

Goodlow: All the homeowners are african-american.

Hardesty: So 11 in five years. All right, moving into home ownership opportunities. And it feels like we haven't moved the ball enough yet. Right? I mean, we say this vision was a lofty vision when it was passed by the city council. Do we have the right people working on the right part of the problem at the right time? If we do it at this rate we will be 1500 years

March 20, 2019

old by the time that the african-americans have the opportunity to have homes in inner northeast Portland.

Dr. Holt: Commissioner Hardesty, let me respond. I smile and I chuckle a bit not by any means to be dismissive. It's because I agree with you 100%. Much of the angst and your presentation doesn't, I think, equate to the energy by which I address this issue. Those at the meeting know that there was significant intensity around that. Since that time having the opportunity to talk more in depth and understand the impact of the barriers associated with the people we are trying to help, it's going to just take time. You know like I do it takes time to clean credit. It takes time to reduce debt. It takes time around this process. By bringing in the Portland housing center, we were able to kind of expedite some of that process, but we are talking about people who have had barriers significant for years. While this opportunity exists, it's one of the things that we need to think about is expending the time line only because of what it takes to help people work through what they need to work through. I didn't understand that, so I was extremely frustrated. Are you kidding me? Four people after, you know, four years at this, but to be able to triple that, at this point, is extremely encouraging, and I believe that we are going to be able to do that again. Part of it, just because of the time it has taken to this point, to clean their credit and reduce debt, and to shift a mindset and empower people to think towards homeownership with a strategy and path has been part of this work.

Goodlow: I would just add the policy intentionally is as inclusive as it can be. There was no income requirements, credit requirements in order to get on the list to be part of this program. So a lot of the people on that, that are working towards homeownership or the people that are the most vulnerable, most displaced folks in our city. And like dr. Holt said, it takes time to get from point a to b, and I think that we are now seeing the results of several years of work at that.

Hardesty: Are we identifying homeowners who are close to being priced out of their homes who still live in inner northeast, and does this fund help them be able to stay in their home?

Dr. Holt: I think part of the mitigation strategy -- the simple answer is yes, but there are nuances associated with that, and I think that we are going to have to reexamine how we addressed those issues. Beyond just home repairs and beyond -- I will say this, part of the conversation that was happening was a strategy for wealth creation and assistance for sustainability to be able to maintain the housing, and that was the adu concept for some homeowners, can they bring in an accessory dwelling unit, but that has its own challenges associated with it, also. Now you are making landlords and business owners and so all of the strategies, or each of the strategies require their own level of intentionality, thoughtfulness, and planning, and so what's unfortunate is that there is no panacea. There is no simple way to address this multi-faceted and nuanced issue. So thoughtfulness and our collective intelligence to address that, I think, is extremely important.

Hardesty: This is my last question. I really appreciate the patience of my colleagues and others. This is probably one of the most frustrating policy proposals that I have observed over the last four or five years. Again, as I said, of the goal is lofty, however, when it's not working we don't have a strategy about changing course to figure out what would be a better approach. We keep going down the same path, and in a couple of years, rather than 11, maybe we'll have 15, and you know, maybe in a couple of more years rather than 15 we will have 20. And that is not sufficient. I know that african-american elders are being priced out of their property now. Speculators are coming in and buying it up, and revising it or tearing it down and building whatever. And I would think, I would think, and I am not a housing expert, so this is just my own humble opinion, but I would think that we will be connecting with elder, empty nest, homeowners and saying, what's your plans for the future, right? And how do we make -- make sure we keep low income housing, actually low

March 20, 2019

income, right? What we are still doing is subsidizing developers, and to me we can never subsidize the developers enough to increase the housing stock as we need to. I guess that's my soapbox, and thank you very much. Appreciate it.

Dr. Holt: If I could say two things in regard to that. I agree, this is a -- it is an arduous process. The preference policy being associated with geography instead of ethnicity was to secure the best opportunity possible for it not to be reversed so we could reach as many people as possible. I, personally, would love it to be directed at those who have been most impacted. I would love to be able to say that this is for black people. These are the blacks who have been hurt, and here are the ways we are going to help them. To have a policy that would say that or would identify that would put us in the position like New York or San Francisco that had theirs overturned, so to associate it with geography gave the opportunity for the broadest reach. Knowing that the people who lived in that area were most impacted. I am absolutely in support of the heartbeat of which you express and communicate. The frustration, I can only, at this moment, trying to maintain my appropriate expression. The frustration about the pace has been palpable. We want to see as many people benefited as possible, as well as those who presently own homes, and the strategy to engage the elderly homeowner and help them to think about estate planning and long-term planning and how do we pass this on to families, that's been part of the discussion of the oversight in the and would welcome your participation in some more of that in terms of how we can make this a reality.

Goodlow: It's going to add, we have a pilot project that we'll be starting in a few weeks, we are doing an RFP for exactly what you are talking about, to hire an organization to provide case management to particularly to seniors about predatory lending, about estate planning, and how to pass their homes on, and about reversed mortgages, and all those things that we know seniors get sucked into. I live in the district, and I get probably three or four letters a week saying, I will buy your house for cash. I just tell them, you know, 1.5 million you can come and get it, but, you know, and they are like well, that's outrageous. Well, my house is not for sale. So that's exactly what we're going to be working on.

Wheeler: Thanks, Leslee. Commissioner Fritz.

Fritz: Dr. Holt, thank you for your work and the esteemed community members. It's difficult work and heartfelt work, and I appreciate it. You mentioned accessory dwelling units, when you gave us the report said the committee recommended putting that on the back burner. Is it -- permanently on the back burner? Is there an update?

Dr. Holt: When we put it on the back burners, because it needed more cooking from our perspective. It needed to be thought through. The presentation around how it would be implemented at the time just didn't benefit enough people. It was extremely narrow, and then some of the things that I just mentioned in terms of how are we going to address educating people who are -- most of them elderly, in becoming business owners and landlords. It just brought some elements that needed to be thought through, so we did not want to dismiss it. It was never saying that hey, this is not something to do. But it was something that we needed to think about more thoroughly and be very strategic with how it happens. The goal is to create -- to not only help people stay in their homes, but it will be great to create a way to increase the revenue to support that.

Fritz: Has more work been done on it?

Dr. Holt: Not specifically to our committee.

Fritz: Thank you.

Wheeler: Commissioner Eudaly.

Eudaly: Thank you, Mayor. I am very pleased to hear about the work to reduce the barriers to participation. I think that a lot of work went into developing that preference equation, and like you said, we had to be very careful so we did not run afoul of the fair housing act. That is why it cannot be based on race. There was not enough

March 20, 2019

acknowledgment given to the fact that the very people that we are trying to reach and engage were not going to be credit ready, that we are, you know, beginning from a more economically disadvantaged point, and I remember a lot of friends of mine or people I know through housing being very excited initially and then feeling very discouraged by what they learned when they participated in the first rounds of community conversations, so I absolutely agree. We need a new marketing campaign. We need to reintroduce this project to the public, and, perhaps, you know, one side should be is the homeownership opportunities, and another angle should be to seniors, and to not sell. And to help them with maintenance, help them with energy efficiency, and I am particularly interested in succession of ownership within families because we know that that's when that asset is really can -- at a big risk of being lost. As far as the adu conversation goes, I am very interested in that. I can connect you with a host of people who are working on a variety of issues around adus. One is that there is currently no financing product. Unless you have access to 150, 200,000 in capital, you cannot develop an adu or unless you can build it yourself, I guess. And so we are working on filling that gap. With a product that would allow, allow, I guess, applicants to take rental income into account. So it's not going to deliver to everybody that's in this program. But average Portlanders should be able to develop an adu and increase value in their homes and generate income, but there is also the challenge of turning homeowners into business owners and landlords, and there is another group of people working on that. So it's, it's a complicated but really promising opportunity, and I would love to help.

Dr. Holt: We welcome the conversation. Thank you. Thank you.

Wheeler: Thank you for your presentation. I will entertain a motion. We have a motion from commissioner Fish, a second from commissioner eudaly. Further discussion? Karla, please call the roll.

Fritz: Thank you for your presentation. Certainly some achievements to celebrate, and I appreciate getting that update, and also you called out areas where there is room for improvement, and communication and the other places you highlighted for us. It is unusual to have a presentation where flaws are highlighted as well as the things to celebrate. So I appreciate you calling them out and giving us the explanations you have, and that you will follow-up with us for the ones still to come. Thank you. Aye.

Fish: Dr. Holt, I am not sure when you find time for sleeping because in addition to doing this work, you are also engaged in a community visioning plan for the ifcc, among other thing, and we look forward to your report on that, and how we might take that treasure and honor the legacy of charles jordan and the investment that we have made and currently into something better. I want to thank all the members of the oversight committee who are listed in your report for their service. Clearly there is frustration with the pace, but time will tell whether this is a successful strategy. I am pleased that you have got two homeownership projects in the pipeline, one with habitat and one with pcri. I think that's very important. That's going to help us significantly span the number of homeowners in the district. And please in between your next presentation, if there are tools that you need or changes that the council needs to consider, to advance your work, we need to hear from you. It's great to have the annual reports, but you are going to encounter barriers that need our attention sooner, so I hope that you are not shy about letting us know what kinds of things we can consider to help make your work smoother. And your, your outcomes more effective.

Dr. Holt: Thank you very much. You will hear from me frequently.

Fish: I appreciate the report and aye.

Hardesty: I also appreciate the dedication of the community volunteers who are spending a lot of time trying to figure this out. But again, for me I guess I am most frustrated with just the glacier pace that we are moving, and the lack of analysis about what it will take to get

March 20, 2019

us to what we say the goal is. And so it is my hope as commissioner Fish said, that we don't wait a year to hear from you again, that you come as soon as you have some requests from us, about what changes you need and the policy or the direction you are headed because I really don't want to sit here for another year and hear we put five more people into a home and we're doing all these great things but at the end of the day we still have people suffering on the streets. It's about relieving the suffering. I vote aye.

Eudaly: Well thank you to members of the oversight committee, dr. Holt, Portland city staff, slightly more hopeful report than last year. And like I said, please reach out on the adu issue and the don't solve marketing campaign. I would really love to help. Aye.

Wheeler: Again, I want to thank the entire oversight committee, and especially dr. Holt. I cannot stress enough how important your leadership has been to this, and I really just at every opportunity I want to take the opportunity to thank you for the great work you are doing in the community. And dr. Karen edward, felicia trip and tristan dallas who were all the subcommittee members who are very instrumental in making sure this report came to the city council today. I want to thank cupid alexander on my team who worked tirelessly on this, as well. We focused on the challenges. That's what we spent last year doing, as well. When you came before the city council, but I also want to acknowledge that today's report highlighted many significant outcomes in 2018. There were two buildings opened providing 132 more communities of affordable housing within the interstate corridor, and new approach were implemented based on some of the conversations that we had last year. For example, the down-payment assistance loan forgiveness was instituted which gave participants the opportunity to have their total loan forgiven within a 30-year period. And as dr. Holt said, I think very eloquently, there are many barriers that have to be overcome with the population that we are working on, cleaning up credit, decreasing debt, and working with our colleagues at the Portland housing center to make sure that people are ready to be successful in those homeownership opportunities that they are provided. So in total now, 15 families have become homeowners. That's up from the reported four at this time last year, and as dr. Holt mentioned, seven families are actively looking at this time. This is measured progress, and I also want to acknowledge the work of the housing bureau and the community on coming together to further improve upon this. We have further to go. Our city is seeing a massive investment in affordable housing construction, and we must improve the ways in which these opportunities are shared for all people in our community making sure that we are hiring minority contractors and creating a broad array of economic and housing opportunities. As has been noted in the report, there are still critical gaps that exist. For example, the question remaining about the contractors participating in home retention, I think that that's important data, and we should work together to better shine a light on what's going on there. And finally, I want to say this, this is really about trust. We have to township to recognize and acknowledge the past and move forward in an intentional community centered way, and that is one of the reasons that this committee was put into place in the first place. We have made some adjustments, and I am sure that we will continue to make adjustments as this process unfolds. And I am, obviously, I continue to be highly committed to the outcomes, and I will work with all of you on the oversight committee and I will work at the Portland housing bureau on how best to achieve our collective goals. So thank you again for coming in and thank you for your leadership and commitment, and I vote aye and the report is accepted. Thank you. [gavel pounded] colleagues, next item will be item 245. Given we have a massive agenda, I am going to limit public testimony to two minutes, so please be aware of that when we get down to the public testimony side of the agenda. Next item is a report, 245.

Item 245.

Eudaly: Thank you, mayor. It's a pleasure to bring this progress report forward for the fixing the streets program, which is delivering on the promises made to voters when we

March 20, 2019

asked them to approve a ten cent increase in local gasper gallon in local gas taxes. Our new iteration of the oversight committee has been established and recommending that the revenues collect be allocated to the existing projects in the program. Something you will hear more about and a highlight for me is the disadvantaged is minority women and emerging small businesses, affectionately called dmwesb. That is the exciting news that our utilization rates are more than double the goal of 30% set by the city coming in at 68%. So I just want to congratulate the bureau and encourage continued efforts. This construction season is going to be a doozy. I've been saying that as often as I can to try to gently prepare people for how challenging some of the streets are going to be this summer and next. We have 41 major capital projects beginning or finishing in 2019 with the total investment value of over 124 million. Those are some of the highlights of the report. Staff will go into more detail, and now I am going to introduce interim director chris warner, program manager michael tatae? And oversight committee member jennifer rollins. Welcome.

Chris Warner, Interim Director Bureau of Transportation: Great. Mayor wheeler, commissioner eudaly, thank you, chris warner from pbot. So thank you for this opportunity to talk about fixing our streets. I am going to just give a quick overview and I will come back. I will have michael do most of the work. But really, also have jennifer because the public has been a critical part of the success with the program thus far. Fixing our streets was made possible by the voters and by you, city council. In May of 2016 voters put their trust in us and passed measure 26173, and that same month you passed the heavy vehicle use tax, to go, these two measures created Portland's first ever local transportation funding mechanism. As mandated, facing our streets, dedicates 56% of the funding for maintenance projects and 46% for safety. And with measure 26173, we created the citizens oversight committee which will monitor and report on the program. We promised voters and you that we would deliver better streets. More sidewalks. Improved bike lanes, and safe routes to schools throughout the city. And I am happy to report we are keeping that promise so we will be hearing from jennifer who is sitting to my right, a member of the oversight committee and invited, inviting other members of the public we've been working with to give them their perspective on neighborhoods from across Portland. I will turn it over to michael, and he can go through the technical piece. We will be here to have a discussion and answer any questions you might have.

Mychal Tetteh, Bureau of Transportation: Thank you, chris and mayor, commissioner, it's really a privilege to be able to present the work we are doing fixing our streets with you today. Now that spring is here, the construction season is about to start. 2019 will be the busiest year, we will cut the ribbon on 20 projects. Thanks for fixing our streets we will not only make foster safer and more efficient, we will create an attractive tree line street for residents and businesses. We will break ground on 21 projects, including the capital highway project, the community has been asking for a safe, and well maintained highway for decade, fixing the streets is making that possible. We are going to match 3.3 million worth of fixing our streets funds with 19 million of additional funding to deliver new pavement, new sidewalks, and new lanes. We will begin work on martin luther king jr. Boulevard. And next, I would like to share more contexts as it relates to the program implementation. At the end of 2019 we forecasted a planned investment of \$124 million of capital projects drawing from a multitude of funding sources and will complete or break ground on 41 major capital projects. This does not include the safe routes to school projects. These range from installing crosswalks and signs to building median islands and installing rapid flashing beacons. In each case we make it easier for families and their kids to get to school. Thanks to fixing our streets we have completed 253 base repair projects all over the city since 2016. These are small but mighty repairs that save a street. We reconstruct those sections of the street where it has failed. These focused interventions

March 20, 2019

keep the rest of the street from failing saving us money over the long-term. By the end of 2019 we will have installed 48 blocks of sidewalks. Delivered 375 pavement reconstruction project, and provided over 30 curb ramps in partnership with a resident ramp request program, added 12 trains of bicycling facilities and made it easier to get around on our most important streets including 82 and 122 avenue, outer division, halsey, weidler, alberta, denver avenue and beaverton/hillsdale highway. Much of this work is possible because pbob has worked tirelessly to multiply taxpayer dollars by leveraging funding from other sources. These funds help us to deliver more projects and ensure we meet federal, state, and local policies designed to protect the most vulnerable roadway users. The program is about more than just projects. Similar especially proud of the early progress that we have made in supporting widely shared economic prosperity. Pbob like the rest of the government has made a clear commitment to equity. As part of this we pledged to make sure 30% of contracts were awarded to dmwesh firms. As you heard from commissioner eudaly, we not only met that mark, but we exceeded it by a wide margin. Our low-bid contracts have gone to dmwesh firms at an unprecedented rate in partnership with our colleagues in the prime contractor development program and central pro consumer, we raised the bar and have shown what can be achieved when we commit ourselves to increasing equitable outcomes and capital project delivery. Beyond the outcomes, pbob staff has been at work accelerating improvements in our capacity to deliver our capital programs. The fixing of the streets program inaugurated a new era. We have used the program to drive key changes at the bureau. The changes have not only improved how we have delivered fixing the streets program but also helped us improve our project delivery and financial forecasting and all of our capital and maintenance projects. These changes include capital project controls that analyzes the project delivery and supports resolution on key capacity challenges, and project value stream analysis which informs key process improvement priorities, and we also led the implementation of the get Portland moving initiative, which improves coordination and limits conflicts in the right-of-way, and the establishment of a team focused on the delivery of quick build projects implemented through on-call contracts or through our maintenance operations crew. Now I would like to turn it over to one of our oversight committee members, jennifer rollins, to share the ways in which we are engaging our neighbors as we deliver this program.

Hardesty: Before you do, mayor.

Wheeler: Commissioner hardesty.

Hardesty: I just want to applaud how well -- how overwhelmingly you exceeded the goals on hiring minority women and emerging small businesses. My applause to the commissioner in charge, as well as to the bureau. You are sitting here during the last presentation, and same goals but radically different outcomes, so I want to thank you for where you are and where you are headed and keep up the good work.

Tetteh: Thank you.

Jennifer Rollins, FOS Reporting Committee: Thank you, and thank you mayor and commissioners for listening to me talk about this again.

Wheeler: In your for being here.

Rollins: We've been determined as the oversight committee to keep the trust of Portlanders, so we continued to seek input on the projects and keep the public informed about the activities, as well. We have engaged thousands of Portlanders in person and hosted open houses and information sessions in 5 different neighborhoods around the city. We have translated our recent progress report into five languages, and it's available online. With support of the program we completed a historic outreach effort for safe routes to school. We met with families on all of Portland's five school districts, and they talked to us at length about where they needed safer crossings, sidewalks and other infrastructure. As a result we have a truly comprehensive list of projects to improve walking and biking for

March 20, 2019

students in each of the city's 12 high school clusters. We've also invested fixing our street funds to support the community-driven issues like east Portland in motion, and southwest and northwest in motion. And our committee will continue to engage our neighbors to ensure the remaining fixing our street projects reflects the community needs, and I will go off topic for a second. I remind everyone how important this is because yesterday while I was picking up my carpool in the neighborhood, I drove right past a woman killed while walking in her neighborhood in southwest, and so I am reminded this is not just my obsession but important to everybody in Portland. Thank you.

Wheeler: Thank you.

Warner: Great. One thing about Jennifer, the work that she has been doing is magnificent not only on the fixing the street committee but before we got there, the work in terms of she's been an advocate for additional funding for transportation, and she has been tireless, and we really thank you for all your work. So in approving 26173 and the heavy vehicle use tax, you really asked for transparent, accountable and efficient programs, thank you for the opportunity and we look forward to coming back in the fall to talk more about it as we get through the spring and summer construction season. So we have got a lot to do. We have got much more to do. One other thing I wanted to say before we call up the neighborhood folks we've been working with, Michael, our program manager is taking another position within PBOT so it's been a journey. He's been a great advocate and been a super -- we would not have gotten this far without him. We have given him the job. We passed this ballot measure, and now find a way. So Michael, all the things we talked about in terms of the controls group and project delivery -- he's been right in the middle of. He's only moving across the floor. He'll be closer to the program manager. He used to bother all the time in terms of work, but he's a valuable member of PBOT but he will be doing other extraordinary things for the city. So Michael, thank you.

Eudaly: I would also like to thank and congratulate Michael. A little nervous but leaving fixing our streets, but I know that we are going to find a worthy replacement. I want to acknowledge the daunting task that Michael was handed, and recognize that he brought a somewhat kind of, I guess, antiquated system into the 21st century. I will be forever grateful for that and so will everyone in Portland. Thank you.

Tetteh: Thank you, commissioner.

Warner: We are replacing the six people. [laughter]

Eudaly: You hadn't told me about that.

Wheeler: This is a no-brainer. [laughter]

Eudaly: Right now -- not laughing. I want to call up Terrence, Brett and Keith to say a few words about some of the work we have been doing in the community.

Wheeler: Appreciate it. Thank you.

Eudaly: Welcome. Please state your name for the record.

Terrance Moses, Kenton Business Neighborhood Association: Yes. Good morning, commissioners, mayor. I want to first thank you for allowing me to sit before you and speak about this topic. I'm Terrence Moses, I'm a neighborhood association business member, association member, and as well as a neighborhood advocate. I want to thank you for the awesome work that PBOT has done for the Portland streets project that they are doing. Every project is amazing. What Michael has brought to the table has been really great. He's been out in the community from the start. He's knocked on doors, passed out flyers, met with us over time and talked about the two different projects they proposed for the neighborhood. I want to thank him and the rest of PBOT for just that. The due diligence they put forward to this was excellent and kept us informed of what they were doing, how it was going to go about, and what was their plans. So this North Denver project has been a great one. It has been excellent working with Michael and his team getting it done. The project will provide necessary means for our cyclists to roam down the street safely. It will allow for

March 20, 2019

our elderly to cross the crosswalks in a safe manner. It will allow for traffic to flow much more quickly, smoother. The pavement they are implementing in this policy was a tough one. But we did narrow it down to a project that is best suited for the kenton neighborhood and the business district and we're happy with that and we thank them for that. I just wanted to let you know that we are glad that they're able to get this done in our community for this short period of time. Also, I want to speak from a personal note as mentioning with jennifer from the oversight committee, her having to witness that is what I wanted to actually for us to be proactive on for the kenton neighborhood. It sits right in a neighborhood where there's a huge park, and it's used by almost everyone in the neighborhood and surrounding neighborhoods. Over the last three years we have developed a housing in that same corridor on argyle, on willis and on brandon avenue. There's an intersection on the corner of willis and brandon avenues that has raised a concern. It is a marked crosswalk, but the traffic has begun to get heavy, and ferocious. Having a beacon marker put there would be proactive and in causing a catastrophic incident to happen. I would like a beacon light there. The daycare crosses three times a day there to take kids to the park. Our pedestrians walk that crosswalk from local restaurants to get to the park. I have seen and witnessed numerous accounts of where pedestrians could have been hit or -- and/or killed. I want Portland to be about being more proactive in stopping these things more than, well, now it's time to because of a catastrophic incident. That's my take on it. I hope that you can understand where we're coming from. I speak on behalf of the kenton neighborhood association and business association. Thank you for your time.

