



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **24th DAY OF JULY, 2019** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Wheeler, Presiding; Commissioners Fish and Fritz, 3.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Robert Taylor, Chief Deputy City Attorney; and Tonia Kohlman and Cheryl Leon-Guerrero, Sergeants at Arms.

Due to the absence of two council members emergency items were not considered and items were not heard under a consent agenda

COMMUNICATIONS		
685	Request of Tamara DeRidder to address Council regarding safety concerns in the neighborhood due to the lack of an assigned police officer (Communication)	PLACED ON FILE
686	Request of Ron Glanville to address Council regarding Outer Halsey Safety Project and maintenance of stop signs at NE 132nd and San Rafael (Communication)	PLACED ON FILE
687	Request of Gloria Bouchor Luzader to address Council regarding the proposed houseless village on N Richmond St in St Johns (Communication)	PLACED ON FILE
688	Request of Dee White to address Council regarding the failure of the Water Bureau to deliver safe drinking water to its customers (Communication)	PLACED ON FILE
689	Request of Portland Youth Climate Council to address Council regarding the climate crisis (Communication)	PLACED ON FILE
REGULAR AGENDA		
S-690	Amend Acquisition of Public Art Code to expand eligible uses of the 2% funds, explicitly prioritize underserved communities and clarify City accountability (Second Reading Agenda 667; Ordinance introduced by Commissioners Fish and Eudaly; amend Code Chapter 5.74) (Y-3)	SUBSTITUTE 189611
Mayor Ted Wheeler Office of Management and Finance		

July 24, 2019

691	Accept Negotiated Price of \$8,185,616 from James W. Fowler Co. for the construction of the Leach Upper Garden Project (Procurement Report - RFP No. 00001241) 15 minutes requested Motion to accept the report: Moved by Fish and seconded by Fritz. (Y-3)	ACCEPTED PREPARE CONTRACT
692	Assess property for system development charge contracts, private plumbing loan contracts and safety net loan deferral contracts (Second Reading Agenda 654; Z0838, K0180, T0197, W0066, Z1206, K0181, T0198, Z0839, W0067, P0159, P0160) (Y-3)	189612
Commissioner Amanda Fritz		
Water Bureau		
693	Authorize the Water Bureau to acquire certain property and easements necessary for construction of the Corrosion Control Improvements Project through the exercise of the City's Eminent Domain Authority as a last resort (Ordinance) 15 minutes requested	PASSED TO SECOND READING JULY 31, 2019 AT 9:30 AM
694	Authorize Exchange Agreement with the USDA Forest Service to execute a land exchange in the Bull Run (Second Reading Agenda 624)	RESCHEDULED TO JULY 31, 2019 AT 9:30 AM
City Auditor Mary Hull Caballero		
695	Amend City Code to update oath of office requirements (Second Reading Agenda 664; amend Code Chapter 3.74 and Code Sections 3.20.190 and 3.20.240) Motion to delete "private" from Code Section 3.74.010 A.1: Moved by Fritz and seconded by Fish. (Y-3)	PASSED TO SECOND READING AS AMENDED JULY 31, 2019 AT 9:30 AM
696	Amend Portland Policy Documents Code to update and clarify repository procedures (Second Reading Agenda 665; amend Code Chapter 1.07) (Y-3)	189613
697	Update City code to revise the definitions of decision or determination and administrative act for purposes of administrative appeals (Second Reading Agenda 666; amend Code Subsections 3.130.010 A. and 22.10.010 B.) (Y-3)	189614
At 10:40 a.m., Council adjourned.		
DUE TO LACK OF AGENDA THERE WERE NO 2:00 PM MEETINGS WEDNESDAY OR THURSDAY, JULY 24-25, 2019		

July 24, 2019

MARY HULL CABALLERO
Auditor of the City of Portland

A handwritten signature in blue ink, appearing to read 'Mary Hull Caballero', written in a cursive style.

By Karla Moore-Love
Clerk of the Council

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

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Key: *** means unidentified speaker.**

JULY 24, 2019

9:30AM

Wheeler: Good morning. This is the 2019 session of the Portland city council. Good morning, Karla. Please call the roll. [roll taken]

Hardesty: Here. **Eudaly:** Here. **Fish:** Here. **Wheeler:** Here

Wheeler: Now we will hear from Robert on the rules of order and decorum, Robert's rules.

Robert Taylor, Chief Deputy City Attorney: Thank you, Mayor. 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 thumbs down. Please remain seated in council chambers unless entering or exiting. 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, a 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: Thank you, Commissioner Fish.