Wheeler: Thank you. Thanks for your testimony.

Brett Bolstad: Good morning, mayor, commissioners. I'm brett bolstad. I'm the parent of second and fifth graders at lewis elementary school at the corner of southeast 45th and evergreen. For several years I have coordinated monthly walk and roll events at the school as a part of the safe routes to school program. Southeast 45th is a major thoroughfare connecting the heart of the woodstock neighborhood to johnson creek boulevard. It serves trimet bus line 75, and it's also the route that many children use to get to and from lewis elementary school. However, southeast 45th presents a number of hazards within the lewis elementary school boundaries. High traffic volume before and after school, drivers traveling at high speeds, cross-traffic emerging from narrow feeder streets, poor visibility at corners due to parked cars or vegetation. Traffic signs obscured by vegetation. Missing section of sidewalk on west side, heavily worn street surface and potholes, lack of street alignment at southeast knapp and blind intersection at henderson, flavell to the grade there. I have been pleased with city of Portland projects to provide adr-come minute corner curb cutouts along southeast 45th and to regrade and gravel alleyways. Children often bike or walk to school through these alleyways as an alternative to southeast 45th. I'm pleased to hear of upcoming projects. Michael with fixing our streets has informed me there will be improvements to crossings at southeast 45th and evergreen as well as southwest 46th and henry during spring break to minimize impacts on the school community. As well as other projects in the neighborhood. Also scott cohen, city of Portland capital project manager, has also informed me that southeast 45th will be resurfaced from southeast glenwood to southeast harney later this year. I applaud these efforts to improve southeast 45th and I hope that the city of Portland will continue with further improvements along southeast 45th to enhance the safety of children walking or biking to and from lewis elementary school. Thank you.

Wheeler: Thank you. Good morning.

Keith Lieden: Good morning. I'm keith lieden, southwest resident. When vermont was identified to receive street maintenance attention through fix our streets I was hoping that additional bicycle and pedestrian facilities and safety would be installed as part of that

March 20, 2019

project however given the city's historical tendency to pass on opportunities like this I was pessimistic. I'm pleased to say that pbot did a splendid job and exceeded my expectations. Public involvement was robust, comprehensive and inclusive. Pedestrian bicycle gaps between 30th and 52nd were completed consistent with tsp, and citizen comments. Additional improvements were added beyond that for existing facilities for particularly westbound cyclists improving the intersection at vermont and 30th, then also making the existing bike lane between 35th and 45th a lot safer. In total the change between 30th and 52nd was formation. Vermont should be a shining example for how similar projects are conducted in the future. The question is how can the city provide funding to do much more. As a southwest in motion public review draft nears completion, pbot staff is painting a very pessimistic picture for implementing the projects in that plan. To partially mitigate this funding shortage I believe the city should do four things in southwest Portland and the city generally. One continue to and hopefully expand the fix our streets program. The city asked for a nickel when it really needed a dollar. We still have a critical need for a lot more funding in this area as you are very aware. Second, don't be preoccupied with large projects only. Small strategically important improvements can have a lot of bang for the buck. Create a robust, flexible fund used to leverage street projects that are conducted by pbot or other city bureaus to include pedestrian, bike safety improvements along with them. This is the key to be agile and take advantages and complete plan improvements when most cost effectively. Pursue funding in the anticipated 2020 regional transportation bond for pedestrian bike improvements that would enhance the performance of southwest corridor light-rail. Thank you.

Eudaly: Thank you.

Wheeler: Appreciate it.

Warner: So we are here to answer any questions you may have.

Wheeler: Further questions? Commissioner hardesty? I'll entertain a motion.

Fish: So moved.

Hardesty: Second

Wheeler: We have a motion and second. Please call the roll.

Fritz: Thank you to everyone who presented. Thank you, jennifer, for your leadership and michael for your work. I also want to mention stan gibbs and irene marion, equity managers in transportation who have been an exemplary implementation of how to do outreach, how to target and publicize these opportunities and indeed many of these projects are suitable for energy and smaller businesses. I appreciate that. Thanks, chris warner, former director leah treat, commissioner saltzman, commissioner novick. I hope we continue this program. I second the suggestion that we need more money for these purposes. I appreciate this report. Aye.

Fish: Aye. **Hardesty:** Aye.

Eudaly: Well, thank you for the report and thank you for your hard work. I feel so lucky to have such amazing staff to work with as I learn the ropes of the new bureau. We are certainly going to take the gas tax back to the voters. I agree it's a dime for a dollar's worth of problems, however I sincerely doubt that the public would pass the dollar a gallon gas tax, so we have to work with the system that we have, and if you have other ideas about revenue i'm all ears. Fixing our streets is large and small projects and I love how diverse and dispersed throughout the whole city the projects are and how we are prioritizing projects with both an equity lens and an eye to meaningful safety improvements. Thank you again. I vote aye.

Wheeler: Excellent report. I appreciate it. By the way the power point presentation, lots of photos supporting the work is helpful. Thank you. I vote aye. The report is accepted. We're going to lose commissioner Fritz soon. I would like to do item 252 before we go back to time certain.

March 20, 2019

Fritz: I'm disappointed. I really wanted to see the park presentation. You don't need me for the other one.

Wheeler: Your choice.

Fritz: I'm going on city business.

Fish: This next item directly results from the parks bond that commissioner Fritz passed.

Wheeler: I'm sorry, I got misinformation. I was told by the council offices that you wanted to be here for 252. Back to 246, please.

Item 246.

Wheeler: Commissioner Fish.

Fish: Mayor, colleagues, today's procurement report is for a new playground, pathways, benches, irrigation improvements, and other park amenities to be added to lynch view park in east Portland. Portland parks and recreation is able to make these improvements thanks to funding from the parks replacement bond and parks system development charges. I should note as we did in our budget presentation yesterday that if the council continues to support as I hope they do our equity agenda in east Portland and continues to support additional assets being built so east Portland has the same opportunities as the rest of the city, I hope that we will continue to honor council budget commitments to fund the o&m on these projects when they open so we're not short changing east Portland in the proceeds. Today we have a presentation from larry pelatt, procurement services manager, joined by parks manager robin laughlin and parks project manager gary dotka. Welcome. We have also invited testimony. Brian flores garcia. Mr. Garcia has been invited to testify after this panel presentation.

Larry Pelatt, Procurement Service: Good morning, commissioners. I'm larry pelatt, procurement services. You have before you the procurement report recommending contract award to paul brothers for lynch view park play area improvements in the amount of \$2,700,457. The original estimate was 2 million and the bureau's confidence level was moderate. It was advertised on the electronic procurement system. Bids opened in 2019. Two bids were received. Paul brothers is the lowest responsive and responsible bidder. .4 of a percent over the engineer's estimate. Not bad. That includes all bid items in the original estimate. The park and regulation and procurement services identified an aspirational goal from subcontractor prior to utilization of 20%. Paul brothers identified the following areas as opportunities for subcontracting trucking, hauling, concrete, retaining wall construction, play area, surfacing, tobacco insulation, hydro mulch, fencing and metal fabrication. There's \$304,519 or 17.4% supplier utilization identified. It is apportioned as follows. Dbe, mbe, dual certified, subcontractor supplier at 24,656, which represents 1.2% of the total. Esb--

Hardesty: Excuse me, larry. Can you tell me who the two firms were, dmw-- who are they?

Pelatt: To be honest, ma'am, I don't have it written down here. It's identified on the form. I can send it to you.

Hardesty: I would be greatly appreciative. When we did that alphabet soup we don't know who has received the contracts and i'm very interested in whether african-americans and latinos and native americans and women -- I want to know specifically who is getting those contracts. I would appreciate it if you ever report to us again that you bring that because i'm going to ask it every time.

Pelatt: That's fine. What I broke down is the dbe, both those firms are actually mbes also. So they are both minority owned. But I will get you the firm names. Happy to do that. The sb supplier subcontractor is the remaining 15.9%. Paul brothers actually is a state of Oregon cobid certified wbe contractor, and they are --

Hardesty: What does that mean?

Pelatt: I should be maybe more specific. Wbe, women owned business enterprise.

March 20, 2019

Hardesty: I'm sorry, the cobid. What that is?

Pelatt: Cobid stands for the certification office for business inclusion and diversity. It's the state office which -- [laughter] I understand. It's the state office which certifies firms. You have to make an application to become minority firm, woman owned, all of that. It's cobid. We got also the same as you, the alphabet soup, the big, long thing so we call it cobid. It includes all of the cobid certified dmwesb, all that.

Hardesty: I appreciate that but that doesn't give us the information that I need. Thank you.

Pelatt: I'll break it down going forward. Paul brothers is a state of Oregon certified women opened business enterprise, self-performing 1,236,430, which brings the total certification firm participation for this project to 1,541,028 or 76.77% of the total project cost. Paul brothers is in compliance with all the city's requirements for contracting. If the council has any questions regarding the bidding process I can certainly answer those or you have park staff here for follow-on.

Fish: Let me just underscore what commissioner hardesty has asked for. There is no area of our council practice where we are engaged in more acronyms that the public really has no idea what we're talking about, and while the ultimate percentage that you are presenting us with today is very robust, I do think putting the human face, so listing the companies that are getting the work, makes a lot of sense. That's a standing request by our newest colleague. I think it would improve the reporting that comes to council. I would just ask that we do that particularly on the projects that i'm responsible for in parks and bes.

Pelatt: I will do that.

Fish: Now we'll continue.

Robin Laughlin, Bond Program Manager, Parks: Robin laughlin, bond program manager for Portland parks and recreation. With me today is gary dotka, project manager for this project. Gary will be giving a presentation on the lynch view playground project. We're here to request council accept the bid from paul brothers for lynch view park in the amount of 2,700,457. It's part of the 2014 parks replacement bond program generously passed by voters who approved a \$68 million measure to address the critical needs in our park infrastructure without increasing tax rates. As you know the bond funding goes towards Portland park and recreation's most urgent needs in seven priority areas. There's a playgrounds, trails and bridges, pools, accessibility, protecting workers, pioneer courthouse square and rest rooms and other facilities. With that I would like to -- one more thing. The project sits in the two focus areas of bond playgrounds and rest rooms and others, the seventh replacement bond playground project to go into construction. In addition of bond funding the project has received funding from the park and recreation's sdc, system development charges, in the amount of 1.8 million. I would like to introduce gary to share more about the project.

Gary Datka, Capital Project Manger, Parks: Mayor, commissioners, thank you for having me. I'm gary dotka, project manager with Portland parks and rec. I'm excited to bring this to you today. New development for a currently undeveloped park. Lynch view was acquired in 1993 by parks and recreation, a 7.5 acre park between 164th and 167th and southeast market and southeast mill. It's in the centennial enabled part of the east Portland community office. The park shown here has very limited street frontage and the main entry will be off of southeast 167th in the top right corner. The park is primarily bordered by single family homes adjacent to the centennial school district, patrick lynch elementary school to the east. You can see one of its ball fields there. Currently there's no playground or community assets there, lack of trees and shade -- dogs off leash area. The most use feature is a no reservable ochre field heavily used for drop-in matches but lacks infrastructure to maintain the field in a long-term safe and usable way. Additionally, like much of east Portland the neighborhood surrounding lacks sidewalks and no multimodal

March 20, 2019

connections making the park with its limited street frontage difficult to access. Lynch view park did not have a master plan to guide development. Through a series of five projects advisory committee meetings, four public open houses Portland parks and rec conducted an extensive public involvement process with neighbors to understand current uses, connect with neighbors about the positive assets of developing the park and develop a framework plan shown here to solicit feedback and gain support for siting the design and play area and other community assets. It provided translations to reach as many community members as possible. Through this framework plan Portland parks and rec developed a design that will construct key improvements focusing on a play area with ada-inclusive and adaptive features. Community gathering spaces, establishing formal access and entry into the park, pedestrian-vehicular circulation and linking the play area and soccer field. We'll improve safety with pedestrian safety lighting and improve the playability with an automatic sprinkler system and making renovations. It adds an imaginative arts installation. With the acceptance construction is set to begin late this spring and has an anticipated completion date of fall 2019. We have one invited guest in support. Brian flores garcia. I have three letters written by community members and a project advisory committee who were not able to be here today. First I would like to introduce brian and ask larry to give up his seat. Thanks, larry.

Fish: Thank you, larry.

Datka: Brian is a superstar for parks working as youth ambassador he's served as a member of the project advisory committee and was on our arts selection panel. We really appreciate him being here today.

Brian Flores Garcia, Youth Ambassador: Good morning, everyone. I want to thank you for having me today. It's something new, so i'm going to be a little nervous. I was -- I need to state my name. Brian flores garcia, youth ambassador. I was also a member of the lynch view project advisory committee and part of the art advisory panel. Participatory project, I live close to lynch view. It was a really great experience. It showed a lot of community members there that parks really did care about what they thought. I know it meant a lot to members there who have families and who would like to see a park in their community like that. I guess i'll just -- I think working in my community I have seen or at least I know a lot of people in east Portland feel like that's the part of constituent forgotten by the city. I think a lot of people see the lack of sidewalks, they see the lack of crosswalks, they see the really high speed limits and they think this is a part of my city that people don't care about. Working -- having a chance to work in on the art panel and see all the participation on part of the community I can tell that people care about east Portland. People who live there care about it and parks cares about east Portland. Given the opportunity for community members to come together to talk about what they would like to see in a park is not something always done when it comes to community work. I think a lot of the time people come in and they have a prescription for how they would like to see a community, and the community has no say in how that's implemented. I think this specific project really changed my way of seeing how parks operates. It shows me that parks cares about what our communities think, especially our communities of color. These are some of the most invested communities in all of Portland. Some of the most struggling, vulnerable in all Portland. I grew up there. I know that it's hard to do this process every time, but this process really showed me that parks definitely cares and that parks wants to continue on this equity work in the right way. As a member of east Portland and a member of parks and a member of all these different communities I really want to say thank you for supporting these efforts and for investing in our communities because it's so important. It really shows our people here in Portland and people in east Portland sometimes they feel like different cities, that we care. That we are one. That no matter what everyone deserves to have a great park. That's really important. As a member of east Portland and parks and all these

March 20, 2019

other things, I want to thank you and ask you to continue to invest in east Portland the we have a lot to give and by showing us that you care we are able to give back and to participate and to care as well and it means a lot to families in the neighborhood to have a park that their kids can go to where there's lighting, walking paths. For people in wheelchairs to have access or people who can't walk that well. I'm a home care worker for a neighbor. I know she can't walk through gravel or grass or park chips. She needs good, solid ground to walk on. It is so important to have a well-structured park and there are so many community members there who could really use it.

Wheeler: Thank you.

Fritz: Thank you for taking time to come. Thank you to parks. Thank you, commissioner Fish. This is a really exciting project. I'm glad to see the soccer field getting improved as well. Thank you for your great work with outreach. I know there will be a naming process for this park. I do hope that you consider mrs. Lynch as well as I know there was some thought of the family who gave the land -- the school has been renamed for the male partner in that. Of course, the land didn't belong to them before that either. I just ask you to consider all of those things as you look at the appropriate name for what looks like a fantastic park. Thanks so much. Sorry I have to run.

Eudaly: I just wanted to congratulate you on your first-time giving testimony. Assure you that it really does not ever get less intimidating because I was just down in salem on monday, and I rarely now sit on the other side of the dias. It was nerve-racking. My mouth got dry, I was tripping over some words. I was trying to smile at you a lot because the committee I was testifying to was not smiling at me, not even looking at me. [laughter] I also want to thank you for your contribution and just like the wealth of knowledge and experience that you brought to the process because although you are quite young, it seems like you have already a lot of experience and accomplishments under your belt. Thanks.

Fish: Mayor, heard now heard from our presenters. thanks to the parks bond, replacement bond and thanks to robust system development charges that we have been booking we're able to make these investments. I believe this will be the furthest east park that we have invested in. We will take commissioner Fritz's suggestions into consideration around naming. There's been somewhat problematic history with the naming of this property and adjacent school and it's time to hit the refresh button. This particular project went through substantial community review and has the enthusiastic support of the neighbors. The reason that so much of our outreach was done in spanish and in russian is it reflects many of the key stakeholders who live in the neighborhood. Brian, thank you for joining us today and adding your personal perspective. I will just remind my colleagues that ultimately what we're asking your permission today is to accept a bid of paul brothers so we can move forward on construction. Thank that concludes our presentation.

Wheeler: Commissioner hardesty, do you have a comment? I'll entertain a motion.

Hardesty: So moved.

Eudaly: Second.

Wheeler: We have a motion and a second. Please call the roll.

Fish: I want to thank larry. I want to thank robin and gary, I want to thank brian, todd on my team, lofgren, all the parks family that's been involved in this. We are deeply committed to reversing the legacy of dis-investment in east Portland. One of the slides that was in the parks presentation yesterday to the whole city council and to our budget advisory committee was a map that showed where our biggest gaps are. If you define our biggest gaps as the places where you have the most people who have to travel the far theft to access a park, it's east Portland. We continue to have work to do. We are deeply committed to using the parks bond resources and systems development charges to address that inequity. It's part of what we take for granted in this city that you can walk to a

March 20, 2019

park with your family and enjoy outdoor time and space and recreation. This is part of a number of efforts that are under way to fulfill that commitment. By accepting this project the council is also saying that at some point in the future it's okay with us coming forward with the request for o&m to maintain this park because we cannot build it under our guidelines without an allocation of money to maintain it. I'm very proud of the parks work on this and grateful to commissioner Fritz for laying the groundwork for much of the best work we're doing in east Portland. I vote aye.

Hardesty: Thank you. I want to say, it never gets easier. Even on this side you think you're ready and you're really not. Practice makes perfect. Thank you for coming here. I live in east Portland. I know that we have been neglected for decades. It's wonderful to see us starting to prioritize investing in places where we have failed to invest in the past. I'm always concerned about who is getting the work. Who is benefiting from public dollars, which is why the questions I asked earlier and not just parks, I ask it ever everybody. It actually relates to people being able to feed their families, not just the word that we use to make ourselves feel better. I am very, very proud first of gateway discovery park. It's an awesome park. I hope this is just as awesome as that one is. How wonderful to see that we're finally making those investments. I agree with you, commissioner Fish, we can't build parks and not maintain them or have them staffed. I hope after we get through this insane budget process we start looking what are the city services we value and putting our money where our mouth is. I vote aye.

Eudaly: Well, thank you for the presentation. I'm very pleased to support this item as well as happy to have what I consider a partner in the parks bureau in our investments in east Portland because a park is a beautiful thing to have, not so beautiful if there's no safe route to get there. In addition to east Portland residents having to walk further or drive further for a park they are also twice as likely to be injured or killed on that pedestrian trip. Not to bring us all down, but it's a group effort and there's still a lot of work to do, but i'm pleased with the progress and happy to vote aye.

Wheeler: I have long been concerned about the issues that you spoke about today. I thought you were extremely eloquent, even inspirational in your testimony. If you thought you were nervous in any way, from what I was sitting it didn't come across that way. It came across as a very, very powerful statement. I thank you for being here. Number 2, equity with east Portland is an issue long of interest to me and has concerned me for quite some time. As an original coconvenor of the east Portland action plan along with then mayor tom potter then Oregon house speaker jeff merkley, we laid what we hoped would be a community foundation to achieve equity in the kinds of investments that we make in the community that you identified. Investments around housing, investments around transportation, safety and infrastructure, investments that help support economic prosperity that could be shared by all people in this community, and yes, parity around parks investments. I'm pleased to see that we're making good on that long-standing commitment. I'm really proud of the work that the parks bureau has done. My colleagues over the years on the city council, commissioner Fritz, commissioner Fish has already demonstrated excellence in his role as the parks commissioner. I know that commissioner eudaly has spoken very eloquently about the importance of accessibility in everything we do. It's great to see that being front and center in the development and conceptualization of this park because as you said, this is really about connectivity. It's about bringing us altogether. If we're all coming together that means all of us. This is just an excellent plan. I can't help but be enthusiastically cheering for it. I vote aye. The report is accepted. Thank you for your great work.

Wheeler: Next item, 252.

Item 252.

March 20, 2019

Wheeler: We're now on the regular agenda. The city attorney's office performs all of the legal work of the city with few exceptions. The city attorney's office provides legal advice and training, reviews all city contracts, and represents the city in litigation and state and federal court among other legal duties on behalf of the city of Portland. The city code defines the scope of the city attorney's responsibilities in different legal activities require the city attorney to obtain different approvals before they are allowed to take any action. This city code has not been revised in over a decade. In that time the city attorney has identified a few items in the code that should be improved. These include giving the city attorney the ability to act quickly, to defend the city's legal interests, as well as the ability to affirmatively help protect city employees in certain circumstances. These are very important and common-sense changes to the city code. This ordinance is sponsored by all of us here on the city council. Would any of my colleagues like to may any opening statements before I turn this over to our city attorney Tracy Reeve? Very good. With all that then we'll turn it over to Tracy who will walk us through proposed changes to the code.

Tracy Reeve, City Attorney: Thank you, Mayor, Commissioners. I'm Tracy Reeve, city attorney, here this morning to walk you through the changes to PCC section 3.10.030, the section setting forth duties and responsibilities of the city attorney. So, before I do that I thought I would safely state that our mission is to provide excellent, objective, timely, cost effective legal advice and advocacy in support of the city's policy goals and to ensure that the official actions of the city, elected officials and employees comply with the law. To enable us to achieve that mission we have four strategic goals. Those are to provide excellent customer service, advocate effectively for the city's interests, advance equity and ensure accountability. As the Mayor has noted, my office is responsible for performing almost all of the legal work for the city. Code section at issue here today sets forth our duties and responsibilities. In a nutshell, we represent the city in court and administrative proceedings and represent all city elected officials, officers, employees, boards and commissions in all matters arising in the course and scope of the work for the city. We give legal advice and prepare documents. We write and approve all legal contracts and documents in which the city is a party and to prevent legal problems by providing training, advice, direction and opinions to the city and its elected officials, officers, employees, boards and commissions and we institute legal proceedings on behalf of the city with the appropriate authorization. The changes before you today relate to our scope of authority in this last area of instituting legal proceedings. We have identified two areas in which amendments to the scope of our authority to institute legal proceedings will enable us to better meet the needs and policy objectives of the city. The first area is in the last few years we are increasingly seeing situations in which city elected officials, officers and employees are experiencing hostile, harsh and even threatening behavior directed at them because of their role as city officials and employees. Currently under the city code we are only authorized to represent officers, employees as required by the Oregon Tort Claims Act which would not cover this situation. This amendment would enable us with the authorization of the Commissioner in charge to represent city employees in their personal capacity when in proceedings that are connected to their city employment and that are related to their personal safety. As an example, this would enable us in an appropriate circumstance to represent a city official or employee who is seeking a restraining order against someone threatening them as a result of their city employment. So that's the first area. The second area pertains to our ability to institute or participate in legal proceedings on a timely basis. In the last couple of years and particularly since the Trump administration took office, we are increasingly participating as an amicus curiae or friend of the court in cases involving policy issues of concern to the city. For example, we have participated as an amicus in numerous cases challenging the Trump administration's attack on immigrants and the DACA program. We have been able to participate in many of these immigration

March 20, 2019

related issues due to a resolution the council passed giving us fairly broad authority in this area with the mayor's authorization. But we're also fielding regularly requests that align with the city's values in other areas. On occasion we simply are not able to get before council with the resolution in time for us to participate. Most recently this occurred when we were asked to participate as a friend of the court in the climate litigation brought by Oregon young people, and the timeline was just too tight although as that case assuming that it continues that was at the motion to dismiss level we will seek to participate. This change to code would enable us to file an amicus brief in cases where we're not a party, the city is not a party but does have legal or policy interesting that line with litigation or are at issue in the litigation with the authorization of the commissioner in charge. Finally, the last change before you is to address a relatively rare but potentially significant issue. Generally speaking, to appeal a court or administrative decision in most circumstances we need city council approval. Normally that's fine, it doesn't present a problem, but occasionally we're faced with a filing timeline that makes this extremely difficult. This is particularly problematic because in most circumstances appellate filing timelines are jurisdictional meaning if you miss the timeline, you're completely without recourse to pursue the appeal. This issue arose most recently when we were working with other national partners and it was determined that the city should appeal the fcc ruling having to do with broadband and the uses of the city's rights of way and the timeline was such that we needed a special counsel meeting to get the authorization. We were able to do that because council already had a work session, so council was already gathered together. But that could present a very difficult circumstance if council didn't have a work session already scheduled within the time frame that we needed. So what we're proposing is that in and only in those types of situations where in the judgment of the city attorney it's necessary to protect the city's legal interests and with authorization of the commissioner in charge we would authority to file a notice of appeal to protect the city's legal interests but we would still come before you as soon as possible to get authorization to actually prosecute or move forward with the appeal. In that situation we're counseled to determine that it did not wish the city attorney to prosecute the appeal we would dismiss the notice of appeal, but the city at least would not have waived its right to participate. Thank you for your consideration of these changes to the code which we believe will enable us to better meet the city's needs.

Wheeler: Thank you. Commissioner Fish.

Fish: I have one question. I'm reflecting on the fact that in our legislative work we have a policy that says that we're all bound by our legislative agenda, no freelancing. We even signed a memo to that effect so that we're all clear as to what the city's legislative priorities are and if we go down to salem we have to stick to the script. That was a big step forward when we implemented that because we were adopting legislative agendas but there was a lot of freelancing going on in the council and it got confusing. Here the mechanism in most instances is the commissioner in charge gets to decide. I can imagine a circumstance where it's not entirely clear who the commissioner in charge is. It's an issue that doesn't just fall neatly within someone's portfolio. Under those circumstances, how do you determine who is the authorizing official?

Reeve: That would be a fact specific circumstance. If there was a doubt, my way forward would be to work with more than one commissioner if there were more than one commissioner who had direct authority. The other thing I'll say about the amicus participation is I see this as a way -- where it's pretty clear what the council's policy objectives are and an amicus brief would align with those. If there's doubt as to whether what the city's policy position would be namely what the council's position would be, we would still come before the council as a whole to seek that authorization.

Fish: Makes sense. Thank you very much.

Wheeler: Thank you. Public testimony on this item?

March 20, 2019

Moore-Love: Yes. We have three people signed up.

Wheeler: Come on up. Two minutes. Name for the record, please. Good morning.

Dan Handelman: I'm dan handelman with Portland cop watch. We're concerned about the emergency ordinance giving too much power to the city attorney with no oversight and few restrictions. We're particularly concerned because the city's history of filing appeals against the interests of community justice such as two appeals of judge simon's rulings in the doj agreement. The city attorney is one of the most powerful people in this government, is not elected and rarely accountable. This has the positive effect of continuity but added with the legal advisory role means their suggestions carry inordinate weight for new officials particularly those without legal background. Numerous incidents where the city attorney has again bad or wrong advice to elected officials including advising that they could not exclude people from a meeting even if they're being disrupted. I'm going to skip over this. I didn't realize I had only two minutes. In terms of training, the city attorney is obviously doing a poor job training about the 181 a law that prevent gathering information on individuals from that email that listed names of people involved in antifa and patriot prayer with no allegations of criminal activity. Although the ordinance allows for council to approve an appeal filed it's difficult to unring that bell once it's been rung. It says city attorney needs to consult council as soon as practical not as soon as possible, rather that the next hearing following paperwork being filed. I can hardly think of a case where you have to file an appeal within eight days. You usually have to file it on a Tuesday before the following Wednesday. You can have a four-fifths agenda item to vote on something so i'm not sure why this is happening. What happens if there's a president that you do like and they try to file an amicus or appeal against them there's no language that says they have to follow city policies to file these legal motions.

Wheeler: Thank you, sir. Good morning.

Charles Bridgecrane Johnson: Good morning. On this beautiful Wednesday, here in the era of trump at the Portland city council, the first public testimony from a citizen in the public occurs two hours after the beginning of the meeting. Almost two and a half hours after the beginning of the meeting. Great public involvement and transparency here. To follow up on an issue that commissioner Fish raised about determining who the commissioner in charge is, it would be a little bit better if this wording was -- if we knew that whenever there was an effort made to reach the commissioner in charge all the commissioners were being informed simultaneously. That would be even be a good amendment. I don't expect you to move it forward but I think it's been a pleasure to be engaged in some forms with Tracy reeve. She came out of her own wisdom to a meeting at one of the many public meetings in the basement. Mt. Tabor church when we were talking about police conduct or misconduct so i'm encouraged that on her own she would adopt that standard of any time she needed to get an appeal in a very weird timeline that all the commissioners would be simultaneously informed that they were looking for the commissioner in charge, whoever that might be. Maybe ted is in london and it's madame president with her awesome new hair. That would be better government. The 31 seconds I have left on my two minutes, one thing the city attorney could do to impress us is become in favor of requiring police to require professional liability insurance but that's a long battle for the future. The issue of restraining orders I recently saw one of you have a somewhat -- steps toward your lunch. You got to be interrogated or whatever by one of our people who sometimes is described as cop watch. Certainly not applicable. I hope you'll never need protective orders and you engage with the community so we be sure our elected officials have safety and respect.

Wheeler: Thank you. Good morning.

Maggie: I want to second everything that charles said, and I am concerned about this idea of using the city attorney to ameliorate government incompetence like, say, the kind we

March 20, 2019

saw in katrina, where the engineers were trying to tell the city officials that the wall was going to go, it was not sound, or when the wall finally went in katrina down in new orleans, and those buses that they had where they could have saved people's lives, and they had three days to get those buses out and they didn't do it, and they didn't get those people out of the publicly owned buildings and off of those roofs, and people drowned. They were stranded. Women, men, children, babies died. And I don't think you should be protected against something like that. I agree, you know, if there's somebody like what happened to ronald reagan where someone is stalking you and they are mentally ill, okay, yes, but you like any other citizen can come forward and just get a restraining order just like anybody else. You don't need a special thing from the city attorney to do that. You as a citizen can go and apply for a restraining order. I don't see how that changes anything. In situations of great catastrophe like we're the second largest homeless population in the nation, I don't think where there's government incompetence that you should be protected by the city attorney.

Wheeler: Thank you. We still have a blue screen.

Fish: Now a power point.

Wheeler: It was a good power point. That completes public testimony?

Lightning: I signed up.

Wheeler: Were you signed up?

Moore-Love: I have a terrence somebody. I don't have lightning.

Lightning: I was signed up.

Wheeler: I expect you to sign up like everybody else.

Lightning: I did.

Eudaly: Your name wasn't on the list.

Lightning: I signed up. I would like to speak.

Wheeler: Go.

Lightning: My name is lightning. I represent lightning super humanity. One of the biggest concerns I have ever had --

Fish: Could you hold for a second? There we go.

Lightning: One of the biggest concerns I have had in these council chambers is seeing cop watchers have restraining orders put on them in this building. Now, where I have a problem with that is that although we do have the city attorney sitting behind me, the city attorney also represents the people's interests. On all these contracts, all these issues. So with that in mind when you're talking personal capacity of a commissioner or the mayor outside, to me if she goes in and represents at that point, that's almost a conflict of interest. She does represent the people of the city. She is being paid by the people of this city. So if somebody in here is saying something and you think it's so outrageous, you go, you know what? That voice of dissent i'm going to shut that person down. I don't care what it takes. I'll work through the d.a., i'll work through anybody I can and i'll get it done. I'll even have my city attorney. We will stop them. Let's go for a restraining order. Let's do this. Whatever it takes I just want their voice shut down. Keep them out of the council chambers. We got to be very careful on this. I can assure you on some of these cases if it ever goes up in front of a judge like judge simon, who understands the constitution and is a constitutional scholar, I think what we're going to vote on today is unconstitutional. I think there's going to be a conflict of interest there. I think when you're outside and you're not doing your duty at that time you need to get your own personal attorney. If I sit on the other side and I want to bankrupt you in the process for being an incompetent mayor i'm going to do it. That's my right. I don't think you should be represented by city attorney to protect your interests if you're unconstitutional because we will bankrupt you if that's what is necessary. We will bankrupt you and [speaking simultaneously]

Wheeler: Your time is up. Your time is up.

March 20, 2019

Lightning: Remember that. One term. Retaliate on me, one-termer. [shouting]

Wheeler: Your time is up. Sit down, please. [shouting]

Lightning: Don't tell me to sit down.

Wheeler: You need to sit down or leave. Can I hear from the city attorney, please?

Lightning: Don't tell me to sit down.

Wheeler: The concern was raised in two different flavors. Could this be used to shut down dissenting opinions? What would happen in the case that somebody files a restraining order against somebody and it turns out it is not -- excuse me. You are going to have to please be quiet. You're interrupting everything else. I'm going to ask you to leave. In the event that somebody does misuse the restraining order, and I'm certainly aware as mayor of the city of Portland I can walk the entire length of the city and have people standing nearby heckling me, shouting at me, calling me incompetent, shouting at my wife or my child who are standing next to us, and I understand that that is actually while it's awful it's also constitutionally protected given my particular role. Is that not true?

Reeve: That is true, mayor.

Wheeler: If we went to court saying we want a restraining order against somebody because they were engaged in that behavior, reprehensible though it may be, what would happen then.

Reeve: We would lose. If I can back up for a moment from that, I would have the obligation and my office would have the obligation if that situation was raised by an elected or official or an employee, this behavior has been occurring, just ordinary city employees.

Wheeler: So there are protections here for people's constitutional rights built into the system unlike what we just heard through testimony.

Reeve: Absolutely. We would have the obligation to evaluate the behavior being described to see if, a, it was connected to the person's employment, b, related to their personal safety, and c, whether it met the legal standard whether we had a good faith basis to believe it met the legal standard for whatever relief we were looking for, say a restraining order we would have to look at the statutory criteria which in Oregon are significant and believe that we had a good faith basis to represent that employee and that all of those factors were met before we even went in. That would be the first threshold. Then of course the court is looking at those constitutional issues as well.

Wheeler: I appreciate that clarification. I just want to state for the record because it was stated during testimony that people have had to wait an hour or an hour and a half for public testimony. I want to remind everybody that the first 15 minutes of every council session is reserved for public commentary on whatever they want to talk about. I want to correct the record on that matter. Any further questions? Commissioner Hardesty.

Hardesty: Thank you, mayor. My question has to do with I just want to be clear from the record. If I'm going through a divorce, you're not going to represent me, right?

Reeve: Absolutely. It has to be related to your employment and related to your safety.

Hardesty: Thank you.

Wheeler: Did you have a question? I'm sorry, commissioner Eudaly, did you have a question? [speaking simultaneously]

Wheeler: That was special. [speaking simultaneously]

Wheeler: I'm going to bring us back. Please call the roll. This is an emergency ordinance.

Fish: I support these common sense amendments. For me, this goes to a fundamental principle, which is everybody who works here at the city deserves to work in a safe workplace. Whether you're an elected official, a staff person, whether you are represented or nonrepresented you have the right to work in a safe workplace. That's not just me saying that that's protected under state and federal law. We're required as an employer to maintain a safe workplace. Unfortunately a small number of people continue to push the boundaries of behavior which is lawful and which may be the subject of future

March 20, 2019

action taken under these changes. Look, I have been an elected official for ten years now. Piggybacking off what the mayor just said I understand that as an elected officials I have fewer rights than others. I understand that people have the right to express themselves with vigor. Yesterday I was getting into a ride share on 4th avenue and one of the frequent flyers here who is very opinionated came and stood in the street filming me and insulting me, insulted a member of the mayor's staff who was coming out to get in the car with his family. I understand that in a democracy people have a right to express themselves, a right to test boundaries what. They don't have the right to do is to cross the line on personal safety. That's where we have a legal obligation to draw the line. I have a trusted and treasured employee that for some time was required to have a restraining order because someone couldn't follow the law. Continually put him in awkward positions and made threats and that's not acceptable. On the other hand I understand as elected officials I have fewer rights. We have done a security assessment of my rental apartment building, made some changes because of unfortunate things that have happened and continue to happen on social media. I get that. I have my eyes wide open. I ran knowing this job presents a whole range of good and challenging things. Let's go back to what is the core of one set of recommendations that you're making today. Our obligation to maintain a safe work environment, this is an outgrowth of this. We anticipate and expect that it will be exercised responsibly. Council will ultimately be the backstop. With respect to the timing on things like friend of the court briefs and other litigation, let me just say to our city attorney i'm proud to serve on an council that's been aggressive in having our voice in courts around the country reflecting our values. I think we should continue to do it joining with sister cities up and down the west coast. What we're fixing here is a situation where because of timing we may not have a chance to authorize something. We can still have council revisit, the council still can weigh in after the fact, but because of timing we want to streamline the process. That makes imminent sense to me. I support them. I vote aye.

Hardesty: Thank you, tracy, for your presentation. I also support the changes that are before us today. Though I understand the fear of what the attorney will do with this new power, I also understand the necessity to make sure that my employees are safe when they come to work in the city of Portland. I have no fear myself personally, but I have seen how people intimidate, harass and just make life a living heck for some of our employees. To me that's just not acceptable. You got a bone to pick, pick it with me. Do not pick it with my staff. Do not pick it with other city employees. That is just so outrageous that it's just outrageous. I support this because I want to be able to assure my staff that it is not a safety risk for them showing up into the office and doing the job they have been hired to do. I just want to say to dan handelman, I know that I spent a lot of quality time with tracy and we will continue to do so, and we'll continue to make sure the city attorney really is doing the job that we want them to do. I vote aye.

Eudaly: As a person who has had to navigate this world as a woman for the last 48 years and who has faced harassment, intimidation, and physical violence due to the simple fact that I am a woman, i'm not remotely interested in what any man thinks about me feeling threatened. I don't care what my colleagues think. I don't care what any of you think. Based on my lived experience, it is reasonable for me to fear for my safety when I am being stalked, harassed, insulted inside my work, outside my work, at my home, on my free time when i'm sitting outside the senate chambers in salem taking a break after giving testimony. That was on monday. I have experienced frequent ongoing harassment here and I have felt -- I have feared for my physical safety, that of my family, my staff, and city employees, and it's unacceptable and it makes me sick to hear community members making excuses for that behavior. [shouting] You do not get to say anything else. [shouting] He's disrupted multiple times. I just want to note that. I was surprised recently after being stalked half a mile on foot, walking to lunch, by a member of the public after I

March 20, 2019

repeatedly asked him to stop that the city could not assist me with obtaining a stalking order, that -- sit down and shut up, lightning.

Wheeler: We're going to take a 3-minute recess.

Eudaly: As someone who takes up an inordinate amount of time, creates a hostile workplace and refuses to abide by the -- [audio not understandable] I was surprised to learn that I would have to use my own time and financial resources both of which are limited to obtain a stalking order against someone who was stalking me because of what my job is. Because of my role. As far as I know when I was elected to city council, I didn't give up all of my rights. I'm also a member of the public, also the people, as lightning likes to say. It's unacceptable to treat anyone the way that we're sometimes treated. I want to thank the chief city attorney, Tracy Reeve, for taking the initiative to draft this new policy. Commissioner Hardesty and her policy director Derek Bradley for making sure this effort was brought forward and that we all took part in its support. As you can see it's an emotional issue for me. I love this job, and I'm good at this job. This behavior by a couple handfuls of people has changed the way I navigate my city. It has limited the way I interact with the public. It's so disappointing to hear from people who I often agree with and I respect that they don't think that I deserve to feel safe and have support from the city in order to do my job. I vote aye.

Wheeler: The city attorney needs the ability to act quickly to protect the legal interests of the city, especially now that those interests are increasingly under attack and I appreciate Tracy Reeve for giving us a couple of credible examples where that's been the case. We also have an obligation to protect our employees while we are the government, we are also an employer and those who seek to work for the city of Portland in any capacity have a right to a safe environment. These changes allow the city attorney to help employees who have their personal safety threatened because of their city employment. I obviously support these changes. I vote aye. The ordinance is adopted.

Wheeler: Next, 253. Follow that, Larry.

Item 253.

Pelatt: Are you sure we can't take lunch or something? [laughter] Good morning. I'm Larry Pelatt, Procurement Services. You have before you the procurement report recommending contract award to Brown Contracting for the Highway Safety Improvement Program Signalized Improvement for Portland project 1,047,900. The engineer's estimate for the project was 718,900. The project was advertised in the city's electronic procurement system. Two bids were received and opened January 15th. This report seeks approval of award to Brown for 1,047,900, 45% over the engineer's estimate. Portland Bureau of Transportation has chosen to move forward with this bid partly because this project was bid once before earlier this year. They received no bids. And the city had made some strategic decisions about aspects of the project relating to a couple of thought processes related to the signal, traffic control and things, that when I participated with the bureau in the value engineering session trying to get closer to the budget they demonstrated that some of the thought processes wouldn't actually work for a contractor. This project is slightly more than 90% funded by federal highway safety grant and as such the total cost to the project relative has little impact on the city's budget regardless of how close it is or is not to the engineer's estimate. This project is federal funded highway project, as such the city's standard goals and I apologize Commissioner Hardesty but the alphabet soup of COBID is not applicable because federal projects recognize the disadvantaged business enterprise certification only. The Oregon Department of Transportation, which is the grantor and manager of all DBE funding assigns a goal to every individual project. This project unfortunately had a goal of zero percent significantly lower than what the city typically gets and what they have been asking for for years. So they keep requesting higher goals. Fortunately on this particular project ODOT could not be supportive of a higher goal.

March 20, 2019

Hardesty: Why?

Pelatt: That's odot's decision. They manage -- federal money comes to odot. Odot is a pass-through to the city. The odot determines the goal and the city doesn't have for lack of a better term appeal rights relative to the goal. We're stuck with it.

Hardesty: The city has a value of contracting with minority and women, emerging small businesses. We're going to -- you're asking us to put 1.5 million into a federal project that has less than 2% participation dmwesb. Three firms i'm assuming are disadvantaged businesses are going to share \$18,000 out of a 1.5 million dollar contract. Are you telling me there's nothing the city of Portland can do to actually live our values?

Pelatt: Actually, commissioner, that's the next report. That's the mayor's -- that's the moore enterprises. This is the brown contracting report, item 253.

Hardesty: Oh, i'm sorry. [laughter] never mind.

Wheeler: At least you got his name right. That's better than I did today.

Hardesty: My apologies.

Pelatt: As soon as you were with the numbers I realized, that's the next one up.

Wheeler: Now you know what she's going to ask you --

*******:** Yes. I have a good hunch. I do. [laughter] brown contracting is located in eugene, Oregon, they are not a state certified cobid contractor. They have tax registration and are in full compliance with the city's contracting requirements. If there's any questions relative to the bid or the bidding process I can answer those. I believe dan layden from pbot is in chambers if you need him for specific questions.

Wheeler: Commissioner Fish.

Fish: I move the report.

Wheeler: We have a motion to accept the record from commissioner Fish. A second from commissioner hardesty. Please call the roll.

Fish: Aye. **Hardesty:** Aye.

Wheeler: I feel, larry, like you've killed the suspense on the next item. Aye. The report is accepted. 254, the most boring report we have had today because we already know where it's going. [laughter]

Item 254.

Pelatt: Good morning. I'm still larry pelatt. You have before you procurement report recommending a contract award for moore excavation for the road 10 -- has given you the whole thing 1,099,917. The engineer's estimate was 1,540,000. The bureau's confidence level was moderate. On november 21 council approved ordinance 18297 to competitively solicit this. It was posted, bids were opened january 31. Two bids were received. In response to the solicitation moore excavation is the lowest responsible and responsive bidder, which is 28.5% under the engineer's estimate. The Portland water bureau with procurement services identified our aspirational goal for state certified dmwesb, svdbe. Cobid certified contractors 20%. Unfortunately, there is a total of \$18,350, 1.67% state of Oregon certified firm on this project. Dbe, and mbe, dual certified three firms trucking, saw cutting and erosion control. While the project has extremely low participation, it should be noted that moore excavation met all of the outreach requirements of the city's subcontractor and equity program. The project is located in a remote area of the mount hood watershed. It's difficult to get to. Many, many subcontractors that moore -- we did some follow-up work with this -- moore had contacted declined to bid the availability opportunities were not significant enough to basically interest them in the mobilization costs to get that far up into that the watershed. It's a pretty remote area.

Hardesty: Excuse me, mayor. Be that as it may, we're splitting 18,000 between three firms to do basically the same kind of work. Somebody else is going to make a million five. Plus.

Pelatt: A little over a million. Yes.

March 20, 2019

Hardesty: I don't get why we if we say we value making opportunities available that we would accept that as, oh, well, it's remote so nobody wants it? I'm just not buying that. I think that there could have been an opportunity there, and it just puzzles me as to why we would accept such a low participation rate.

Pelatt: Well, I think part of the answer is that we have specific rules in our subcontract program they are required to do certain amounts of outreach and get written responses. It's not just oh I made a phone call and they didn't call me back. That doesn't cut it. What does cut it is they have an email and they get an email back that says thanks but no thanks. If they can document phone calls and returned phone calls that works, or flat out written notes saying no, we don't want to do that. Moore excavation did do the outreach. They met all the requirements. They have been going -- it's interesting to note, moore has been getting better and better at participation. Not long ago, november, december, we had a project up that I really had to call out that they had done a significantly better job. They were up at -- I know it's under the goal but they were up at about 16%, and from when I first started doing these reports they were consistently in three, four, five. I believe they are making the effort. They certainly seem to be demonstrating that. This particular project didn't lend itself but they met all the requirements.

Hardesty: Are there repercussions for not reaching the goal?

Pelatt: Not if they meet the requirements of the program. The city does not have hard fixed goals. We have aspirational goals. We do not have enough diversity study type information to establish fixed goals, minimum goals. I know there's a thought process to the city investing in another diversity study but they are very expensive, so the idea -- if you want to establish fixed goals you have to have the diversity study information which backs that up.

Fish: I can add one thing? I want to emphasize something about moore excavation. I don't remember the exact time frame but there was a time when the numbers were pretty anemic so we had a meeting with them. We had a meeting for the purpose of making clear what the city's values were and what we expected. And actually, the numbers came up quite a bit. The challenge from time to time is we have aspirational goals. There's a protocol someone has to go through. They have to reach out to their list. They have to document that they made the effort. But if no one bids on the work we get a situation like this. I think there are in every bid there are lessons that we can learn and larry, there may be -- you may be hearing from the council a desire to go a little deeper on lessons learned here, the fact that the work is remote shouldn't in and of itself being a disqualifier. Is there something we can learn so next time we have a project like this we can do better? Your role is to satisfy us at least now that the contractor met our legal requirements in terms of the process they went through. Numbers may inadequate but did they go through the process they were required to by the city.