Fish: Mayor, we have special guests here today, and I will ask them to. If you are part of the Iraqi youth leadership program, would you stand? World Oregon is hosting the Iraqi youth leadership program, a U.S. State Department funded program that brings Iraqi high school students to the U.S. for summer exchanges to explore themes of leadership development, civic rights and responsibility, respect for diversity and community engagement. They have been in Portland since July 11, and the theme of their program this year is peace building and community resilience. Mayor, can we suspend the rules?

Wheeler: We will suspend the rules. [applause]

Fish: Thanks for joining us today.

Wheeler: We appreciate you being here, and we appreciate the spirit in which you are here. This is a time where more peace and unity would be a good thing, and we appreciate you coming here to learn more about our community, and I hope when you leave, you leave with good thoughts, so welcome and thank you for being here. First item, communications. Karla.

Item 685.

Tamara DeRidder: Good morning, my name is Tamara DeRidder, the chair for Park City Association, and it is a pleasure to be here. I appreciate the opportunity to speak to you

July 24, 2019

this morning on this topic. On february 5, our rose city park neighborhood association board directed me to write this letter to the city council. That was following a presentation by the north precinct on the staff as the public safety in our general membership meeting. Unfortunately, due to my battle with cancer, and your public comment schedule I am only able to speak with you right now. In january, sergeant jennifer butler reported that there were not enough police officers to assign a permanent neighborhood response team officer to our area. This caused great concern by the 60 participants at that meeting, and then was reflected in the board's direction to me as the chair. The sergeant stated the reason for the problem was due to the reduction of police officers because of the retirements. Over the past five years, our neighborhood has experienced the 300% increase in car thefts. A 400% increase in other forms of theft and burglaries in our neighborhood. The presentation provided by the police gave no reason to believe that the situation would improve under the current conditions. We strongly urge you to return the number of police officers to adequate levels of at least 17 officers per 10,000 residents, support geographically assigned community police officers as a number one priority for neighborhood livability. And it is vital that these officers stay in these assigned areas long enough to understand the community dynamics and become engaged with this community leader, maybe a minimum of five years' assignment. Listen to our police officers' concerns as they are dealing with revolving door for thieves and larceny arrests and a need to reduce the time spent dealing with lawsuits on top of their regular workloads. Encourage the neighborhood response team officers to provide regular updates to the neighborhood meetings in their assigned areas and let the neighborhood association help to reduce the crime through grants for high crime areas. We do understand that the nrt officer bob boylan has been temporarily assigned to our neighborhood. We would like to see that as a permanent assignment. Thank you.

Wheeler: Commissioner Fish.

Fish: Tamara, you've been battling cancer and in our thoughts and prayers, and it's great to see you. You look terrific.

DeRidder: Thank you. I am beating it. It's a non-hodgkins lymphoma, the same that everyone gets, whenever they have been, been around, roundup, and I haven't been, but it must have been on the food I ate. It's working, and I am praying for you, as well.

Fish: We are glad you are back on your feet and active in your neighborhood and you are here today, so thanks very much.

DeRidder: Thank you.

Wheeler: Thank you for being here, and I know that you and robert have connected in my office, as well so we will keep that dialogue going, as well.

DeRidder: Thank you very much. Take care.

Wheeler: Next person, please, karma.

Item 686.

Wheeler: Good morning.

Ron Glanville: Good morning. Thank you. I won't be speaking about the stop signs because it's actually been fixed. My name is ron glanville, and I am serving -- I serve as the chair of the russell neighborhood association and the board of east Portland neighbors, with the past president and the recording secretary. The vice chair of the pdx cac, the Portland airport community advisory committee, and I am a member of the epap, served as chair of the neighborhood news, which was formally published, and various committees, including the east Portland in motion. That's kind of where we start today. I am here today to advocated for the outer halsey safety project, which is an ongoing project of pbot that is almost a ten-year history from the time of placing it on the second tier of east Portland projects. The project's focus is on the sidewalk infills on halsey from northeast 125th to 161st avenue. This project has been renamed, changed, redesigned, and morphed,