Pelatt: They absolutely met the requirements of the program. Based on that is why we are moving forward with the recommendation for an award because they did meet the requirements. They tried. They really did try. With documented evidence in terms of emails and tracking and everything else they did try. The fact that they didn't get it, they didn't get it, and I do think a big chunk of that is the fact that the project is so remote. But certainly they put the effort in.

Hardesty: I appreciate that, commissioner Fish. You know, I have only been on city council for a couple of months, but I have been around for both disparity studies done around contracting for the city of Portland. The first you might remember was like an 18-volume document that every government within the Portland metro area had their own individual disparities study. We spent like I think 1.9 million on that one. Then the city of Portland did another one a few years back and we do a really, really, really, really good job of studying but we never actually implement what the findings are that come out of those

March 20, 2019

studies. So i'm not convinced that another study will get us better outcomes. I just think more accountability will get us better outcomes.

Wheeler: I'll entertain a motion.

Fish: Move the report.

Eudaly: Second.

Wheeler: We have a motion and a second. Please call the roll.

Fish: Aye **Hardesty:** Aye. **Eudaly:** Aye.

Wheeler: Aye. Report is accepted. 255.

Item 255.

Fish: Mayor, colleagues, this is another good news story for east Portland. As you know leach botanical garden is a city landmark and a treasure in east Portland this. Ordinance will allow the chief procurement officer to solicit proposals to optimize best value for a complex garden improvement project as well as to promote the city's contracting equity goals. We have for presentation today leslie spitler, chief procurement officer, and ross swanson, parks project manager. Welcome.

Ross Swanson, Capital Project Manager, Parks: Thank you. Thank you, commissioner. Mayor, council members i'm ross swanson capital project manager with Portland parks and recreation here to seek permission for an alternative bid process for the leach botanical garden process. I was here in november to seek permission to bid and we're here to modify that request. This project has been in development since 2014, it's collaborative effort between parks and recreation, leach garden friends, the nonprofit organization that runs the day-to-day operations there, prosper Portland and metro. The scope of the work of this project in brief is improve infrastructure and utilities for the garden, an aerial tree walk demonstrated in the next slide which is basically a giant deck that makes its way through the forest at 30 feet. Community open space which includes fireplace, terrace, gathering greens, demonstrated in the slide, habitat and pollinator garden. Last November I was here to get council permission to go to bid which you agreed to however park as we started working through all the documents it takes for a traditional bid we identified a couple of risk items that gave us a moment of pause. We wanted to ensure we had a quality of work in the sensitive habitat area, basically how to build and aerial walk in the forest. We have a variety of plant species, we anticipate over 400 species in a short time frame. We had reason to ensure that portions of the work can be relatively complete for the american public gardens conference in Portland in june of 2020. So the garden community of the united states will be here and leach garden is anticipated to be one of the focal points. In short this project had some level of difficulty that may overwhelm the traditional low bidding contractor that has not done their homework. We want a quality project for the public and set up a successful starting point for the contracting companies. With this in mind procurement services offered an alternative approach to the low bid and we would like to pilot that process today. In order to proceed we need your approval and to better explain this process is lester spitler, with procurement services.

Wheeler: Good afternoon.

Lester Spitler, Chief Procurement Officer: I'm lester spitler, chief procurement officer. This action is to exempt this project from the competitive low bid procurement method as ross said there's a few critical elements that we believe need to be assessed in selecting a contractor. Those are the landscape and the plant procurements. We want to be able to assess the prime contractor's ability as well as the subcontractor's ability to procure those plans and successfully plant them to grow and flourish. The other area of concern is building this 30-foot-high aerial deck. We want to be able to assess the qualifications and experiences of the contractor before we make selection. So in a typical low-bid situation we issue 100% design documents and we seek pricing from the contractor community.

March 20, 2019

With this two-step negotiate rfp process, the first step will be that prequalification step, so we'll ask for responses from prime contractors and subcontractors, and we'll assess their qualifications and experience and we will prequalify them and the second response, the second round is going to be proposals, joint proposals from prime contractors and subcontractors so they'll form a team and propose -- they'll respond to evaluation criteria that we'll ask them to respond to. Those things will include what their subcontracting plan is, their approach, their experience, their qualifications, and their ability to adequately purchase all 400 different species of plants and then plant and install them successfully. So with that, we are asking for your approval to exempt this project from the competitive low-bid process. We feel there's going to be significant cost savings and schedule benefits as a result of this approach. Portland parks and recreation is going to be able to negotiate with a selected team on the price, on the schedule, whereas in a low-bid situation we wouldn't have the ability to do that. So we feel like an alternative approach benefits the project and benefits the taxpayers and the city.

Fish: Can you explain why you believe an alternative approach also potentially helps the city boost its minority contracting equity goals?

Spitler: Absolutely. So part of the response of the proposal is going to be a subcontracting plan. We asked the -- we ask the subcontractor to tell us how they plan to subcontract out the work. We will apply our 20% aspirational goal, but that's an opportunity for them to comment and tell us exactly what they're going to do, who they're going to reach out to, and we're able to hold them to that in the contract. So it's an additional mechanism to make sure that we're assessing the experience and qualifications of the prime contractor in their ability to achieve our social equity goals and objectives.

Hardesty: So with this alternative contracting pallet, what if your prime contractors don't reach the aspirational goal?

Spitler: So we have the ability to negotiate. And so we'll get initial proposals and there will be an evaluation committee that's representatives of parks and other bureaus and other stakeholders. We'll evaluate the proposals, and then we'll invite, depending on the level of competition, we'll invite firms in for an interview. The interview is where we ask them to explain their subcontracting plan, that gives us an opportunity to emphasize the importance of our social equity goals, and so through those discussions we typically benefit by being able to negotiate with that prime contractor and to get them to increase their numbers or if they don't put forth a good plan and effort, then we will -- that will affect their score and that will affect their ability to get the award.

Swanson: We will be doing a prebid meeting with all prospective contractors, and we also get to reiterate at that point what our goals are and that we're serious about it.

Hardesty: This process, will there be ongoing evaluation of whether or not the contractors are continuing to reach their goal? Is there a monthly monitoring meeting, is there -- what's the process of oversight?

Spitler: So when we execute the contract and we have that goal that's agreed to, procurement services has a compliance team that adequately monitors the contractor's participation. There will be, I think there's construction meetings that happen regularly. The compliance team or the representative from procurement services can attend those meetings, depending on how the contractor is doing. So we do hold them accountable throughout the life of the project for meeting the goal we both agreed to and negotiated up front.

Fish: As our presentation made clear yesterday to council, we've had a proud tradition in the last number of years of far exceeding the city's aspirational goals. So making sure that the benefits of these investments accrue to the larger community and breaking down barriers is important to the bureau, so what you've got is the parks bureau prioritizing this

March 20, 2019

as a core value, and you've got procurement services, and this pilot allows us to see whether working together we can boost those numbers.

Hardesty: Thank you.

Wheeler: Any further questions? Great. Public testimony.

Wheeler: We've got a long agenda, so please make sure your comments are germane.

Charles Bridgecrane Johnson: Charles bridgecrane johnson. When we signed up we haven't heard the presentation yet, we've only been able to review the documents. I think this is a good thing, I think one thing that is agonizing the city attorney is sometimes these situations seem to people like oh, there's already a preferred contractor in the pocket. So it sound like the team actually has a big plate full of work and does have a number of prospective bidders that will be using this new process. So I just wanted to encourage you to do extra oversight, it would be tragic if on this pilot program later on somebody sued and emails came out and it turned out oh, yeah, there was one party already in the bag. So please use the extra due diligence. Thank you very much.

Wheeler: Thank you. Good afternoon.

Maggie: This is about contractors. I would like to say I was having a conversation with the connie mcknight people, and we agreed that you should focus on hiring people and not companies. That if you focused more on hiring people, instead of companies, that there would be a lot more equity. That's all I have to say.

Wheeler: Thank you. Appreciate your testimony. Please call the roll.

Fish: Colleagues, I just want to highlight for you that the leech upper garden project is a major priority for me. It's something that I started working on the last time I had parks. Commissioner Fritz, during her leadership, ensured that there were investments made in building out their master plan. This is a gem in east Portland, and deserves to be considered in the first tier of our parks. And you heard a reference to an event which is scheduled for june of 2020. So if I could get this on your calendar now, the american public garden movement is coming to Portland. This is a huge feather in our cap, because this is hundreds and hundreds of garden leaders from around the country. We will be showcasing all of our great gardens while they're here, and there will be many events you'll be invited to. Leach will be hosting an event which will not want to be missed. For those of you who haven't been to leach recently, I know commissioner eudaly, your office was there, I think for a retreat, my office scheduled time there for retreat. It is a magical place with the work that's being done by pbot to replace the bridge in front of leach, and make it more accessible, that's a huge positive in development. This master plan promises to chart the next chapter of leach's story. We're very excited to be a participant in this and we urge your acceptance. I vote aye.

Hardesty: Though i'm reluctant to just take people's word for a \$6 million investment, I have every confidence in commissioner Fish and the bill, the parks bill and procurement, that they will hold us to a standard whereby everyone has an opportunity to benefit from this reinvestment, this redevelopment process. And just negotiation i'll be here, paying attention. I vote aye.

Eudaly: I'm a also embarrassed to admit that I had never been to leach garden until I became a commissioner. But it -- having lived in northwest Portland for 20 years, forest park was my go-to. But leach is quickly becoming very near and dear to my heart. I got introduced to my sweetheart for the first time on his 40th birthday, my office will be taking a retreat there, and I am particularly excited about this project, which is going to provide an incredible nature experience and access to people who use wheelchairs and other mobility devices. And I can't wait to take my son there, though he's not really a nature lover. I'll keep trying. I was so sad to miss the 102nd -- 122nd avenue bridge cutting, which is just down the road from the garden, due to my son's illness, but I will be back soon. I'm happy to support this. I vote aye.

March 20, 2019

Wheeler: Great work. Thank you. I vote aye. [gavel pounded] the ordinance is adopted. Next item, 256.

Item 256.

Wheeler: I'd love to get my councilman at of here at 1:00 p.m. We have a long agenda here this afternoon. Good afternoon.

Matt Gierach: Good afternoon, mayor wheeler and commissioners, i'm matt in the bureau of revenue and financial services. I'm presenting this ordinance to you today because the city's management division is seeking approval to refinance the 2008 b bonds related to the south park blocks urban renewal area. We are interested in refinancing these bonds because there's a savings opportunity. The bonds have an above market interest rate requirement and also have an upcoming prepayment option that occurs in june of 2019. The amount to be refunded is the 26.7 million. Based on current interest rate indications, the refinancing would result in approximately \$2 million in total interest savings. Additionally, the final maturity of these bonds is in 2024, whereby the urban renewal area would sunset and the associated taxes would be returned to the underlying taxing districts. Please let me know if you have any questions.

Hardesty: Good presentation.

Wheeler: First I want to thank you for the presentation. I think you had us all at \$2 million savings. And I want to congratulate you. I understand you have a new addition to your family.

Gierach: I do. My son anderson.

Wheeler: Excellent. Congratulations.

Gierach: Thank you.

Wheeler: Any further questions? Public testimony?

Moore-Love: One person, maggie.

Wheeler: She's taking a pass. Great work, matt. The debt management division goes often unheralded, but this is the kind of home run that you can hit through really hard analysis. So thank you for that. Please call the roll.

Fish: Aye. **Hardesty:** Aye. **Eudaly:** Aye.

Wheeler: Aye. [gavel pounded] the ordinance is adopted. Item 257.

Item 257.

Wheeler: The westwind apartments was acquired by the city of Portland in november of 2018. And consists of 70 low-cost, low-barrier, single-room occupancy units. Due to the able of the building and the scope and the cost of repairs needed, it was decided redevelopment of the site is necessary. I want to be clear on this point, the city's mandatory relocation assistance does not apply here as the protections under the federal uniform relocation act far exceed the local benefits. So we're here today to talk about the federal act. To present on behalf of the Portland housing bureau, director shannon callahan, who I do not see, assistant director molly rogers, and program coordinator cheyenne sheehan. Thank you both for being here.

Molly Rodgers, Assistant Director, Housing Bureau: Good afternoon. Mayor and commissioners. My name is molly rogers, i'm here with the Portland housing bureau, and i'm here to ask for your approval for the westwind apartment relocation. As you see, this is a picture of the westwind building, located at 618 northwest flanders. In november 2018, city council approved the purchase of the westwind apartments for redevelopment under the Portland's housing bond. At that time, we selected central city concern to be the operator of the building, but to operate it in a supportive housing way. They are providing property management, employment, and services to best support the current residents of the westwind. This spring we are releasing a solicitation to secure a development team to rebuild on this site. With the goal of creating at least 70 permit supportive housing units. The full redevelopment of the building will require us to demolish the building. This is

March 20, 2019

constituting a displacement event, and that is why we're requesting to amend our contract to assume full relocation benefits for approximately 60 residents. The relocation of the westwind falls under the provisions of the federal uniform relocation act, which typically applies to projects with federal funding, and when a public entity in Oregon purchases real property per state statute. Both the residents and the commercial tenants will receive relocation benefits. These benefits include a series of notifications regarding eligibility under the act, reasonable notices to vacate, and tenant rights and responsibilities. It also includes relocation advisory services, assistance in finding replacement housing, moving costs, and expenses and replacement housing payments. These payments will cover 42 months of rent in a new home. This contract amendment to our relocation specialist opc llc anticipates the full cost of all of these relocation services and payments. Thank you. I'd be happy to take your questions.

Wheeler: Colleagues, questions? Commissioner hardesty.

Hardesty: Just one. How many months did you say the relocation assistance lasts?

Rodgers: 42 months. That's 3½ years.

Hardesty: And do we anticipate people moving back into that building, or are they permanently relocated?

Rodgers: This provides permanent relocation assistance. But we will be programming the property to serve people coming from potentially the homeless system and people who need additional services, who meet the psh definition, and also are hoping to provide project-based section 8 vouchers. So we would welcome back those folks to return if they choose.

Moore: Permanent supportive housing, for people who don't know what the acronym stands for.

Wheeler: Any public testimony on this item?

Moore-Love: Two people, maggie and charles bridge crane johnson.

Wheeler: Thank you.

Maggie: Someone once told me it's \$40,000 that you give to each of these people. And it's not permanently relocation you're giving them, you're giving them 3½ years, and what is that at the rent they're paying at the westwind that they will never, ever be able to find out in the marketplace. So I really doubt it's going to be 3½ years of rent assistance, because they're not going to be able to find that kind of rent out in the marketplace. So you're going to spend \$3 million to with the building, \$1.5 million to relocate people in nonpermanent housing because that money is going to run out so fast, and then you're going to spend money to demolish the building and then you're going to rebuild. And that's going to be more money. And you haven't housed a single homeless person. And congratulations on that. And congratulations on -- in 2016 you rejected stewart emmons village, which would have housed 92 homeless people, and he went up to seattle and they gave him \$12 million and he will be housing 72 people in buildings, eight to a building and then 20 tiny homes, those 20 tiny homes are being built by a Portland construction company. A Portland construction company is building housing for homeless people in seattle. Not homeless people in Portland, homeless people in seattle. And Portland has the second highest homeless population in the nation. After I.a. Then it goes new york city, and then I think it goes seattle, and then san francisco. We are the second highest homeless population in the nation, and you are building housing for people in seattle.

Wheeler: Thank you. I don't agree, but thank you for your testimony. Good afternoon.

Charles Bridgecrane Johnson: Good afternoon, commissioners. At 10 minutes to 1:00 in the afternoon. A lot of disappointment here. I think one of the disappointments is that an eight-page pdf, there's no spreadsheet. A spreadsheet is really appropriate to a \$1.4 million item to know how much of this money is going to pass through to direct benefit for the clients and pay their rent, and how much of this \$1.42 million is going to be skimmed

March 20, 2019

by opc. Fortunately the federal law requires that we actually get these people stable housing that's going to last 3½ years, 42 months. But as a taxpayer, i'm going to have to bug maggie later on to find out how much of that actually gets shelled out for real rent, because the represents may not be that high, because we're going to prioritize these already housed people at the westwind to take the next empty spaces at northwest tower and all the other Portland -- so we can save money. So we're not getting -- the only bang for the buck we're getting is caring for these people at the westwind. Fortunately some of these people are in active addiction -- unfortunately some of these people are in active addiction, maybe it's good there's active management finding them housing instead of giving them a cash settlement, but all the other poemless people in the town, one of the homeless people in this town saw that the right response to you all was to kill herself by setting herself on fire. And that's kind of how some other homeless people in the town feel when we see \$20,000 per person allocated. Admittedly it's not \$20,000 per year, some of that money gets stretched out over 42 months. But I can assure you it's kind of painful for and insulting for people who can get zero dollars' worth of assistance while they spend six years sleeping occupying the second lane of the bike path under sandy, and thousand they find out there's \$20,000 spread over three years for these people. So help these people, but also bring the rest of the help, please.

Wheeler: Thank you. I'd just like to say one thing to my colleagues.

Fish: Mayor, you're going to lose your council at 1:00. We have four more votes.

Wheeler: I'd like to say something. This is my bureau and it's an important issue and this question comes up repeatedly. If we are going to renovate this building and replace it, therefore we're not creating any new housing. I want to be very clear, that in fact the housing bureau is aggressively bringing permanent supportive housing into the system, the goal here is to have the people who are currently in the westwind, which is a subpar facility, moved into other permanent housing situations. And then the westwind will be rebuilt to modern standards and it will allow at least the same number of people, but probably more. That is my hope. That will be consistent with this city's and the county's policy which we adopted last year around addressing the issue of the chronically homeless on our streets. So it is an expansion of the system, and I just want to be perfectly clear about that. The easiest thing we could have done is nothing. Is simply allow the westwind to continue to be the westwind. But that would have been I think negligence and a missed opportunity. No, thank you, maggie, you've testified. With that i'll call the role.

Fish: Aye. **Hardesty:** Aye. **Eudaly:** Aye.

Wheeler: Aye. [gavel pounded] the ordinance is adopted. Thank you, everyone. Next item, 258.

Item 258.

Wheeler: Commissioner Fish.

Fish: Mayor, colleagues, environmental services manages the city's storm water and sewer infrastructure, including 99 pump stations that work together with about 2,500 miles of pipe to send sewage to the columbia boulevard wastewater treatment plant. The northeast broad way pump station was built in 1988, and its condition has deteriorated, leading to the need to frequent repairs. This ordinance would authorize environmental services to move forward on upgrading the pump station, to improve reliability. Here today to give us a very brief presentation is huong, senior engineering associate with environmental services.

Huong Nguyen, Lead Engineer, Environmental Services: Good afternoon. I'm lee, senior engineer with bureau of environmental services. And this is hun, our senior engineer associate. I'm going to give a tiny background about the pump stations, what is our budget objectives and show you a little bit of what the facility will look like after the upgrade. Walk you through a budget and schedule, and what our recommendations. So as

March 20, 2019

you can see, our pump station is located in northeast Broadway. And it's 14 acres of the residential area, it is sewage pump stations. It is constructed in 1988. And it has not -- has not had any remodel. Typically, every 25 years we would upgrade the electrical and the mechanical, so this 30 year old pump station is really due to be updated. And that's why I'm here today. So, if you can see on the photo, this is just existing conditions of the equipment, housed into a Fiberglass enclosure. The type of the pump that we use here is very problematic. And it's causing a lot of problems for operation, and we will replace it with a submersible pump station. The difficulty right now that operation and maintenance has is accessibility, and there is very difficult path for the maintenance vehicle and truck to come into the service area, so we will upgrade that. Our project objective to upgrade to a standard submersible pump station replaces all of the obsolete equipment and bring it to the current code. Address all of the difficulty drainage issues we have, provide a clear design, easy to build, easy to construct, and easy to maintain. And manage the overall project budget. Within schedule. And here is a little view for the new facility. You can see the building general -- odor control.

Fish: It's a shame we don't have metropolitan for a roof, but it looks nice. [laughter]

Nguyen: Well, yes. There's not going to be -- there's not going to be a roof for the generator. This is another view of the pump stations that we have. I just want to show you what is above grade building and what is the feature underground. How it looks like. Inside the building this is what we see. All of the control panel and its locations. We design it in 3d model, and it's been very helpful for all of the designers to look at the location, the equipment, and to identify any conflict. So it's been very helpful. So for the project schedule, we would like to go to bid to advertise, and then open the bid in July, issue to notice to proceed in October, and starting construction next year, for finish by October of 2020. And for the project cost, so far we have \$200,000 for design, design is \$400,000, advertise is 20, total construction cost would be \$1.6 million, and close-out would be 40,000. That would bring it up almost \$2.3 million. And with that, to move the project forward, our recommendation is for council to authorize the contract to the lowest bidder for us to go to construct the pump station.

Fish: Thank you for a very informative presentation.

Nguyen: Thank you.

Wheeler: Thank you for the schematics, too, that's very helpful. Is there public testimony on this item?

Moore: She left.

Wheeler: Please call the roll. Sorry. This is a first reading, it moves to second reading. [gavel pounded] next item, 259, which is a second reading.

Item 259.

Wheeler: Any further discussion? Seeing none, please call the roll.

Fish: Aye. **Hardesty:** Aye. **Eudaly:** Aye.

Wheeler: Aye. [gavel pounded] ordinance is adopted. Next item. Item number 260.

Item 260.

Wheeler: Also a second reading. Please call the roll.

Fish: Aye. **Hardesty:** Aye. **Eudaly:** Aye.

Wheeler: Aye. [gavel pounded] ordinance is adopted. While I'm on a roll, 262, our last second reading.

Item 262.

Wheeler: Call the roll.

Fish: Aye. **Hardesty:** Aye. **Eudaly:** Aye.

Wheeler: Aye. [gavel pounded] the ordinance is adopted. Next item, 261.

Item 261.

March 20, 2019

Wheeler: Welcome, and commissioner eudaly and Karla, the screens are still on the last presentation.

Eudaly: Thank you, mayor. It's common for odot to enter into intergovernmental agreements, also known as igas, you'll be hearing that acronym a lot, commissioner hardesty, with the city to help us pay for our review of aspects of a project odot has that impacts city facilities. That did not sound very clear. I hope it made sense to the public. This amendment merely increases the amount they need to provide us 500,000 pbot staff, melissa williams is here if council has any further questions. I kind of hope not.

Wheeler: That was a very succinct presentation.

Eudaly: That's what I strive for. We get the prize today.

Wheeler: I need commissioner Fish here. Is there any public testimony on this item?

Moore: No one signed up.

Wheeler: I'd like to hold it open for one moment, please. We'll continue this for a moment. Could you please go to the first pulled item on the agenda which was 250?

Item 250.

Wheeler: Who pulled it?

Moore: Lightning.

Wheeler: Is there anybody else who would like to testify? Seeing none, we'll continue the item. Read item 251.

Item 251.

Wheeler: Who pulled this item?

Moore: Lightning pulled this.

Wheeler: And he is no longer here. Is there anybody else who would like to testify on this item? Seeing none, please continue this item. Let's do back please to item -- great. Let's go back to item number 261, please. Call the roll.

Item 261.

Fish: Aye. **Hardesty:** Aye.

Eudaly: Thank you odot and thank you Ms. Williams. Aye.

Wheeler: Aye. The ordinance is adopted. 250, continued hearing. Please call the roll.

Fish: Aye. **Hardesty:** Aye. **Eudaly:** Aye.

Wheeler: Aye. The ordinance is adopted. 251, a continued hearing, please call the roll.

Fish: Aye. **Hardesty:** Aye. **Eudaly:** Aye.

Wheeler: Aye. [gavel pounded] the ordinance is adopted. We'll see you at 2:00. We're adjourned.

Council recessed at 1:02 p.m.

March 20, 2019

Closed Caption File of Portland City Council Meeting

This file was produced through the closed captioning process for the televised City Council broadcast and should not be considered a verbatim transcript.

Key: ***** means unidentified speaker.

MARCH 20, 2019

2:00 PM

Wheeler: This is the march 20, 2019 afternoon session of the Portland city council. Could you please call the roll. [roll call taken]

Wheeler: We have one item. Karla, please read the item.

Moore-Love: Do you want to read council rules?

Wheeler: Please. Read the rules of conduct.

Lauren King, Deputy City Attorney: Welcome to Portland city council. The council meets to do the city's business. Presiding officer preserves order and decorum. To participate in council meetings you may sign up in advance with the council clerk's office for communications to briefly speak about any subject. You may also sign up for public testimony on resolutions or first readings of ordinances. Your testimony should address the matter being considered at the time. If not you may be ruled out of order. Please state your name for the record. Your address is not necessary. Please disclose if you're a lobbyist. If you're representing an organization, please identify it. The presiding officer determines length of testimony. Individuals generally have three minutes to testify unless otherwise stated. If you're in the audience and would like to show support please feel free to do thumbs up. If you want to express you do not support something, thumbs down. Pleat remain seated unless entering or exiting. If you're filming do not use bright lights or disrupt the meeting. Disruptive conduct will not be allowed. If there are disruptions a warning will be given that further disruption may result in the person being ejected. After being ejected, a person who fails to leave is subject to arrest for trespass. Thank you for helping your fellow Portlanders feel welcome, comfortable, positioned and safe.

Item 263.

Wheeler: Thank you. First the city attorney will make some announcements about today's hearing.

King: This is an on the record hearing. This means you must limit testimony to the materials and issues in the record. We will begin with a staff report by the bureau of development services for staff for approximately ten minutes then city council will hear from interested persons. The appellant will go first. Following the appellant persons who support the appeal will go next. Each person will have three minutes to speak. The principal opponent will have 15 minutes to address council and rebut the presentation. If there's no principal opponent council will move directly to testimony from persons who opposed appeal. After the principal opponent council will hear from persons who oppose the appeal. Each person will have three minutes. Finally the appellant will have five minutes to rebut presentation of the opponent's the appeal. Council may close the hearing, deliberate and take a vote. If it's a tentative vote council will set a date for final appeal. If council takes a final vote today that will conclude the matter before council. As this is nonemergency it will pass to second reading. Council may make amendments and direct staff to return with amendments. I would like to make several announcements and guidelines for those addressing city council. The evidentiary record is closed. This is an on the record hearing. The hearing is to decide only if the hearings officer made the correct decision based on the evidence presented. This means you must limit remarks to remarks compiled by the hearings officer. You may not submit new evidence not submitted to the hearings officer. If your argument includes new evidence or issues you may be reminded

March 20, 2019

you must limit your testimony to the record. If you believe a person who addressed city council improperly presented new evidence or a legal argument that relies on evidence not in the record you may object. Under state law only issues raised before the hearings officer may be raised in appeal to city council. If you believe another person has raised issues not raised before the hearings officer you may object. The applicant must identify constitutional challenges. If the applicant fails with enough specificity the applicant will be precluded from bringing damages in circuit court.

Fish: May I make a comment? I want to welcome everybody. It's actually reasonably rare for us to have a full house on an afternoon with a land use proceeding. We have had some land use proceedings in the not too distant past where it's been lonely in here. A lot of people have taken time to come out. I want to offer one perspective as one member of council based on ten years of experience dealing with land use hearings. That's the following. Some people have the view that if they get a lot of people to testify and say the same thing over and over again that that will have some sway on the council. I just want you to know that we don't decide these cases based on whether 20 people come out in favor and 15 against it, sort of weigh that then make our decision. This is uniquely an opportunity for people to make new arguments. Making the same argument over and over again, at some point we get the point, but this is really a chance to make an array of arguments. If you're here and planning to testify and say the exact same thing as your neighbor and we have lots of people doing the same thing I would encourage you to consider it's okay to say I agree with the previous speaker. Or my view has been well expressed by the prior 10 people. No extra credit for the number of people who say the same thing. We're sincerely looking for a range of views, thoughtful arguments off the record. You've had the city attorney set forth guidelines and then this is one of those areas where the council then publicly struggles to get to some consensus and we're very transparent about that. I just want to offer that perspective for people who may be here thinking if they say the same thing over and over again it's going to carry the day. I caution against that. We're interested in new arguments. We're perfectly happy to have you express solidarity with arguments already made. It will probably even make the hearing go more smoothly. Thank you, mayor.

Wheeler: Thank you for that. Do any members of the council wish to declare any conflicts of interest? No member of the council is declaring any conflict of interest. Do any members of the council have ex parte contacts to declare, information gathered outside this hearing to disclose?

Fritz: I believe we have all received several emails. I only opened one from somebody whose name I recognized. I responded since this is on the record hearing i'm not allowed to consider things not in the record before the hearings officer. So after seeing that and realizing we were going to have this as an appeal to council I took the unusual step of not reading my emails.

Wheeler: Commissioner hardesty.

Hardesty: Thank you, mayor. I received probably about 15 emails on this topic, but I also have not read any of them because I knew that the hearing was on its way.

Wheeler: Very good.

Eudaly: Mayor, i'm sure I received the emails. I did not read them. I did read one article, I think it was in willamette week. I have seen multiple posts on facebook. I have not engaged. I feel like I should also say i'm a former patron of the establishment but have not been there since 1994. I feel pretty good about not being biased.

Wheeler: Very good. Anyone else? Does anyone in council chamber have any questions of any of the commissioners about ex parte contacts or information received outside of this hearing? I don't see anyone who has questions. Do the council members have any other matters that need to be discussed before we begin the hearing? Very good. With that we

March 20, 2019

will start with the testimony outlined by legal council. We'll with the staff report, approximately ten minutes. Good afternoon.

Mark Moffett, Development Services: Good afternoon. I'm mark moffett, bureau development services. I'm going to try to make this quick, keep it within ten minutes. Stop me if you need to. We're here for an appeal of land use case 18-190331 cu. The everett house community healing center, everett house, sought in the application to eliminate a 1982 condition of approval regarding off street parking. Staff recommended a conditional approval of the request. We had some cleanup of unenforceable and vague conditions from the original 1982 case as we discussed with the applicant at the pre-app. There was substantial evidence at the initial hearing with the hearings officer. The hearings officer denied the application, overturning staff report's recommendation due to the intensity and type of uses at the site and lack of evidence in the record for those uses and transportation impacts associated with those. Then the applicant has appealed to city council. Our applicant is our appellant today. That doesn't happen too often. The zoning construct, it's r5, single family zone. There's a lot of information in the record and a lot of people talking about Portland's mixed use zones and allowing lots of different stuff to happen but the fact is we're dealing with euclidean, if you will, zoning construct. We have a residential only area. It only allows residential uses in those areas. Institutional uses are allowed with a conditional use review. The purpose of the review is to determine that the residential function and characters, function and character of the area is preserved. So commercial uses are prohibited in this area but they can do conditional use for a community service use. We have standard of approval criteria in chapter 815, section 105. The criteria talk about residential area to reemphasize that, that's the purple outlined areas there. We're not talking about the commercial and mixed use designations nearby the site on glisan, 28th and burnside. That's outside of the conversation we're having. We're just looking at those areas inside the purple boxes. Those are all residential. What is the impact of this facility on those residential only areas. The site plan here I just have a couple comments about the site plan. This is like an aerial photo looking down. The two houses on the bottom face everett street. The house on the north is the one that faces flanders. The hot tubs are behind the everett house on the right in this photo. They are behind a screened fence or enclosure. Then there's some open areas. I have two red stars on the site plan for the buildings in question. You'll hear more later. Staff recommended they be removed and the hearings officer concurred. An aerial photo here showing an aerial view, a nice trees, backyard, street trees. This is a photo of the former parking lot. It's being redeveloped as an apartment building on the corner of 28th and everett. It was an old one-story medical clinic. The parking is gone. The view of everett, red star means one of the two buildings staff recommended be removed. There's another picture later. Another picture of everett, nice street front, nice landscaped front yard. This is the main sort of pedestrian entry into this spa area from everett between the two houses. This is a picture of the backyard of everett. This is one of the two buildings with the red star on it that would be required to be removed if you were to go back to the hearings officer recommendation. The structure is in the setback. It would be required to be 10 feet off that property line under the zoning code. Staff recommended that be removed. This is the other temporary structure. It's also in the backyard of one of the everett street houses. It is also in the setback and staff recommended it be removed. Another view of the backyard.

Eudaly: It's not the properties that were recommended to be removed, it's temporary structures on the property.

Moffett: Correct. Gazebo type thing and a carport, both up against the west property line.

Eudaly: I initially thought you meant removed from the conditional use. Thank you.

Moffett: Just taking the buildings off. This is the flanders facing house. Another view of the driveway and loading area on the flanders side. The hearings officer spent a lot of time

March 20, 2019

going through the history of the use. Originally in 1980 there was a home occupation permit for hot tubs. Next you're due to increase in clientele the applicant got approval for 15 guests with conditions requiring off street parking, bike parking, adherence to the noise ordinance and subsidized transit passes with no new construction to take place. The following year they renewed that condition at use. The request is for sauna, massage and hot tub, counseling and a tea service. They requested limitations to the number served be removed. That was approved by the hearings officer. There were some conditions limiting intensity of the use. Acni, a, no more people -- no more people can use this facility than can be accommodated without creating undue noise or disturbances to surrounding residences. There's no way to enforce that so staff recommended that be changed. There's another problematic requirement, no new exterior construction. What does that mean, construction isn't defined so we tried to clean that up too. Staff recommended -- staff reviewed the proposal first based on the request that there was no change to the use. They wanted to get rid of the parking. We did not dissect the use or evolution or intensity of use. We said it's there, they want to get rid of their parking that's all we're looking at. We only had letters of support prior to the hearing. Our conditional approval included conditions requiring a case listing on the permits, that those structures be removed, there was little small structure that could remain but the two I pointed out should be removed. A condition requiring future conditional use reviewers for expansions instead of that condition that said no new exterior construction we're saying yes, but you have to go through this process. A new condition referencing title 18 noise issues and how to file a complaint and clarifying deleted and old conditions from the last case. There was a couple other conditions we just got rid of, condition to maintain licenses for the massage therapist, obey state codes and get a permit that was issued. At the hearing we had staff and three representatives from the applicant testify. 21 supporters testified and six in opposition. The record was held open for new information and rebuttal of the hearing. Very brief summary of the supporters of the proposal, use provides valuable health services, classes and seminars. They control noise with quiet hours and staff work. Many clients walk, bike or take transit. They have discounts for arriving by method of defense car. They hosts organizations and groups that couldn't find a place elsewhere at often free or reduced rates. The facility should not be punished for business growth or apartments built with no parking and the facility has deep community ties and provides a peaceful oasis. Opponents argue the use has expanded over the years and has a commercial character as opposed to community service. That noise and late hours detract from the residential character of the area and those evening hours should be reduced. Parking is limited and there's traffic safety concerns. Activity exceeds that of a community center and functions more like a medical office, which is prohibited. Original conditions of approval preventing new construction were ignored, that the parking study did not evaluate all the uses. They lost their nonprofit status but got it back after the city forced them to. Generally, expressing concerns about the intensity of it but very few wanted it to shut down, just scaled back. We got a lot of information during the hearings officer record. This is so text-heavy I tried to make it prettier. Lots of words.

Moore-Love: We're trying to work on it, mark. Hold on a second.

Moffett: During the open record period of the hearing we got additional letters of support and concern. There was a lot of information submitted about the variety, intensity and scope of activities from internal sources, groupon activity and other information. Information about code enforcement over the years. Some additional traffic data from the applicants' traffic engineer. Some city memos about use of the site. Some additional use information with intensity and occupancy information from the applicant. That was my 30-second warning. Clarifying memos from staff. There's a 1987 planner memo. Won't go into detail but this is one example from 1987 where the city in response to a request made a

March 20, 2019

determination that chiropractic services were not allowed or approved in the '82 review. The hearings officer found that the intensity had issues with two findings. The intensity and scale criterion --

Wheeler: Just to be clear under the rules the staff report is approximately ten minutes. They are basically saying don't go for an hour but we need a thorough analysis. Please continue.

Moffett: I think I have only three more slides.

Fritz: Would you go back to the previous one? You mentioned about the chiropractic use. Could you explain that again?

Moffett: So in 1987, they were coming in for a building permit to remodel the structure and the issue was they showed some chiropractic rooms on a floor plan. The issue was can they do chiropractic. The city planner wrote a memo in response basically saying that chiropractic is a medical office use and your original approval did not include chiropractic uses. I just called this out because it was the only other city memo in the file that was clear on the chiropractic use issue.

Fritz: Is there chiropractic use?

Moffett: There's chiropractic services at everett house.

Fritz: That's never been approved.

Moffett: That's what the hearings officer found. Yes. The applicant would argue differently. I'm sorry, back to the hearings officer's findings, the hearings officer found that a clear and detailed description of the uses is required to evaluate the proposal. I used green and red as code in this power point. Green uses are the ones the hearings officer said were approved in 1982. The red are the uses of the hearings officer said you never got approval for that. He said they had sauna, hot tub, massage therapy, relaxation and health counseling for individuals and small groups and the tea house. The hearings officer found their special events, chiropractic, acupuncture, flotation, workshops were not approved. Based on that, he also went into detail comparing their occupancy comparing it to the 1981 approval which isn't the one they are operating on but arguing the number of people visiting using the facility at any one time has dramatically increased over the years and that the 1982 approval eliminated those numerical limits but that it was still important for context. Again, i'm representing the hearings officer's decision. And that he said if the users had been unaltered from 1982 he would have approved the request but because of lack of information in the record about those additional uses and their impacts on surrounding residential area, that that had not been discussed or evaluated, he couldn't approve that criterion.

Eudaly: I have two questions. One is when the original application was submitted in the early '80s were all three properties involved?

Moffett: Yes.

Eudaly: There must be some limit to occupancy by our fire code. Do we know what that is?

Moffett: I don't but you're right. There is a fire code --

Eudaly: I would like to know that.

Moffett: There was a condition that said city and state codes apply. Fire code does apply, has applied, will continue to apply.

Eudaly: Important detail.

Fritz: This is not in the record, right?

Moffett: We talked about that in findings originally when we got rid of the old condition, that the fire code still applies.

Fritz: But not the number that would apply.

Moffett: We never got a number. I don't know what that is.

Eudaly: Is that not allowable, then?

March 20, 2019

King: Your question is how many people did the fire code in 1982 allow?

Eudaly: What I care about is now but --

King: How many fire code allows now?

Eudaly: Right.

Moffett: That's not in the record. [speaking simultaneously]

King: Regardless of whether it's in the record the building code would say, be triggered and they would have to comply with it.

Moffett: The fact it is subject to fire code limits is also in the record.

Eudaly: I guess I need to ask another question. Was this 15-person occupancy limit based on the fire code?

Moffett: No. It was the staff's determination during the 1981, the first one year only, conditional use.

Eudaly: Thank you.

Moffett: So the main criterion that is not met according to the hearings officer, scale, transportation, capacity which has a parallel statewide planning goal. Bottom line, the hearings officer found that the special events for up to 95 people as proposed were not covered in the traffic study so that's a situation where we don't have any information in the record to approve those according to the hearings officer. He did find that all the other things, the red uses, if you will, that he said weren't originally approved, he found those were covered in the traffic study. The traffic study is limited to special events issue if that makes sense. The only reason it's there is that he's saying they can't have the special events. Again, this kind of a summary slide. Found there was insufficient evidence to assess whether chiropractic, yoga, special event and larger class of seminars and workshops would lessen the overall character, appearance of the area. That the expanded list of uses, impacts of those expanded lists are not in the record or an analysis of those impacts and that because the intensity, scale and transportation related approval criteria were not met the request should be denied. He did say that if the council reverses the decision he recommends you go back to staff recommended conditions. This is another sort of summary slide. We have an on the record appeal. We talked about that. We have 120-day period expiring on October 17, so we have a little wiggle room. The red uses he said were not, that's your primary issue today.

Wheeler: Can I ask you a question? What is the assumption that this statement that is those were not approved, because they were not explicitly in the conditional use --

Moffett: He went into the 1982 document and looked at what the written description of it was which I had a quote earlier that was massage, sauna, relaxation and health counseling, tea service.

Wheeler: Is it typical that it would be that explicit in terms of conditional uses?

Moffett: We do define exactly which uses are approved in decision language. In this case that original 1982 approval just said approval of the conditional use. Then there's a bunch of conditions. The hearings officer had to reach a little bit back into the staff report to look for how it was described in the staff report. That's what he relied on.

Fish: If I could follow up on that, it doesn't seem that it's just the fact that the hearings officer couldn't find a reference to chiropractic services in the old documents. The analysis that the hearings officer made I think had to make was in his judgment, the services were not related to relaxation and health counseling services. In other words, had to make a finding that these are not the natural first cousins of existing uses that were permitted because clearly over time definitions can expand based on changes in the marketplace, changes in services. Isn't the key word not related to relaxation and health counseling services?

Moffett: That was really more in terms of the hearings officer language just for those larger class of seminars and workshops. He admitted he was being very narrow in taking a literal

March 20, 2019

reading. What were the specific things listed in 1982 in the staff report. Anything else his logic said was not approved.

Fish: When you go to a chiropractor, a chiropractor's shop will often provide massage services. One of the things you have to figure out here is what are like clusters of services that would be otherwise covered by the use at the time. And are these related. Let me ask you another question. There was a slide quite a bit earlier where you showed the corner lot being developed for housing that used to be parking.

Moffett: Yes.

Fish: What's the significance of that slide for purposes of our deliberations?

Moffett: It was just in the original -- that's what started this whole thing, that parking lot going away.

Fish: But in black here, font, second from the bottom it appears that hearing officer did not have a problem with waiving the parking, correct?

Moffett: Correct. He just said you couldn't do special events.

Fish: If the hearings officer had not agreed to that then there would be additional significance of developing the parking for housing because that might be a violation of a condition of approval.

Moffett: The condition didn't say where the parking had to be.

Fish: That's where it was.

Moffett: You have to have it within 300 feet of the site. That's where it was. It would be on the hook to find it somewhere else.

Moffett: Without that parking it would have made it more complicated for the applicant if the hearings officer had not waived the parking.

Moffett: Would have to build or lease parking within 300 feet.

Eudaly: As it stands, what is the staff recommendation for occupancy? I'm still confused on this issue.

Moffett: This is an h.o., we're appealing the h.o. Decision. I'm here to represent the h.o., and he would say yes to the green, no to the red.

Eudaly: That doesn't include -- doesn't include occupancy.

Moffett: There's no occupancy limit.

Eudaly: No special events.

Moffett: What the hearings officer would say is the items in red we did not get good occupancy information about. We couldn't even evaluate what the impacts would be. I think council has the discretion to decide, make their own decision about what was included in '82 and what was not.

Fritz: We're required to make the decision based on the approval criteria and evidence in the record and the burden of proof is on the applicant to show the approval criteria are met. The hearings officer found he couldn't find that they were met because there wasn't any information. In particular this red list, chiropractic and acupuncture services you said medical offices are prohibited in residential zones. You can't get a conditional use for them. Given that this is an on the record appeal how could we possibly get evidence that would allow us to -- overturn the hearings officer --

Moffett: We can't. That's the puzzle. They are in a bind. Their traffic study covered everything but special events. They left out all the red stuff and it's too late to submit information to make those legal now. They would have to start another conditional use.

Fritz: I don't see how we can possibly do anything but uphold the hearings officer's decision but obviously we'll keep going.

Moffett: I think i'm pretty well done with my summary. There's the use issue, what's in or out. Waiving parking, keeping in mind the special event limit and the temporary buildings that you'll hear about. I think you're aware of this stuff. You can deny the appeal, uphold

March 20, 2019

the hearings officer's decision. Grant the appeal, make changes, and modify findings or not.

Wheeler: Thank you. Any further questions? Next we'll hear from the appellant. Ten minutes, please. Good afternoon. Thank you for being here.

Renee France: Good afternoon. For the record I'm Renee Franz, here on behalf of the Elliott House Community Healing Center. With me is Elliott Mantell, the director of Everett House and Mike Ard with Ard Engineering who prepared the traffic study. I'm going to delve into some of the more reasons for the appeal in just a moment, but in the meantime Mr. Elliott will provide a background on the Everett House.

Elliott Mantell: Thank you. Good afternoon. I'm Elliott Mantell. I'm director of the Everett House Community Healing Center. It has provided community support and healing services in the current neighborhood for 38 years. I personally worked at the center since 1981. Consistent with our conditional use approval we provide a sanctuary for community, a social gathering place and respite from the busy city that Portland has become. Community members can also enjoy hot tubs, sauna, relaxation, healing services as well as workshops on health and bring life back into balance. Many come to the Everett House for our unique form of relaxation and peaceful ambience that we offer. This cannot be reproduced in a commercial setting because people come here for the inner city -- in the inner city because we provide social health minded space offering discussions, tranquility because of trees, nature and gardens and it's the tranquility we feel everybody needs. Community keeps our lives in balance and we're a full, inclusionary center welcoming all faiths, race, gender and economic means. Anyone can become a member of our community. We offer special discounts and additional free services to our close by neighbors. Community members can use our grounds, meeting spaces and kitchens free of charge. Our social impact initiative includes classes and workshops related to relaxation, health and well-being with many on a donation basis. These services are free or reduced fees for people of modest means. We strive to be good neighbors. We have petitions and letters of support from over 25 people on Everett and Flanders within two blocks of our center and over 40 within a few blocks many more letters and petitions from neighbors in Portland. To reduce traffic impacts we encourage alternative transportation, offer substantial discounts to those who come by foot, bike, bus, ride share. The Everett House subsidizes cost of employee bus passes and bike maintenance. Those have helped decrease parking demand and seems to encourage a healthier life-style. We have policies and practices in place to avoid noise impacts on surrounding neighbors. We ask that our neighbors walk quietly through the neighborhood when leaving whether it's day or night. It's abundantly clear from the many letters and testimony in the file that many people come to depend on the Everett House as their sanctuary, gathering place, respite from the busy city. We feel with Portland growing a quiet, hidden retreat center close to the inner city is needed. With counsel's help should be allowed to continue to serve the current neighborhood as we have done so proudly for the last 38 years. Thank you.

Wheeler: Thank you, sir.