July 24, 2019

delayed, several times. And it is a paramount safety project for the outer reach Portland affecting thousands of people in the wilkes, wilson, and hazelwood neighborhoods. Currently there are 50, 60 blocks of this section of halsey without sidewalks. There are curbs and driveways, but in between, is a gravel, dirt, weeds, and shrubs making any pedestrian travel unsafe in most areas. Residents walk or transport themselves on the street pavement along halsey where vehicles, traffic, zooms by at 35 to 45 miles per hour. There have been the improvements of one flashing beacon crosswalk, but for long stretches, there is no safe way to cross halsey safely. The goal has always been to provide lights in this area so the pedestrians can walk safely. Pbot has been working on this project for many years, but it continues to be stalled. Rich had been the pbot employee who had been working on this project for many years, and reassured our community that we would see sidewalks in place after much review by east Portland community members. Dan laden of pbot has informed me that rich has retired when his retirement, retirement is hired, it will move forward. Mr. Leyton told me that the project was 60% design complete and work would commence in 2020. Our community has heard the assurances many times from pbot only to hear that there was an emergency priority, redesign, and funding issue or that there was a delay, etc. Mr. Leyton also has informed me that the project will include more flashing beacon crosswalks and ada corner curb ramps. The project will not include sidewalks on the south side of halsey because of the conflict with metro, responsible for sidewalks around glendever. My goal is to urge the completion of the project and ensure the community that after 50 years without sidewalks and nature Portland boulevard is safe for the citizens to walk on. Please give it priority and funding for completion. My understanding is that most of the funding is dedicated for this project, I have seen it on many committee lists as scheduled to be done. Please advocate for this project.

Wheeler: Thank you. Commissioner Fritz.

Fritz: Thank you for coming in. Have you sent your testimony to commissioner eudaly's office?

Glanville: Yes.

Fritz: Great, I am sure that she will respond to you.

Glanville: And yeah, I will send copies, also, to pbot. Would you go it's your understanding, then, that the funding is in place and pbot has, in your estimation, committed to moving forward with the project? Is that accurate?

Glanville: There has been money, both from the dime tax, plus, also, other funds that have been put together to make this happen. And it has been funded, actually, for a couple of years, but it is not, has not been moving forward. It seems to be stalled.

Wheeler: Very good, and I will follow up with commissioner eudaly. Thank you.

Glanville: Thank you.

Wheeler: We appreciate it. Next individual, please, Karla.

Item 687.

Wheeler: Good morning.

Gloria Bouchor Luzador: Good morning. So you have dedicated i.m., I came by max.

Wheeler: Very good.

Luzador: Darn right. There is no parking down here, baby. Good morning amanda, ted, nick. My name is gloria bouchor luzader. I am a native Portland person. I graduated from james john elementary school, roosevelt high school in Portland -- and Portland state university. I was born in emanuel hospital and carried home by my parents to the st. John's community in north Portland. After working in Oregon, Washington state, south korea, and china, I returned to st. John's. I am living in my inherited deceased parents' home, built in 1911. A one bedroom, one bathroom, 800 square foot cottage. It is st. John's. It is home. I am here today because I truly believe a mistake is being made by placing a hard wall public housing camp on north richmond avenue between north lombard street and north

July 24, 2019

central street. This location is 50 feet from a preschool in the church. 675 feet from James John Elementary School and 850 feet from the St. John's Public Library. I volunteer at James John three mornings a week with first and second graders. These are children who are five, six, seven, and eight years old, children who walk to school on North Central Street, who sometimes would cut through the preschool parking lot and run across the grassy lot that is being proposed for the hard wall public housing camp. Please, a major safety factor to consider for the children. I truly believe that there are more suitable locations in this city and in St. John's. There are locations that are not near a preschool and elementary school and a public library. Please consider the children of St. John who walk to their school and walk to their library in your final decision. Thank you very much for listening.

Wheeler: Thank you.

Luzador: You are welcome.

Wheeler: Thanks for being here. Next individual, please, Karma.

Item 688.

Wheeler: Okay, so, you know, it's summer and I hoped I would not have to do this, but I will remind you that that is in violation of council rules. This is a warning. If I have to ask again, I am going to have you leave. Next individual, please.