France: To turn to the grounds for the appeal, we're here today because we disagree with the ultimate decision that hearings officer made in this case to deny the requested conditional use amendment however we agree with much of the reasoning and several of the conclusions of the decision. The hearings officer denied the requested amendment to remove off street parking condition based upon just two of the approval criteria. However the hearings officer also stated and this is important and I will get back to your question, Commissioner Fritz, also stated that had the applicant restricted its proposed uses to those approved in the 1982 c.u.p., then the application likely would have been approved. That was one of the bases the hearings officer could and would have found could be granted. We -- I will summarize, we believe the activities in the Everett House are entirely consistent

March 20, 2019

with that 1982 c.u.p. decision. So turning to the specific criteria at issue, the sole requests by the everett house was to remove the 1982 off street parking requirement. Therefore the central issue in this case is whether the city's on-street parking utilization requirements are met, the transportation analysis provided bard engineering clearly showed adequate parking is available under the pbot standard. Pbot agreed. The hearings officer also agreed with one very limited exception, and that was related to the special events. There was a mention of special events --

Fritz: An amber alert:

Wheeler: Sorry. Hermiston. An amber alert.

France: It's important to check those for sure. So again, the very limited exception that the hearings officer had for finding that the traffic on street traffic wasn't met was related to the special events however the everett house agrees not to hold special events and agrees to a condition of approval to that. The record clearly shows that the parking related criterion is satisfied. Second criterion at issue relates to intensity and scale of uses and everett house did not propose to change any of the activities through the amendment. Nonetheless the hearings officer found this criterion was not satisfied based upon a very narrow and he admitted that it was narrow and we believe it was unreasonably narrow interpretation of the 1982 cup. The hearings officer unequivocally found it was not permissible to reverse or otherwise modify the 1982 cup approval. We are in complete agreement with that position. We think it's critical in this case. In other words, if an activity associated with the use was approved in 1982, it cannot now be taken away. So the only thing we disagree with the hearings officer on is what activities were approved with the conditional use in 1982. The 1982 decision itself does not limit type of activities as staff mentioned however the staff report at the time provided the following description. I'm going to read it because it's a little bit different than what staff put on the board. Similar but different. The description in the staff report in 1982 read applicant requests permanent conditional use approval to continue sauna, hot tub and massage therapy services it will include relaxation and health counseling and a tea house food service. So I believe the text that staff had up on the board had small one on one or small group counseling. That was not part of the text of the 1982 staff report. That was the hearings officer's interpretation of what it said. An important clarification there.

Fish: How do you fold chiropractic services and acupuncture under that definition?

France: In the letter we submitted we believe that there's a connection with relaxation and health and it is similar in nature to massage therapy. Understanding that if you disagree and you read -- what the staff report said in 1982, they listed some very express uses then they had this broader category of -- broader category of relaxation and health counseling. So the question lies as you said earlier, commissioner Fish, what does that mean in the context of this decision. We believe that a reasonable interpretation would include chiropractic and acupuncture.

Fish: Your best argument is you're covered under the 1982 conditional use and you're saying that should not be changed positively or negatively because it already anticipated you could branch into things like chiropractic and acupuncture. That's your best argument.

France: Yes. To be clear if you disagree, if you interpret that language more narrowly then we would agree to condition of approval to cease those activities that you deem that are currently happening and were identified in the hearing officer's decision to stop doing those activities at the everett house. Again, to your question, commissioner Fritz, that is how you can approve this because the hearings officer said you either need to stick to the 1982 cup decision or you need to provide evidence on why these other activities meet the criteria. We agree with an on the record appeal we can't do the second. We're not arguing that we can. What we are saying is that what is being done now is consistent with the 1982 cup. If

March 20, 2019

you disagree and interpret that language in a more narrow fashion then we would agree the everett house would agree to cease those and only do those activities that are --

Fish: This is a rare moment in a complex matter where thanks to your advocacy I actually follow what you're saying. There's clarity and I appreciate the way you're walking us through this. It's very complicated. A follow-up question. If the council were persuaded to knock out chiropractic and acupuncture services as a condition of approval would your client still have the right to bring a new conditional use process to try to put them back in?

Reese: I believe that they would. It would require a type 3 conditional use amendment similar to the one we have gone through through this process. So they could request to bring it back in and at that point introduce evidence related to the impacts of that service provide additional details on what type of chiropractic practice is done. I believe they would have that option but they would also then be the option for an opportunity for public input and testimony and all the things that go with it.

Fish: Thank you for walking me through it. I now have a much clearer understanding of your position.

Eudaly: That was helpful for me as well. Here's the hitch. I absolutely agree chiropractic and acupuncture and yoga was also in question could be reasonably defined as relaxation and health counseling I guess was the wording, however chiropractic and acupuncture are considered medical services, and it sounds like there would never be a conditional use for medical services in a residential area. Is that what I heard someone say?

Fritz: Staff at the end.

Eudaly: Okay. It made sense to me but unfortunately we have to go with the existing rules.

France: Understood. I think if there were a future cup amendment to introduce the chiropractic services that have been included that would come along with evidence about how this is different than a typical chiropractor's medical office. Again, that's not today. That would be a future amendment.

Eudaly: Thank you.

Wheeler: Just so folks in the audience are aware of this, you're probably saying this has gone on more than ten minutes. When we ask a question the clock stops. So we don't penalize you for either our asking you a question or your responding to that question. It's truly just ten minutes of actual testimony.

France: I did have a couple more points to cover if I may.

Wheeler: 6.5 minutes.

France: Great. So I think we have covered through your questioning my next point, which related to those uses identified in the hearings officer's decision that he believed were expressly included and those that are essentially on the bubble and up to your interpretation. We do provide a more detailed interpretation of each of those activities in our written materials. The one thing I would state and again this goes to my point of the difference between what was in staff's interpretation is the number of people per class that would be considered health related counseling. I do in that case believe that the hearings officer placed an artificial and arbitrary limit of three to four one on one, three to four people. We would ask that workshops and classes related to health and nutrition and relaxation be continued to go. We would as a concession to the neighborhood agree to limit those class sizes to 20 people to help with the offsite impact concerns.

Hardesty: Can I ask a question? Would that be 20 people in addition to the 15 that are already permitted?

France: So I believe with the 15 that are already permitted you are referring to what staff had on their slide as 15 people. That number was in the 1981 temporary conditional use permit. That condition was removed when the 1982 conditional use permit was issued and there was no limit on the number of people that could be present at the site in the 1982 decision. So the hearings officer referenced that 15 person but we would -- I would argue

March 20, 2019

that that reference was actually inappropriate because 1982 decision completely removed that condition. In terms of the structures that staff referenced, everett house will agree to remove the carport type structure. In terms of the gazebo we would argue that's not construction as defined. It's a costco type structure assembled, would agree to move it to comply with the setback limitations but believe it's actually an amenity that helps benefit the neighborhood and reduce impacts from the site. That being said, if the council disagrees with that everett house would agree to remove both structures. Then I would just say add that we support all other condition changes proposed by staff. With that i'll turn it over to mr.ard to explain his transportation work and answer any questions.

Wheeler: Could I ask one question? Is it on the record or part of the record what the legal structure of everett house is?

France: The legal structure?

Wheeler: Is it a nonprofit organization? If that's not part of the record I don't need to know.

France: In staff's presentation that was addressed, there was questions about their nonprofit status. They satisfied that to the city's satisfaction.

Wheeler: They did? Okay. Thank you good afternoon.

Mike Ard: Mike ard with ard engineering. I prepared the traffic and parking analysis that was done for this project as well as their transportation demand management plan and parking update. We did a complete analysis that addressed all of the city's transportation related approval criteria listed under 33815105 d2. That was scoped, reviewed and approved by city staff. Included a significant parking study that examined impacts over a very large geographic area that extended from glisan to burnside and east from 28th for several blocks and there are -- included in the original traffic impact study 24 color coded pages that are maps of hour by hour occupancy for the streets in the site vicinity to determine what the parking demand looks like. What the parking supply looks like as well in the site vicinity. That really has been one of the major cruxes of the discussion is adequacy of parking. The city considers parking to be functionally full at 85% of capacity. So there has to be some buffer that allows people to find a spot without circling the block multiple times and having to hunt. What we found is that at the highest level of occupancy that we observed, the parking was 81% full. That is per my original traffic impact study. In the updated analysis I also noted that there were areas that were overparked. That occurs when I wheel out the distance of a particular segment of curb and decide that ten vehicles can fit there but when i'm actually counting the cars there were 12 that parked there. There are smaller cars, people are parking more efficiently than what we expect. I found at the time of maximum parking occupancy, there were actually 39 extra vehicles squeezed into spaces that I didn't say existed in my original analysis. When we account for that we find the parking was only 77% full rather than 81% full. Under either measure it falls below the threshold that the city considers to be functionally full and we met the parking requirement. Notably, all of the red uses that were listed in the application were present on the site and fully operating at the time that we did our parking analysis as well as our transportation analysis. So as the hearings examiner correctly pointed out, the transportation portion actually does cover all of those red uses in terms of the impact on the transportation system and on parking adequacy throughout the neighborhood. The only question not addressed in the traffic impact study is that of future uses because we were doing observations of existing conditions without projection of something added on to the top of it that means it did not cover event uses of the site, which as you've heard we have agreed to remove from the application.

Hardesty: Excuse me. When was the parking study done?

Ard: It was done in -- it was done on multiple days. They were in december of 2017, this project has been going on for a while. It included both weekday and weekend conditions. So that we captured both those dynamics.

March 20, 2019

Hardesty: Thank you.

Ard: So to summarize we believe that the transportation impact analysis and parking impact analysis did cover things more comprehensively than other uses. I think in terms of the neighborhood impacts of some of those interior uses that the impacts really are related to transportation and parking impacts. For that reason I think that the record is a little more supportive than what the hearings examiner had indicated of allowing continued uses as they have been in the past. I'm sure you'll hear from some of the proponents that they believe that the specific red line uses were related to relaxation and do fall under that category but I'll allow them to make those arguments.

Fish: I have a question for you. I think we're on the cusp of a moment of clarity in terms of understanding your preferred position but your fallback position. So I think in order to set the mark, because the council will then consider all the various options including potentially conditions of approval, I would rather hear it from you how you would frame this.

Assuming, and I'm going to set three conditions. Assuming the council was not persuaded that chiropractic and acupuncture were not covered in 1982, assume that the council agreed with your 20-person limit, and assume we agreed to split the structure issue. Your proposed finding -- you would urge us to adopt what? Reverse the hearing officer and impose conditions?

France: That's correct. Reverse the hearings officer's denial of the amendment to remove the parking condition.

Fish: And then with conditions.

France: With conditions. I would add again that we support staff's recommended conditions so that they have a list of conditions that they also recommended. And so then you would add a condition prohibiting under your example chiropractic and acupuncture services.

Fish: To be clear your position would be reverse the hearing officer, adopt the staff recommended conditions and then wherever the council fell on these three issues and you've expressed your preference but you've also acknowledged we may have a different view on that. Therefore, your client is prepared to cease chiropractic and acupuncture services for now if we deem them not covered under 1982, we can argue about the person limit and the structures.

France: My recommendation is a person limit for the classes and workshops. So I think a condition related to that does two things. It allows clarifies in the record the city that classes and workshops related to relaxation and health are allowed and the per person size of those classes would be 20 people. That's not a person limit on the overall occupancy of the three structures. So I want to be very clear about that because I think it's obviously important. It would be a condition limiting class and workshop size to 20 people. As opposed to what the hearings officer believed was included in the 1982 cup which we consider size of three to four people.

Fish: Thank you very much.

Fritz: Were you finished with your presentation?

France: I believe I answered your question.

Fritz: You were done as well?

France: Yes.

Fritz: Thank you. I think you have provided us with a way forward. When I read the hearings officer's decision I thought, my goodness. In line with commissioner Fish's questions, I'm getting these out, folks, so you can testify on whether this is a potential way forward. On page 3 of the director's memo to council we have suggested conditions from your development services. I'm old school. Used to be bureau of planning. There's three. I agree with most of them. There's one about the hours of operation shall be limited from

March 20, 2019

8:00 a.m. To 11:00 p.m. City quiet hours are 10:00 p.m. Would you object to changing that to stopping at 10:00 p.m.?

France: So that condition was in the original 1982 cup. The record indicates that the practice of the center is to have whispering hours, correct me if i'm wrong, whispering hours starting at 9:00 p.m. And silent at 10:00 p.m. So there's no talking within the houses beginning at 10:00 p.m.

Fritz: Great. I'll be happy to hear from community members whether that is a problem. If we're going to eliminate the vehicle parking, the car parking, condition h, from the 26-82 is to have ten secure bicycle parking spots. That doesn't seem very many in this day and age. Did you look at whether the bike spots were full up all the time?

Ard: The bike spots were not monitored over the multiple hours that the onstreet parking was. Bike parking is located within the site so not very visible from that perspective.

Fritz: I would be interested to hear from staff if this was a new approval with multiple classes each of which can have 20 people at them it seems ten bike spots is not enough in Portland in 2019. Something to think about. Then they didn't suggest a condition of approval on the event size so something that would say something like no event, classes or workshops over 20 people would be acceptable to you?

France: We would agree with that.

Fritz: Thank you.

Wheeler: I'm still fuzzy on that concept. You're saying each class or workshop in the facility would have no more than 20 people. Is that what you're suggesting?

France: That's correct.

Wheeler: But there's no limit on the number of classes or workshops you could be running simultaneously? Is that wrong?

France: I believe, this would be in the record because there's a site plan, there's only one meeting space that can facilitate a class of that size. It would be just by the nature of the buildings there could only be one class at a time.

Wheeler: Classes are always held inside?

France: I believe they are always held inside.

Wheeler: Obviously if you wanted to expand you would have to go through the whole process again.

Mantell: There's only the one meeting space.

Wheeler: Thanks. That's helpful. Thank you very much.

Mantell: Thank you.

Wheeler: Next up we will hear from supporters of the appeal. If you are a supporter of the appeal and you would like to testify, you must sign up with the clerk. We need that information. How many people do we have signed up?

Moore-Love: Ten left on the list now.

Wheeler: Ten on the list now. Come on up. Three minutes each. The clerk will call your name.

Wheeler: Is there anyone else here not on the list who wants to be on the list? All right, let's close the list, please. Good afternoon. Name for the record, please. We do not need your address. About six inches or so works and leave the microphone on when you leave. You can slide the microphones around however suits you best. Thank you.

Karen Abrams: Good afternoon. I'm karen abrams. I'm here in support of the healing center both as a resident in the neighborhood as well as long time patron since 1977. In fact i'm one of the earliest patrons of the center since I live at 2944 northeast cooch just two blocks from the everett house healing center. At the time I was able to walk there and it was a very pleasant surprise that something of that value was right in my neighborhood and so immediately accessible. I basically felt that I had close access to a community health, social and spiritual center and have always regarded it as a very valuable resource

March 20, 2019

in the neighborhood for neighbors and locals. As patron I used the original outdoor hot tubs, sauna and flotation tanks and massage therapy, chiropractic and health counseling when needed. I enjoyed the quiet, peaceful, friendly, supportive environment that I discovered inside and outside of the center. I returned to Portland in June of 2010 almost nine years ago and was happy to see that the Everett House Healing Center was still going strong retaining its unique ambience and healing offerings. Since my return I have utilized many of the same services as before. It was only in very recent years that I learned of neighbors who moved into the area who started making complaints about the center. It caused me to question their motivation because parking for one has never been an issue for me. I never once had a problem finding a spot for my appointments or whenever I wanted to use the facilities. There was never any noise around the center. Always very serene and pleasant. Throughout the 40 years that I have had a relationship with the center the owners and staff have always acted with the utmost integrity and respect towards all stakeholders. If not the center would not still be in existence and would not have been able to enjoy such longest. Thank you for this opportunity and for your thoughtful consideration.

Wheeler: Thank you for being here.

Michael Fox: Good afternoon. I'm Michael Fox. I live about a little less than a block away on Everett Street. I also serve on the board of the Kearns Neighborhood Association. I emailed an email in support of the Everett House amendment for the hearing for the last time. So I want to be here and reiterate that. I support the request. [audio not understandable] so the record shows the parking requirements are really no longer needed or are irrelevant and the house I think is a very positive thing in the neighborhood. Just living right there. I don't think they are going to significantly change anything with respect to parking and that's pretty much it. I don't think they should be held to the standard of I guess what we would call ancient parking requirements. You know, given that there's increased parking pressures. I don't think they will significantly impact anything with respect to parking. That's pretty much it. Thank you for your --

Hardesty: Excuse me. You just said that there's additional parking pressure but you also recommend that we remove the parking requirement. Those sound like contrary opinions expressed in the same sentence.

Fox: Yes. Because I don't think the Everett House is going to significantly change anything. The Everett House itself. Perhaps the surroundings will because as we all know everything is getting more dense. So at one point in time the parking requirements I suppose were more reasonable but nowadays I believe that with our density increase they are not.

Hardesty: What do you recommend for people living in the neighborhood who say that they can't find parking in their neighborhood because of visitors who are coming to the center?

Fox: One, I don't think it's very impactful. As I have lived there and I don't really see anything significant with respect to the parking situation present day. I do know that on 28th Street that has far greater impact. As I said --

Hardesty: I thought I heard two separate things and wanted to make sure they were both right.

Allen Wilson: Good afternoon. Thank you for being here. My name is Alan Wilson. I have testified at the first hearing and I'm here again today because I absolutely love going to the Everett House. I'm a Portland, Oregon, native. I was born here. I have lived here most of my life. I have been a business owner for 35 years in the landscaping industry. I'm a tree surgeon and I have done landscaping work for the Everett House. I'm also a basketball referee. Given the stresses of my jobs, I have done a lot of research about where I can go to relax. When I found the Everett House it was one of the best experiences of my life. I was in an auto accident about a year and a half ago and my treatment plan was the

March 20, 2019

highest level that one could ever imagine. People there treated me with the utmost care, utmost respect. Talk about mind, body and spirit, being in a space like that, to be in a spot where you can relax and meet and greet people from different ethnic backgrounds and stuff is pretty awesome for a person like myself. I have a son who was dealing with mental health about a year and a half ago. During that process and time, I brought him to experience what I experienced there. It was very endearing, very special for me to have that bonding time. I thought it was a very safe, secure place for me and my son. A place where I could share his experience with me and we could bond. I would just like to say that on behalf of all the experience that I have had there and all the people who have treated in we utmost care that I absolutely love and respect and honor this sacred place. Thank you.

Wheeler: Thank you. Appreciate it, all three of you. Next three people, please, Karla.

Wheeler: Good afternoon. Would you like to start?

Joshua Ryan: I'm Joshua Ryan speaking on behalf of Everett House. I am formerly executive director for the Pearl District Association. Recalls to me things that we were challenged with in the Pearl where neighborhoods that are so interesting and have such great amenities are why people come to those neighborhoods and after time they ameliorate the reasons for which they came. As I stated in my written testimony I have been a member of the Everett House since 1993. As an LGBTQ person I needed a place that was safe, inclusive and peaceful. I have seen visitors, families with children, women with mastectomies working through their health issues in the bravest possible ways. People with circulatory issues who prefer to soak or have massage or include alternative healing to their health strategies. I have been pain and prescription free for two decades. I have always been respectful of the neighborhood. I live in the neighborhood. I arrive silently, speak in whispered tones. I understand this is not a bar or party place or public pool. It is a sanctuary. In my time I have never seen an argument or inappropriate behavior. I respectfully ask council to make a decision that allows the Everett House to continue in this space to keep the qualities and the lifestyles that are so unique to this great neighborhood.

Wheeler: Thank you. Good afternoon.

Aaron Cardella: Good afternoon to you. Aaron Cardella. I'm a resident of the Kearns neighborhood. I live three blocks from the Everett House Community Healing Center. I have previously served on the board of the neighborhood. I'm now the secretary at the Mindful Men's Meditation Meeting of Refuge Recovery. That is a community supporting recovery from addiction of all kinds. We came across the kindness and generosity of the Everett House at a time of need in our program. They offered us space for group meetings and counseling free of charge in the existing meeting room. We're grateful for the healing space. I also have personal experience with parking and traffic in the neighborhood and find there's ample parking in the area. I request that council approve the requested amendment so this heal community space may continue to provide space and service for those in need. Thank you for the opportunity to speak.

Wheeler: Thanks for being here. Good afternoon.

Lisa Chung: Hello. I'm Lisa Chung. I'm a retired attorney and have played roles in public pension funds in the past. I live on Cesar Chavez Boulevard, nine blocks from Everett House. Before explaining my positive experience with the Everett House I would like to note that it is well documented in the record that personal matters are involved in the primary opposition to the Everett House. As indicated in the testimony at the first hearing my husband, my sons and I regularly visit the Everett House for body work and healing and I usually walk there from my house. I personally have found relief from back pain through use of the spa, massage and chiropractic services offered at the Everett House. Knowing that I can go to this urban sanctuary has been a blessing for me. I support removal of the off street parking condition and request that the council reach a decision that allows continued operation of this important community benefit. Thank you.

March 20, 2019

Wheeler: Thank you. Thanks all three of you. Next three, please.

Wheeler: Good afternoon.

Jonathan Akers: Good afternoon. I'm Jonathan achres, a resident in the kearns area. My family has resided there for 80 years. Seen a lot of changes in the city. I'm also a construction worker, been home remodeling for 25 years, helping beautify this beautiful city that we all love. I also enjoy going to the sanctuary of everett house to get healing for my body. Because I do put it through a lot of rigorous things on a daily basis. It's quite the gem in my neighborhood. It's convenient, and I always walk there since I live so close. I would love to see this place stay alive. That's all I have to say.

Wheeler: Appreciate it. Good afternoon.

Lucas Littlefield: I'm lucas littlefield, a resident very near the kearns neighborhood and I also attend the everett house regularly. I would say four to six days a week. I attend both in the earlier part of the day, daytime hours as well as very often at night as my schedule requires me to do more night soaking than day. To that point there's only been in my four years of attending there's only been one time where there was any kind of a noise situation where one of the members was just getting a little chatty and it was during the whispering hours. The other patrons in the pool at the time sort of collectively quieted that person down politely and respectfully so staff didn't have to be brought in to take care of the issue. Again, in four years of attending commonly at night that's the only issue I have ever personally experienced with sound. After my sessions I usually walk the neighborhood, stroll home, cool off after the hot water and steam. At that time again I haven't noticed myself any issues with noise disturbance in the neighborhood whether at the actual everett location or the blocks surrounding. The final point I wanted to make in response to the bike parking, I often bike and I have never had a problem finding a place for my bike there. If it's bunched up there's usually room around the rack itself. From my experience there's not an overparking issue with bikes specifically. Thank you for the opportunity to speak today.

Wheeler: Thanks for being here. Good afternoon.

Bob Czimbai: I'm bob spoll. I am one of the original founders of the in-town retreat center. At the time I was director of a retreat center around forest grove meeting with david floss son. We said let's start one. We started this place and instantly the response, the need for this type of facility was overwhelming. So we expanded it from one to two buildings, three buildings it is now. It really has become an in-town retreat center. Many of us use the spa. We don't need our own hot tub at home which I thinks is very ecological. Our health and spirituality -- I go there once or twice a week every week for 40 years. You see something that people's health and spirituality is totally integrated there. To deal with an issue earlier about chiropractic and acupuncture, at the time the facility was created I had a long beard and hair. I taught yoga. People came to relax. In 1986 I was hit by a couple of trucks off the freeway. It was devastating but I can go to the everett house and get chiropractic, acupuncture, and the hot tubs. That got me through that time. So to me acupuncture, massage, all this is so integrated when people come in in pain and if chiropractic, acupuncture helps, massage, hot tubs help, when you reduce pain you create relaxation. To me they are inseparable. I think Portland needs to recognize that the everett house is a Portland treasure that needs to be preserved and protected. I hope if you could see what I have seen over the years people come in they are tense, they leave very mellow. We need to see more of that in these troubled times. It's our home. It's our sanctuary. It's our -- means so much to so many. You can only experience it you would know what this is really all about. I see a thumbs up, all in favor of the everett house? Thank you. Very much.

Wheeler: Thanks all three of you.

Fish: We always get a founder -- we had -- you said your colleague is a founder. I'm struck by the fact that you were able to assemble three properties in an inner northeast

March 20, 2019

neighborhood. What was the serendipity that allowed you to acquire three single family homes in an area as both residential and as highly regarded as this one?

Czimbali: Well, I think a lot of it is just good luck. At the time I just sold my house and I made \$10,000. I donated 10,000 for a lifetime membership so that could happen. People stepped up and loaned david slosson like \$400,000 so the finances came together. People put their personal finances online to see this vision become a dream.

Wheeler: Thank you. Good afternoon.

Bridgid McGrath: Good afternoon. I want to offer a little perspective. I'm bridget mcgrath, i'm originally from berkeley, california, the home of crazy parking. I lived in Portland almost 20 years ago and i'm back in part because I watched our lakes dry up in the oakland hills in the five years before I moved. I want to point to a couple of larger issues. One, water is sacred. It's healing. This is a community resource clearly as you've heard. Also since moving back to Portland almost three years ago I can park anywhere I go. That is unheard of in an urban area. We're all experiencing pressures in these big cities, san francisco, oakland, Portland, seattle, but to move back here almost 20 years later and still be able to park within a block or two of almost everywhere I go in the city, that's unheard of. You guys need to zoom out a little bit and think about the perspective of what's to be expected in an urban area. You can't always park across the street from where you're going. The fact that Portland does such a good job with transit, people biking and walking I think that speaks to the fact where this tradition has come from can condition despite the pressure of condos being built on every corner, one of the reasons I came back here was this concept of sharing resources. As bob said we don't all have to have a hot tub in our backyard to build community, to share resources, makes so much more sense. I want to support the everett house as an accessible resource for the working class people of Portland who need it. In fact the groundswell of support is evident that every neighborhood needs a resource like this.

Wheeler: Thank you. Appreciate your testimony. Next up we will have the principal opponent, who will have 15 minutes. Good afternoon.

Wheeler: I just want to clarify with legal counsel since there are documents being handed out --

King: Staff reviewed and confirmed all that was already placed in the record. We will also provide a copy to the applicant so they have an opportunity to object.

Wheeler: Thank you. If anyone has any objections about anything they can please see the legal counsel.

Fred King: Mayor wheeler, commissioners, good afternoon. Thank you for this opportunity to share some thoughts about this appeal. I agree -- i'm fred king. I live the 2904 northeast flanders. I agree with just about everybody who testified in favor of everett house. It's a wonderful place. I have been there several times myself. I don't know anyone who doesn't like getting a massage and sitting in a hot tub. That's not what this is about. From their website first document in your packet is a story from the Oregonian. Last year they ranked the best tourist attractions in Portland and when they did that they found that the zoo is number 17, omsi number 19. Everett house was number 5. It was the fifth rated tourist attraction in Portland. So I guess the question for me is how does a nonprofit community center in a single family residential neighborhood get to be the number five tourist attraction in the city? That's what I would like to talk about now. As you can see from the next document, as far back as 1982 the planning department staff report for the conditional use permit said staff had reservations about allowing unlimited use of the site. It appeared the applicant should seek a more flexible, properly zoned site if expansion is to continue. In the words of the hearing officer in november 2018, the operation was increasing in scale by providing services on a metropolitan-wide basis. That pose add threat to the neighborhood and that their own success dictates they relocate to allow expansion rather

March 20, 2019

than intensifying in an r5 area. On page 16 of the decision hearing officer stated that approval criterion requires analysis of intensity and scale of the proposed use to determine if the applicant's proposal significantly lessens the appearance and function of the residential area and he determined the proposal did increase the uses, scale and intensity of uses of subject property. The business had already outgrown the neighborhood 37 years ago. Since then they have added more services and kept growing. Last year they bought a fourth house adjoining the other three. The sheer number of people that you've heard from today and the staff testimony are proof that everett house has outgrown the neighborhood. They have become so big they sold over \$50,000 in groupons even though on paper they claim to be a nonprofit. The next document in your packet is an article from the willamette week 1995. They try to expand that year by putting a new hot tub in the backyard of the house with the chiropractic office. I was very surprised to look out my kitchen window that year to see this hole being dug over my backyard fence and a new hot tub ready to be installed. I found out this is in violation of conditional use permit appeared took steps to contact the city about it. City stopped him from building at that point as you'll see in the article. After that mr. Mantell took steps to take over the hot tub business next door from the previous management called common ground. Now, everett house management has claimed to be in the neighborhood for 38 years but that's misleading. Before 2006 the hot tub business was operated by mr. Mantell's partners called common ground. In 2006 he forced them out. First raising their rent then suing them. He claimed that he found mold on a wall in a basement room. Imagine that, mold on a wall in a house built in Portland in 1905. But he sued them and you have a copy of the Multnomah county circuit court case, mantell versus common ground. After settling that case he took over the business for himself and common ground moved to a commercial zone on 33rd and matter and are still there today. After he took over the hot tub business attempts to expand ramped up. It's normal for a business that provides great services to grow but condition one of the conditional use states that no new exterior construction shall take place and condition e states all applicable and state codes shall be met at all times. They broke both many times in their attempts to expand. The green folder that you have contains some of the violations they committed over the years including june 2006 when they were cited for operating a business in a residential area. October 2006 where they were cited for installing flotation tanks without permits or inspections. 2011 a kiosk in front of the flanders street property. December 2011 they were cited for installing a new hot tub in violation of their permit. Removing a stop work order without approval. March 2014 there was a noise complaint, drums and gongs audible with doors and windows closed. They were cited for not having exclusive parking spaces and for having commercial space in a residential zone. They currently have an eight-foot fence which exceeds code height. That's a total of five times they tried to build new hot tubs, flotation tanks, steam rooms, all in operation. Twice in '96, in 2006, twice in 2011. They have told you and they told the hearing officer at the land use hearing that the parking problem is from the restaurants on 28th street and businesses on glisan. But the parking problem started long before a restaurant row existed. When the starbucks on 28th and burnside was a rexal drugstore and whole foods was a food value the only restaurants on 28th were holman and shin yang. My wife and I own a house directly connected to -- sorry. Parking timer. Directly adjacent to one of their properties and we have -- when we got the house there were two beautiful flowering japanese cherry trees in front of house. We had to cut one down to build a driveway because my wife would get home with two kids in car seats and groceries and have no place to park, have to park a block away so we had to lose those trees. At the time these were not people parking to go to the restaurants. The restaurants didn't exist. These were people with towels going into the hot tubs. They were required to have 30 exclusive parking spaces and the city accepted a deal for lease spaces they had sharing

March 20, 2019

spaces with another business but you'll notice in their proposal and four of the people that testified before me, that they didn't actually use the spaces that they had a contract for because they always had parking on the street. I don't think even to this day understand that the whole idea of the parking requirement was that they would park there. Not just have it on paper, but tell their customers to park there, the employees to park there, it's on paper, good enough. As you can see from the next document the city in 1987 again in '97 operating a chiropractic office in rfi zone was a code violation. If you google them you'll see next photo is an add for chiropractic services and a sign on their porch proudly advertising it. Code violation. I mean they're just not supposed to be allowed in r5 zone. But I don't know how they justify that to themselves. Conditional use permit space that no more people may use this facility without then can accommodated without disturbance in the surrounding residences. You have to understand the hot tub are right over the back yard fences of the adjoining houses. People in the hot tubs, if you've ever -- you probably have used a hot tub you have to talk louder than normal to be heard over the motors of the hot tub and noise and of the water and everything. We can clearly hear conversations, if you are in our back yard, summer afternoon relaxing you can hear conversations continuously coming from the hot tubs. And you can hear music from their after-hour parties. One of my neighbors called in a noise complaint every day last summer and response to that noise compliant they installed a waterfall in the hot tub. One of their practitioners used to conduct therapy session in a shack in the house next door to my home. This horrible screaming noise the first time we heard it we're sitting in the back yard we thought should we call 911, try to help found out eventually that he was doing some kind of primal scream therapy. In 2006 he bought the house at 2926 northeast flander, at that point the activity of that site ramped up. The next document that you have is a list of 50 different organizations in eight massage therapists who use space in that building. The businesses include a business that are using that space include a business that will charge you \$25 for a full moon ceremony. \$40 for lessons in astro projection. \$99 to create a vision board. \$500 for couples massage classes. \$20 to learn how to be your own best friend. Now, I don't have anything against these people making money, that's fine with me, whatever they want to teach. But I don't understand how this could possibly be a nonprofit community center. That doesn't make sense. Their permit allows them to have sauna, hot tub, massage, tea house as long as customers park somewhere else. All this extra activity, the chiropractic office, acupuncture, flotation tanks, steam room, two or three classes a day, this goes way beyond what was allowed for in the conditional use permit. There's a reasonable limit to how much commercial activity you can have and still have neighborhood function as a residential neighborhood. We have delivery trucks coming and going every day. The picture you have thereof all the delivery trucks there's a kombucha truck on the right that truck sat in the middle of the street for full 20 minutes we have time stamped evidence of that. On leaf pick up day they sweep the leaves up in the street, our leaves don't get picked up because they're covered with cars that are parked there waiting to use the how. I was told be careful what you wish for if the house goes, they're going to be people living in those houses. That's four houses in a prime neighborhood that can be used to house people in a city that needs more housing for people. I think it would be great to have people living in those houses. I like my neighbors. I can look for my back yard on 29th street all the way down to 30th street I can see the play structure that my kids used to play in when they were little, because I sold it to my neighbor because he had young kids. Another neighbor, lot of my neighbors see out work on the gardens, I learned about feather male which I had never heard of before. Another neighbor of mine has an amazing block party every year. We had to have two trees taken down last year one was rotten the other was just falling over. They wanted \$600 to haul the wood away just for the wood. And I have a neighbor who he has a wood stove I asked him if he wanted the wood. He removed

March 20, 2019

the wood for me, chopped it up he's using it to heat his house for the next few years, he got free wood, I saved \$600. Just saying this to illustrate you have different kind of relationship with people who live in a neighborhood than you have with people who are coming there to go to work. I also want to say that the land users view process in this case including today's hearing was serious seriously flawed the neighborhoods in the neighborhood did not get proper notice of the november 26 hearing of the proposal to eliminate parking requirement, it was sprung on us. As you can see next two documents october and november 2018 agenda of the kerns neighborhood association nothing about it on the october agenda. We didn't hear about it from the neighborhood association until november 21st the day before thanksgiving five days before the hearing giving us no time to organize a response. We had no input into the preconference hearings, you heard mr. Moffit say they had letters of support when they were preparing their preconference materials. And the president of the neighborhood association was told before the november meeting that the propose hall had already been approved. Which was obviously not true because the hearing hadn't happened yet and ended up being denied. Why did this happen? Because appellant, elliott mantel is the land use chair of the kerns neighborhood association. If you look at page two of the announcement of this appeal under neighborhood contact you will find his name. Now, doesn't make sense for person who doesn't live in Portland, has development plans in the neighborhood, land use for neighborhood association. At the november 26th hearing when asked to give his address, mr. Mantel and his wife gave addresses on everett street in one case a vacant house when in reality they relied in lake oswego. Should have been available to the neighbors provided false address information, corrupted the review process. They provided customers free uber rides to this hearing today. Finally I want to direct your attention to a study by metro marginal impact of urban amenities which confirms that the idea when starbucks loses a neighborhood, values of homes go up. Other studies when you live near a spa the value for your home reduced by 11.3%. Basically granting any wiggle room, appeal other than denial will give everett house the wiggle room it needs to keep doing what it's been doing. Given long history of noncompliance, I think the only alternative that you can really enforce is total denial. We can't wait another 2 years, they became the fifth tourist attraction by baking zoning laws and violating each and every condition of their permit now they want to be rewarded for it.

Wheeler: Can I interrupt you for one moment. You're over your time. And i'm allowing you to go within reason but then i'm going to offer the appellate additional time should they so choose. Are you close to being done? How much longer?

King: I've got 20 seconds.

Wheeler: Perfect. Go for it.

King: Unfair to the people 2349 community who live close to this business, fool me once, shame on you f. The city can't see from that management has tried to fool us again and again and again and shame on us.

Wheeler: Great. Colleagues. Commissioner Fish.

Fish: You know I read through your prepared testimony and thank you for taking the time to do that because I was able to read it, a that a lot of the issues that you've raised, I understand they are issues of concern to you don't seem particularly germane to the hearing before us. Because the issue before us has to do with the conditional use approval of whether we let this particular applicant off the hook on off-street parking.

King: I'm not sure which are not germane?

Fish: Lots of information where the applicant lives, whether these homes should be restored to single family residences or passing judgment on this particular business being in a neighborhood and neighborhood association politics and process. I appreciate that you have the right to offer that testimony. We have conditions of approval that we have to

March 20, 2019

follow so i'm trying to adapt your testimony to the issues before us. So I wanted to give you a chance to address something that you didn't -- I don't think you addressed in your testimony which is, you heard the traffic consultant hired by the applicant saying specifically that the neighborhood could accommodate the parking without this requirement, this condition of approval about dedicated off-street parking. That is one of the very narrow and key issues that's before council. I wanted to give you a chance to respond to what you heard in terms of the expert testimony or the consultant's testimony on parking.

King: Sure. Well, I looked into this a little bit I found out that the appellant did not only hire one traffic engineer, he hired several and selected the one that would give him the result that he wanted.

Fish: Let me just, I appreciate your right to frame your case in any way you want. Our job is though much more narrow. He can hire ten and cherry pick the one he wants. What i'm giving you an opportunity to do is to tell us, you were here, you were present when their traffic consultant said that there is sufficient parking capacity in the neighborhood to give us confidence that we could relieve the applicant of this parking requirement. That's the major issue that triggered this whole thing.

Patterson: When are you going to retire?

Wheeler: Folks, excuse me. We cannot have this hearing interrupted as per the rules that were read right up front you know this, mr. Patterson, thank you.

Fish: Just take a second here.

Wheeler: I said you're in -- you're in violation of the rules that were read up front that is a land use hearing.

Fish: I apologize for that interruption.

Wheeler: One moment. Go ahead, commissioner.

Fish: We celebrate democracy in these chambers. We take everyone as they come. I just -- what i'm signalling to you, sir, i'm not trying to argue the point is i'm looking for relevant information that can help make my decision. The original issue had to do with parking. We had a consultant say that there is sufficient parking you apparently live adjacent to one of these, you are uniquely qualified. What is your view of the consultant's testimony that there's adequate parking so that the applicant can be relieved of this condition that they provide-street parking.

King: Sir, as work as research analyst for the state of Oregon i'm trained as an evaluator. What i've learned is that when you're hired to perform any kind of evaluation you have certain amount of leeway in looking at data and given the pressures that you're experiencing in that position, you can pretty much come up with any result that the client who is paying you wants to come up with. Last night we had a situation where one of the people who was employee of everett house park directly across someone's driveway, completely blocking the driveway. So my -- I guess my reaction to your question is experiential. I've had several times i've been able to leave my house -- leave the driveway I described earlier because it's being blocked by their customers. The city has recently reduced their response the way that they respond to parking requests like that. They no longer have a hotline where you can just call say, somebody's blocking my driveway, send someone out to give them a ticket. They now -- city no longer responds in that way. I think that problem is going to get worse. As far as the traffic study, I think it's just a little bit too fudgey, too easy to fudge something like that would be my reaction.

Fish: Thank you.

Lauren King: Council, can I briefly just let you know that the applicant has indicated that Oregonian ranking, the tourist ranking that is not information that is in the record if council could please disregard.

Wheeler: Commissioner Fritz.

March 20, 2019

Fritz: Thank you for the historical context. In your documentation that business hours should be reduced. You suggest that the hours of operation should be reduced.

King: I don't believe that that solution that will work. Over the years -- over the years we've negotiated this back and forth we met with -- to come up with negotiated solution and my honest reaction to your question is that anything we do short of denying this appeal is going to give them wiggle room to explain why chiropractic should be considered part of relaxation. Why acupuncture is part of hot tubs, I don't know. I guess the phrase that comes to my mind is give them an inch they will take a mile. I think the problem goes beyond specific hours, numbers of people, they have another -- they bought another house now which supposedly is not going to be part of the complex but it's right next to it and there are pipes laid underneath retaining wall that are connecting the two. In the past they have water courses between the everett street house that attracted mosquitoes. It's just a situation that I don't think we can put back in the bottle at this point by having half measures.

Fritz: Okay, I was particularly mindful of your comments about being able to hear the conversations in the hot tub when you're trying to enjoy your back yard. I think it's clear to me that this operation is expanding and expanding and expanding. One of the options to -- i'm retired registered nurse you're never going to convince me that chiropractic and acupuncture should not be considered medical. We spent a long time making sure that people's medical insurance covers those very services. That is a bottom line thing, that's the thing that the hearing officers denied application on. If we were to deny the application they would continue operating, have to find some other off-street parking but they would continue operating.

King: I'm sorry. Could you repeat the question?

Fritz: The application is to get rid of the off-street parking it's not renewing the entire conditional use. So if we uphold the hearing officer's decision just say no, they get to continue operating as they are except that they would have to find a different location for off-street parking.

King: Right. Given the fact that that doesn't exist, I don't understand what would happen at that point.

Fritz: Okay. You are thinking that just reducing the hours is not going to make that much of a difference.

King: In my experience, no half measures would work with this organization.

Fritz: You said that one of your neighbors submitted noise complaints every day last summer.

King: Yes, ma'am.

Fritz: Is that in the record?

King: Staff is indicating that it's not in the record.

Fritz: Not in the record.

King: Maybe the noise department has that record, I don't know.

Fritz: I'm not --

Wheeler: Can I ask you not to open the curtains please, just let him deescalate a little bit. Thank you.

Fritz: For the purpose of this particular hearing we have to decide on what's in the record. We have to decide can the application be conditioned to meet the approval criteria. And so i'm in a bind because I appreciate that the character of your neighborhood is very much changed by this business and this suite of businesses that is operating in it. So thank you for coming.

King: Thank you.

Wheeler: Commissioner eudaly

Eudaly: I have a question/concern but once again i'm not sure --

March 20, 2019

Eudaly: That is the issue of improper notification by the neighborhood association.

King: The calendars were part of the record for the hearing.

Eudaly: The calendars were part of the record but can we be illuminated on whether the process was followed? I'm looking at the attorneys right now, sorry.

Lauren King: I'll let them speak to what happened at the hearing in terms of what evidence was and wasn't included in the record.

Eudaly: Thank you. Mr. King.

King: My understanding was that they were related -- they were preapplication conference happened in 2017. The calendars I submitted were 2018. Of october-november.

Moffett: There was information in the record about -- you're saying neighborhood did not properly notify for preapplication conference, that's not strictly a code requirement. There are notification for land user view which we met.

King: Okay.

Moffett: Can I go offer short list of new information that I heard in the testimony? I think mostly it's not relevant as was mentioned. Tree removal and driveway issue, the notes complaints leading to waterfall not that there weren't noise complaints but led to the installation of the waterfall that was a new statement. That the tree removal -- tree was removed, wood was given to a neighborhood not relevant but new. That a false address info was given by applicant, that's not really relevant but new understand free uber rides, new, not relevant.

Wheeler: Next up are opponents of the appeal. How many people do we have signed up.

Moore-Love: Two left on the list.

Wheeler: Three minutes each, name for the record, please.

Moore-Love: We have levi coal and mylinda king.

Wheeler: Good afternoon. Thank you for being here.

Levi Cole: I'll just read my prepared testimony you can ask me questions you might have. Much along same line of I live on the same street as mr. King and I was a little bit mistaken as to the nature of this testimony and I thought it had to do with the entirety of the variance itself, things that they were asking for so i'll try to abbreviate.

Wheeler: That's why I was asking those questions because the presentation sounded like it was dealing with a much bigger issue than the narrow issue before us. And that also runs the risk of us getting information that's not in the record and stuff that's not germane.

Wheeler: I was just trying to focus. But we're allowed to consider.

Cole: Excuse me, my name is leviticus cole i'm an rn. The people on my street, I will loosely speak for a lot of us we all signed a petition, the original petition for the last hearing so i'm sort of speaking for a number of people who can't be here today. We just feel that this appeal should be denied, partly due to parking, mostly due to parking i'll try to stick to that topic for us the parking issue is not -- it's a traffic issue and the number of people that come and go from the building creates a safety concern for us. It's definitely an 'noun answer where people block your driveway and can't find place to park. That is not the city's concern I don't know how to address whether somebody said it was a viable thing or parking study. I can say that it doesn't feel to people who live on that street as though this is an acceptable level of business. I've lived there for eight years and it's only increased over time and it's become kind of drastic, the difference just from eight years ago to the amount of traffic that people come and go and they have expanded. They bought the street across the street from my house i'm sure that had an impact on it but it is incredibly noticeable. For us, for me anyway I have two little kids who were out in the street plague on the sidewalk a lot, playing on the sidewalk a lot it's a disturbing amount of traffic. It is traffic that you can see as directly related to the everett street house because you can watch them park and go in and leave that building and get in their car and leave. So it's not a speculation on my part. In my testimony I was going to say things about commercial

March 20, 2019

zoning how it sort of been a little bit mission creep and expanded passed what it was extended to be. If that is not what this hearing is for --

Fritz: That's in the hearing officer's decision.

Cole: Much in the same -- fred is exhausted he covered a lot of things that I would say i'll try to abbreviate that. It does feel to those of us who live on the street, i'm not an attorney, i'm not in mantell's books and not trying to talk out of school feels very much like this business is not operating at all like the original 1982 conditional use permit was intended for it to be. Doesn't feel like a community center feels very much like for-profit medical office building which I have no problem with any that have except for the fact that it's in the middle of my street and residential neighborhood. And it's having a pretty profound impact on the way that we live our lives and feels as though this isn't what the city intended it to be like. Again, I don't have anything against -- I know it provides service for people and people are very obviously very passionate about this place and what it provides for them, I don't disagree with that at all. Just having a big impact on our lives for people who live on that street.

Eudaly: Mr. Cole, make certain that you know that it's not some of the issues raised are not a concern of the city, it's simply the very narrow restriction --

Cole: Not mandate of this hearing.

Eudaly: This is not a typical city council hearing that is a land use proceeding.

Cole: Then i'll leave the rest of that. Thank you for your time.

Wheeler: Thank you. Good afternoon.