Dee White: Good morning, my name is Dee White, I am sorry and sad to report that Portland's drinking water continues to have one of the highest levels of lead in the tap six for all urban water systems. Last month, Gresham exceeded the federal limit by reporting levels as high as Portland did in 2018. Gresham is a Portland water customer. Last month Portland Water Bureau reported higher levels in their last two monitoring periods. Once again, violating EPA's directive from three years ago to, to immediately and significantly reduce lead using existing facilities. Portland hovers around and above the federal limit year after year after year. Even at very low level exposure, the effects of lead on brain development and babies in utero, infants and young children are profound and irreversible. There is no cure for this neurotoxin. There is no safe level of lead. It is invisible, tasteless and odorless. In 2018 study estimates that more than 400,000 adults, deaths in the U.S. Every year via cardiovascular and renal disease can be led to chronic lead exposure. This community has endured chronic levels of lead in the water for years. The water commissioner's opinion is that its property owner's responsibility to prevent lead from leaching and to -- into drinking water. They are wrong. Federal law requires public water systems to take action to reduce the lead contamination, primarily by treating corrosive water in our homes, schools, parks, and businesses. The law is about correcting faulty treatment, not about faulting customer plumbing. This is your legal responsibility, not ours. The Oregon Health Authority, the regulator has been letting you guys off the hook for 27 years. Why is this? What kind of hole do you guys have over the regulators? You are not compliant with the federal law or the 2016 EPA orders, and all we continue to hear from you and Salem or Crickets, ignoring optimal water treatment and not maintaining the water distribution pipes has simply been kicked down the road with only carefully worded promises to improve lead levels. The silent public health crisis continues. How is this acceptable?

Wheeler: Commissioner Fritz.

Fritz: Miss White, thank you very much for making the case for why the lead control treatment plant is necessary. That is later on, on the agenda today. Obviously, it's a large project that takes time to get done, and so I am sure that the Forest Bureau will give a brief summary of the treatment plants and when it is expected to go in line. In the meantime, anybody who is concerned about what is there, home piping might be -- might have lead in it, can call 823-4000 and ask for a lead testing kit. That's 503-823-4000, ask for lead kits, and they will send you one in the mail with a free water bureau bottle, which you get to keep, drinking water bottle, and I have done it myself, and it's really easy to do, and that

July 24, 2019

way you will know whether you need to run your pipes for two minutes at the beginning before you drink the water. Again, call that number and we will send you a testing kit.

Wheeler: Commissioner, can I ask a clarifying question? Miss White comes in on a regular basis and gives this testimony, and I did some research after the last time that she came. She's correct in that the water bureau did testing and found elevated levels of lead, but it is also true that the testing they did was specific conducted in high-risk homes that they knew used lead solder in the pipes. So is there lead in the drinking water that's coming out of the bull run going through the public pipes and then into the homes? Is there lead in that water, or is the lead in the houses that have used the lead solder? To my understanding it is the latter, and the Portland water bureau has an aggressive program to help homeowners who do have lead solder pipes in their house in their private property to convert those pipes to non-lead solder pipes?

Fritz: I am glad you asked that because since you assign me the water bureau in September of last year, I have learned so much about our drinking water system. So, in fact, the water bureau, our drinking system has taken the lead out of the entire system, except in the individual residences. Of course, it is expensive to change the fittings, and particularly, in rental housing the landlords may not be willing to do that. But, in fact, we are a bit -- we are both blessed and had cursed by our wonderful bull run water because the bull run water is at pH 7, which is exactly neutral, not acid, not alkaline, it turns out that that's not good for lead control, and that's why we are building the treatment plant that's going to make the water slightly more alkaline, which then is less likely to leach the lead solder from the homes.

Wheeler: So it's not really the water supply that's coming in. It's the piping in the houses reacting with the particular pH of the water, is that a fair interpretation?

Fritz: Correct. And even running the water after it has been running for two minutes, if it has been running overnight, if you run it for two minutes, your tap water is going to be at normal levels. You can test that with the free kits that the water bureau will send you, and you can ask for two kits, one to do after it has been standing and another after it has been running for two minutes.

Wheeler: That's helpful. I appreciate that. Thank you. Last individual, please.

Item 689.

Wheeler: Good morning. Thanks for being here.

Peter Sallinger, Portland Youth Climate Control: Good morning, city council, I am Peter Sallinger, a senior at Grant High School. And I am representing the climate council, created in 2017, with the passing of the 100% renewable energy resolution to advise the city on climate related issues. I would like to thank you for the forum you held on Zenith, it's transparency that boosts the public confidence towards fighting climate change. The issues we came to testify about today surround the tree code. Back in the spring our council read an article from the Portland Tribune titled "woes at Wapato." It highlighted the stressing fact that three acres of trees around the lakes are at risk of being chopped down due to gaps in the Portland tree code. And these trees are threatened as we speak. Upon taking a look at the tree code, we realize that the issue was not just the trees at Wapato, in 2011, when the city of Portland was finalizing the tree code, the industry put up a last-minute protest claiming that they should be exempt from the code regulations as there was a shortage of industrial land zoned at the time. The city acquiesced to the pressure, and in the end leaving both industrial and commercial zones unprotected with the promise that the tree code would be updated when the land quotas were met. That day has come and gone. The city of Portland did an economic opportunity in June of 2016, and found the required amount of industrial and commercial land was met. However, these areas continue to be exempt from the Portland tree code and are to this day. The industrial and commercial exemptions have left some of Portland's most valuable resources vulnerable