My Linda King: Hi, my name is mylinda king I live across the street from levi on flanders street, I will try to be brief. We are concerned about the ramping up of activity over the years. I have lived in my house since '94 I can say there's definitely been just one thing piled on, one thing piled on, one thing piled on, new things added and i'll just give one example. A few years ago the flanders house, as it's called, was owned by somebody else and at that time it housed, I think about nine -- at leased out about nine rooms for massage, mostly. Then few years ago mr. Mantell bought that house almost immediately uptick in activity to the house in addition to the nine massage rooms that were rented out. This is a calendar of events for the flanders house now and every day there's a class, many days there are two classes, this is in addition to all the other practitioners that work out of that house. And I think that this is the kind of thing that really impacts our neighborhood. When art talked about on everett and flanders street there are more cars parked on the streets than spaces even allow. What that translates for us, the people that live there is that our driveways are blocked. And this is, I don't know if they keep records but if you could look at how many times parking comes to our street for a car blocking a driveway, I think you'd be surprised. It happened just yesterday, it was practitioner that worked out of the flanders house, completely blocked somebody's driveway. So this is the kind of -- like adding more services is one thing, adding more events, classes is another. And to say that 0 is an acceptable number, this is in addition to all the other people that are there already for all these other things. I think it is a parking issue. And you can perhaps come some time and see for yourself what it's like. So I just want to conclude and say that we've got a letter that we submitted in the last hearing, 0 people on my block signed it saying they oppose this. I would like to urge you to uphold the denial because I don't think the city has the bandwidth to monitor all of these issues. I also don't think the business could be trusted to comply. I thank you for your time.

Wheeler: Thank you for being here. That concludes the testimony, is that correct, Karla? Very good. Next up any rebuttal by appellant should the appellant so choose. You have five minutes plus an additional 45 seconds as result of the principle opponent taking extra 45 seconds. Karla, if you can set at 5:45 please.

France: For the record, renee france.

March 20, 2019

Wheeler: One moment. We're having some troubles with the timer. 5:45 please. There you go, thank you.

France: Like the shot clock in referee you have the referee reset it. One of the things that strikes me in listening to the supporters of the hearing officer's decision, I guess we'll call them testimony and I think it's played out in the record is one of the hard things, I know that the hearing officer struggled with this as well the 1982 conditional use permit had some ambiguous conditions, vague conditions, it had some conditions with requirement, is that weren't defined in code, for example, new construction. It's not a term that is defined in code. One person can look at a gazebo that they buy at Costco and assemble and place in back yard in residential setting and believe that that is not in violation of the condition. One of the true benefits I think of this process is to get conditions that are clear, less ambiguous, have grounding in the code definitions and I think that staff's conditions actually do that. I think in terms of the concerns about construction that has popped up, largely comes from ambiguous conditions that were in the past conditions that is rectified if you were to adopt our requested decision with the conditions proposed by staff. And I think that benefits everyone. I think it benefits the Everett house, the city, enforcing the conditional use permit. And so I think again that goes to addresses Mr. King's, many of Mr. King's concerns about wiggle room, the proposed condition language takes away that wiggle room by and large. There were a couple of items as staff noted of new evidence, would note that I don't believe that the schedule that Mrs. King presented is on the record. The other thing just in terms of clarifying the record, the Everett house actually made a public record request to determine if there were any formal noise complaints and they discovered only one. It is on the record. It is exhibit h59 in the hearing officer's record. It was five years ago. Again, just clarifying the record in response to Mr. Cole's testimony the applicant has never requested a variance, instead it's an amendment to existing and valid conditional use. In terms of the use types and activities, again I want to be very clear that our preference would be and we believe that all of the activities including chiropractic and acupuncture fall within a reasonable reading of the 1982 c.u.p. There is history in terms of discussions with the city that I cited in our letter where it talks about Mr. Mantell's practice being nontraditional and holistic style of chiropractic medicine. And that he was doing the same type of chiropractic service that he did when the conditional use was approved. Just to point that out again we take the position that if you disagree with that, then we would agree to the condition of removing those uses. Then finally and again to be very clear that 1982 c.u.f. Did not have any limitations on the number of people present at the site. And I think a good reference in terms of what was contemplated in 1982 when that c.u.p. Approval permit was originally issued, the hearing officer required 30 off site parking spaces. The hearing officer also required ten bike spaces. So that's contemplating at least 40 people at the site. And that doesn't account for those who walk multiple occupancy vehicles or take buses. So I think again hearing officer's reliance on 15 people was misplaced. And we'll leave it at that, again I think what we've proposed resolves many of the concerns of the neighboring property owners absent completely shutting down the Everett house and again that's not on the table as long as what is proposed is consistent with the 1982 c.u.p. And meet the approval for amending it and removing the parking condition approval of the center and allowing it to continue with appropriate conditions is the correct path.

Wheeler: Yes, legal counsel. Looks like you had a --

France: That's all I have. I'm happy to answer any questions if there's any more traffic questions, Mr. Ard is available, if there's any more questions specifically about his chiropractic practice, Mr. Mantell is available.

Mantell: Can I make a comment?

Wheeler: You have 14 seconds.

March 20, 2019

Mantell: I'd like to say there's a letter from sterling bennett in 1997 saying that the chiropractic practice that I was doing was holistic in nature and there for he was not going to question whether it was part of the conditional use permit or not. It's in the record.

Wheeler: Thank you.

Fritz: That's a building inspector not a hearing's officer. That was not in the record of hearing's officer --

Mantell: Sterling bennett from one of the bureaus, to hayes commissioner.

Fritz: They don't have authority to make policy decision like that. I don't know. I'm very concerned he r there was discussion back in '82 was chiropractic allowed. There was recommendation to find a business zone. There was the recommendation in '82 that the staff recommends denial stating that what began as local community service is increase in scale to provide service on metropolitan-wide basis. So, what's your response to, you've been providing chiropractic services and acupuncture which are both medical services without having permission to do that.

Mantell: Well, in '87 when I applied for building permit or remodeling permit, staff, doug warren reviewed everything said that what was approved was some of the things that I did which was massage, health counseling, relaxation, in 1997 sterling bennett also reviewed it and basically said that -- which is in the record --

Fritz: Didn't he say, no, you couldn't do chiropractic?

Mantell: Doug warren.

Fritz: Yes.

Mantell: In '87?

Fritz: Yeah.

Mantell: He said, yes, he said that chiropractic per se was not approved but these activities that I did was approved which was the massage, relaxation, health counseling. Then in '97 it was reviewed by sterling bennett who basically said that he thought that the the waters about chiropractic was muddy he wasn't going to pursue any enforcement that the -- that I had been establish the since it first started that the practice that I was doing was holistic seemed to fit within the definition of the conditional use permit. And that's in the record a letter from sterling bennett from 1997.

France: I think the bottom line there's evidence in the record that the city has not taken the position that chiropractic expressly wasn't allowed, they indicated that it was muddied, and so there wasn't clear enforcement action to prevent the chiropractic practice from happening. Again, we are very clear at this point that if the council believes that chiropractic does not fit within the 1982 c.u.p. We'd agree to express to prohibiting chiropractic or acupuncture on the site.

Fritz: I appreciate that. The other concern I have there's tremendous amount of coming and going to this residential neighborhood. I think nobody questions that, right? How else could -- the noise condition has been proposed by the hearing officer or the planner is not helpful at all. It doesn't -- we know from noise complaint experiences that and it's in the record that only about amplified noises not about people's voices. But if you have got 10, 12 hours a day of people being outside talking to each other, even if some after 9:00 they're whispering that's lot of activity in residential neighborhood. Is there something that you could think of that would mitigate that issue?

France: I do. We've thought about ways to further mitigate. I think again it's not required by the 1982 c.u.p -- both to the neighbors and to everett house would be -- it would actually replace what is now condition a which is the ambiguous, if the noise causes undue impact you couldn't have that number of people, would be to put in addition to a cap on the number of people in a class, a cap on the overall people that can be on site at any time. The appropriate number I think would be 65, that is consistent with what the traffic study

March 20, 2019

evaluated and it's not that far again above what was considered in the 1982 c.u.p. Given what they require for parking and bicycle and considering other forms of transportation.

Fish: How would that be enforced?

France: The same as it would be an overall cap on the number of members and visitors that could be in the three houses, it would be up to the everett house to enforce that themselves. The city could come up with a different enforcement mechanism. I do believe that one thing that is clear to the everett house and their community from this process is that they need to be very conscious of their impact on the surrounding neighborhood. And I think that going forward they would understand the need to, if such a cap were placed to adhere by it.

Fish: Is the 65 number consistent? What is the relationship between the 65-person limit that you've suggested and what you know about existing either building code requirements or fire bureau requirements?

France: I don't know the exact number for building code to fire bureau. I believe that 65 is well below what would be the maximum in each individual house based upon the size of the houses but I don't know that number.

Ard: I would add, too, that based on the parking analysis and the fact that previously 30 parking spaces had been required that assuming 1.6 person per vehicle occupancy and about 20% non-driving participation in the site you arrive basically at 65 people based on that. So that coincides both with the prior request for 30 off-street parking spaces and the analysis that showed that the approximate impact of this development is 30 parking spaces. All that have is consistent with the existing use of the site as well as the prior condition of approval.

Eudaly: So when it comes to occupancy, I don't really care about the traffic analysis. What I care about is what is legal and safe according to our building codes and occupancy rules. So how in the world would we make a decision on that if we can't be provided with what those are, we'd have to know the square footage of each of the buildings. This shouldn't -- it's not rocket science. Every restaurant and club elevate forns have occupancy limits posted.

Mantell: We could have fire marshal find that out.

Eudaly: But the problem is we have to make a decision today based on the information that's --

Wheeler: Irrespective of your decision the fire code will apply. So if you need decision with condition of approval maximum of 65 people the fire department determined limit was 30 we'd still be subject to the limit of 30.

Mantell: So the 65 is all three buildings plus outdoor space and my knowledge is not a fire code for outdoor space number of people. We are also self limiting in terms of people that use the spa facility there's only maximum that we can have. There's health department rules, how many people can be at one time.

Eudaly: It does sound like at times there have been many more than 65 people and while I think your business or organization is a wonderful community service and vital part of our social infrastructure it's also an extraordinary amount of traffic, whether it's foot, bike or cars coming in and out of the neighborhood. It's a block off of 28th avenue, I don't know how the neighbors know the offending drivers who are blocking driveways or parking legally are your customer or restaurant or theater customers and I don't, you know, I want to do the reasonable, responsible thing here but I don't know that it's really going to truly mitigate the neighborhood concerns. What we have to go by --

Fish: I have a thought on that.

Wheeler: Commissioner Fish.

Fish: I'm looking -- are we through with this panel here?

Wheeler: I don't have any further questions.

March 20, 2019

Ard: Can I add one more thing related --

Wheeler: Thank you. That concludes the hearing part.

Fish: Just share couple of thoughts with my colleagues and colleagues i'm going off the march 20th, 2019 memorandum we received. It's a four-page memo. And commissioner Fritz I believe that you were earlier on page two referring to the staff recommendations which are laid out. Then on page four is under number five is alternative lays out menus of options. I'm leaning towards the second bullet, which is grant the appeal with conditions and conditions are all laid out here. Commissioner eudaly you raised an interesting point, number one we are not -- with the consent that the parties we're not required to make a decision today. Most we're going to make a tentative decision. I'm intrigued by the idea of a 65 person cap because intuitive, feels lower actually than what the law would provide. But nothing to my knowledge, nothing prevents us from reaching a tentative agreement with conditions, setting this over to a date for adoption and during that time just reviewing that question a little more -- having legal counsel take a look at that question about what actually the fire code is or building code is.

Fritz: I'd like to propose different way forward to deny the appeal. Having aired all these problems I think it is appropriate for them to start over that, yes, I agree with commissioner eudaly that is a very valued resource for our area it's having huge impacts on the neighborhood. And has operated without commission of having chiropractic and acupuncture medical uses for many years if we set limit on 65, i'd be horrified to have 65 vehicles coming to a hot tub near me.

Fish: Since we're in the discussion phase, i'm sorry that we lost a colleague might be one of those rare instances where we need a body of five to make this decision. Let me make the case for granting the appeal as has suggested as second alternative. And i'll just read the prompt from staff. Overturn the hearing officer's recommendation, grant approval of the more limited spectrum of previously approved uses from c.u.2682 that means limiting the uses to clearly define 1982 conditional use and accepting council's alternative recommendation that we take chiropractic and acupuncture services off the table. Removing the requirement for off-street parking that is the main issue before us. And imposing earlier staff recommendations conditions of approval and those are all set forth on page two of the memo. I think there may be some -- may be couple here where the council would wouldn't to sharpen them or modify them. But that's the framework that I would like to propose that we consider for a couple of reasons. One is that I think the applicant has met the burden of proof that the parking can be accommodated. The parking is the issue that the triggered all this. By the way, for 20 years lived not far from this location. Just having parking doesn't have necessarily much impact on the intensity of driving in the neighborhood. People can be driving in the neighborhood looking for parking spots, people are going to be dropping people off then parking. The parking itself is not the silver bullet but I think the applicant through their consultant's report and their testimony has met the burden of being required from the off-street parking requirement. I believe that it is charitable to call the 1982 conditional use approval so vague potentially cover chiropractic and acupuncture services, it is not well written. I think that is an argument lawyers need to make. Ever since I got my cancer diagnosis i'm a huge believer in acupuncture and massage I get it. But I do think commissioner Fritz is right these are qualitatively, they're medical services in residential area I don't think they logically grow from the '82 conditional use permit. My sense is balancing what i've heard as the testimony and various issues that we have to grapple with. I am prepared to support the second alternative again grant the appeal, overturn the hearing officer's recommendation, grant approval of a clearly limited spectrum of previously approved uses, taking chiropractic and acupuncture services off the table as has been discussed, removing the requirement for

March 20, 2019

off-street parking and imposing earlier staff recommended conditions of approval. And I would urge that we use that as the framework for discussion.

Lauren King: Can I just clarify from the record what you're reading has in parenthesis as previously approved uses to include sauna, hot tub, health counseling and tea food services so your motion includes those things but then explicitly excludes chiropractic services.

Fish: And acupuncture services.

Lauren King: Explicitly.

Fish: What is in parenthesis what I think everyone agrees is at least covered by the conditional use permit, health counseling is the term that's open to interpretation. I think in fairness and i'm persuaded by what commissioner Fritz argument she made that chiropractic and acupuncture services just can't be justified under health counseling, in any event commercial activity of a different -- medical services of a different character in the neighborhood. I'm a huge believer in them but I just don't think they're covered by 82 action. I would offer that as framework for discussion, mayor.

Wheeler: Could I ask one question, commissioner Fish. With the staff report conclusions under section e on page 3 under j. It says deleted. That is the occupancy permit to change the structure from residential to community service, they were obtained in 1982, this condition is previously met that's no longer applicable. That's probably a better question for legal counsel.

Lauren King: That's my understanding that the recommendation from staff was to remove that condition.

Wheeler: Okay, great. With regard to -- there was some testimony regarding I think one structure was called a sears-like structure the other I think was referred to as cardboard.

Fish: The tarp-covered carport-like structure. Which has been identified as a maintenance storage and a garden gazebo structure identified as mediation area and staff is recommended that both structures be removed.

Wheeler: And that would be the net effect of adopting the -- granting the appeal with the continues that you've recommended here under paragraph.

Fish: The staff says one can remain in place the other has to be removed.

Eudaly: Two. Two removal.

Fish: Two removed one stays.

Wheeler: Let the record show also that I misheard obviously they meant carport not cardboard. And I was wondering who duped you into buying that? All right, good, thank you.

Fish: I offer that as a motion, mayor.

Eudaly: I have a question for the -- I can't. So there was mention about wanting to move the gazebo to comply with the setbacks. Do we know if it's possible to move the gazebo to comply with the setbacks from the property line but also to be far enough away from the others -- I don't know --

Lauren King: Whether or not there's enough space in the site plan?

Eudaly: Yes.

Lauren King: I don't know. Staff is indicating, yes. But council could always impose condition that just says they could have that type of structure has to meet setbacks.

Eudaly: Needs to comply. Commissioner Fish i'll second that motion.

Wheeler: Motion from commissioner Fish, a second from commissioner eudaly.

Fritz: I'd like to speak against the motion. Multiple other places where he says that criteria are not met. For instance, hydro therapy services were not approved by the conditional use in '82. The flotation tank services were not approved in 1982. The classes up to 15 to 20 people were not approved. Multiple, multiple other places. It's going to take rewriting and quite creatively rewriting this decision to be able to approve it. Part of the problem is,

March 20, 2019

as the hearing officer notes, the conditional use approval in '82 was really inexplicable where they approved something taking off 15 person limit that just went to something much more vague, despite saying this is going to be -- this is clearly not compatible with the neighborhood. And that 20 years, he's never criticized another hearing officer and yet goes his entire findings are riddled with concerns about the underlying conditional use as well as now removing the parking with all of these people coming to the site that were not envisioned to come to the site before. I think there's a hugely different impact on the neighborhood than was envisioned in 1982 by saying yes, just do away with the one condition on parking, may be putting few others in, this isn't on the record appeal. So it's supposed to be on evidence in the record, as commissioner Eudaly we don't know what the fire capacity is. We don't know what the fourth property that's now being used, what that is going to be used for.

Fish: We can agree to disagree on that. I think council made -- council for applicant I thought made a reasonable case for taking chiropractic services and acupuncture services off the table as an alternative approach. We did have testimony from the opponents that that is a heavily scheduled level of activity at the site. So I think it's reasonable to take up that charge and remove them because I don't think they're consistent with the '82 conditional use permit. I think that brings clarity and I think the staff recommended conditions are well grounded in fact and are thoughtful. I think in fact what we're doing is replacing the '82 conditional use permit with a much better road map. I suspect this won't be the only conditional use process they're going through over time because I think there is going to be a need -- may be future conditional use permits to get additional clarity about the scope of activities at this site. But I think under the proposal that I've made, which is a compromise, I think we have much greater clarity than we do currently under the 1982, that's why I would advance for consideration.

Eudaly: Also capping at 65 removing the violating structures, right?

Fish: The structures are part of the staff recommendation so that in terms of the cap on 65 is that a friendly amendment?

Eudaly: I thought that's what we had been discussing.

Fish: We were debating. Would you like a cap of 65?

Fritz: Previously no events over 20 people which applicant agreed to. No events, classes or workshops over 20 people. I think we should add or total capacity of more than 65.

Fish: I would accept that as a friendly amendment.

Lauren King: Just so I understand. No more than 65 people at one time, no more than 65 people --

Fritz: Total at one time.

Lauren King: All three facilities. Was there cap on classes?

Fritz: 20. On events, classes or workshops.

Lauren King: Okay. Then for the record just so that I understand, council, the remaining uses or activities that came up during hearing officer's -- during the hearing before the staff recommendation of yoga, hydro therapy, flotation tank and special events, council is considering those to be part of the general catch all?

Fish: I'm not proposing to limit that.

Eudaly: I want to be clear that I understand why chiropractic and acupuncture would be reasonable to have at this facility. Why it's really nice to have it combined with all these other services. But those are medical services and need to be treated differently. No one can tell me that yoga doesn't fall under relaxation or a medical service, I'm comfortable with that distinction. I want to say it seems that Everett Street has been operating on an ask forgiveness not permission basis for a really long time. And the result is a lot of unhappiness with the residential neighbors in your community. You have to care about that. And also sets really bad precedent for other neighborhoods where we've got these

March 20, 2019

conditional use permits for businesses operating in residential areas. So while again I love the facility and I love everything you do and I enjoy acupuncture, massage and hot tubs, this seems to have grown beyond a manageable size given the context that the business exists in. That's my thinking.

Wheeler: Unless there is any further discussion I'd like to call for a tentative vote on the proposal. Commissioner Fritz do you have more questions? Please call the roll.

Fritz: I appreciate what commissioner Eudaly said, it's clear that this business has exceeded the size that the neighborhood capacity far exceeded what it was even allowed to do in 1982. And there was an opportunity over the last four years to ask for it to be rezoned to commercial and that apparently was not taken. So I think it's a mistake to allow it to continue. No.

Fish: First of all I want to thank everybody for taking the time to join us this afternoon. If everybody here had taken the opportunity to testify we'd be here until 7:00 or 8:00 so I appreciate the restraint that people showed. I appreciate the care that went into the testimony on both sides. I appreciate from the opponent getting a written statement that I could read along, it was as thoughtfully worded and prepared, sir, thank you for the time and energy you put into your advocacy. And of course I thank council for the applicant, appellant for doing something which happens all too rarely in land use proceedings, which is laying out alternatives for us to consider that sometimes are against the interest of their client. We are trying to find the right balance in these things, this is art not science. There are rules we're bound by but also trying to balance a number of things, we're trying to be thoughtful. We're trying to be responsive. When we are guided by counsel that get pitch alternative ideas help us get to the right place, I applaud that, it's not always the case but it certainly serves the client well. Appreciate hearing from the testimony and I just want to emphasize something that commissioner Eudaly said earlier, we've all said. This is not a referendum on chiropractic and acupuncture services. Two years ago I was a complete stranger to eastern medicine and to alternative health strategies and because of a chronic health problem I was persuaded to try some new things, frankly acupuncture has changed my life. And massage and doing things, I'm proof that you can turn 60 still learn a new trick. So I appreciate the benefits. We're not here acting as passing judgment on the quality of the services or the utility of the services, we're looking strictly at whether it's appropriate for this location. Hope people understand that. I thank my colleagues for very thoughtful discussion, I vote aye.

Eudaly: I'd like to think that I have something you opening your mind to acupuncture. He didn't accept all of my recommendations.

Fish: I haven't made a final decision on one.

Eudaly: Okay. I want to thank everyone for coming. I want to appreciate what all of you provide to the community. I want to say thank you to the opponents, I know it's not easy to be part of a small opposition group and you brought really legitimate concerns and I jotted them all down and we certainly can't resolve all of them with this particular decision. But I would like to follow up with you on some of them. Thank you, commissioner Fish for wrapping this up for us. I vote aye.

Wheeler: There's never a perfect answer to any of these, by the time an appeal gets to the city council, it's usually because there's no obvious solution. So it requires us to balance what we hear in the hearings, I heard very thoughtful testimony on both sides of this issue and at the end of the day I'm compelled that the compromise solution is the right one. So I'm going to vote for the motion. The motion passes. But I want to be clear this is a tentative vote. And we will have a final vote scheduled on --

Lauren King: The code requires that the prevailing party which is the applicant in this case, their attorney prepare findings for then staff to review and attorney's office to review

March 20, 2019

sounds with everyone's schedule we're looking at the week of may 1 1/2 or may 2nd coming back to council. 11 a.m. On may 1st.

Lauren King: We'll coordinate directly with exact timeframe for preparing everything.

Fritz: If I could ask the city attorney's office to pay special attention to make sure that the framing of the findings doesn't expand on the 1982.

Lauren King: We always heavily review and revise.

Fritz: Just wanted to put that on the record. Thank you.

Wheeler: Today's vote is a tentative vote. Final vote will be at 11:00 a.m. Time certain may 1st Portland city hall in the city council chamber. Thank you all. We are adjourned.

Council adjourned at 4:34 p.m.