July 24, 2019

and in the face of the climate crisis not only unacceptable but downright dangerous. In our fight against climate change, trees are some of the most valuable assets. The city of Portland should not be in the business of giving industrial and commercial interests unnecessary protection at the expense of our environment. In addition to the industrial and commercial exemptions we would like to bring one other issue to your attention. The provision in the tree code which boosts protections and mitigation requirements for the largest trees in Portland have a clause set for december 31, 2019, allowing the sunset clause to remain would cause irreparable damage to the urban environment. We have heard recent rumors that it is very likely the trees at wapato will come down. It is up to the city council to prevent further unnecessary environmental destruction like this. We have testified before the urban forestry commission and met with jen and other city staffers, but in the end, it is up to you to put a stop to this problem. The Portland city council calls on you to remove the exemptions on industrial and commercial zones, and exemptions that have existed far passed the needed expiration date. In addition we are asking you to remove the sunset clause on the mitigation requirements for large trees insuring that Portland maintains and protects its environment for years to come. Thank you, and we appreciate your time.

Wheeler: Thank you for being here. Appreciate it. There is no consent agenda today. So we will just move into the first it up on the regular agenda, please. 690. Colleagues, this is the second reading. There's been a presentation and public testimony. Is there any further business on this item? Seeing none, please call the roll.

Fritz: Thank you, commissioner Fish and eudaly and all the staff who worked on this project. I was not here for the hearing, but I reviewed the record, and I am pleased to vote aye. Interest.

Fish: First of all, I want to be clear what this does. It prioritizes underserved communities access to art, it expands the eligible uses of the 2% funds to include creative space and more clearly allow activities like artists and residents, and it clarifies Portland city code to make explicit the roles and responsibilities of the council, the eligible bureaus, and the art council. So, it has a very specific purpose. I want to thank commissioner eudaly and particularly her arts advisory polly for their strong partnership, and I want to thank tracy shriver in my office and jamie dunphy, and I also want to thank our friends at racc, including madison, the new executive director for their partnership, and this is a step in the right direction, which gives us more flexibility with the 2% funds, and allows us to advance both our equity agenda and our affordable art space agenda, and today I am pleased to vote aye.

Wheeler: I would like to thank commissioner Fish and commissioner eudaly. I think that this is great policy, and I agree with what you just said, commissioner, it definitely moves this in the right direction, both in terms of living up to the off-stated goals around equity, this is one more concrete action that we can take to actually deliver resources in support of those equity goals, and I concur that I think that this will be very helpful in terms of maintaining the affordable art space, and I am happy to vote aye. Next item, 691, please. That ordinance is adopted.

Fish: Colleagues, this is a great milestone in the leach botanical garden project. Leach is a city landmark in east Portland's hidden gem. Thanks to this project, it won't be hidden much longer. The leach garden project will make this beautiful place truly a world class destination joining our city's other famous gardens like the international rose festival garden, japanese garden, and the chinese garden and the crystal rhododendron garden, there will be an aerial tree walk and more. I want to take our partners who are contributing to this, including metro, prosper Portland, and generous donors who have contributed to leach friends garden friends. Colleagues, in march, council approved an alternative to the traditional low-bid process because of the unique needs of this project. Today we are

July 24, 2019

being asked to consider awarding a contract, the James F. Fowler company, and we have a presentation from Lester, the chief procurement officer, and Ross Swanson, Parks Project Manager. Gentlemen.

Lester Spittle, Chief Procurement Officer: Good morning. Thank you. As Commissioner Fish said, I am Lester Spittle, the chief procurement officer, city council adopted 189427 on March 20. That's approved an exemption to the competitive low bid process. We also proposed issuing a two-step negotiate RFP process, which was something new for the city, the two-step nature is the first step is a request for qualifications. We sought out prime contractors and subcontractors that could meet the requirements of the project, and then we qualified those prime contractors and subcontractors, and then issued a request for proposals as the second step to the prequalified contractors. So, on May 6, we issued the second step request for proposals we received two responses as a result of that. Those proposals were reviewed, and evaluated by a five-member evaluation committee, including one member of the minority evaluator program. And the evaluation committee selected James W. Fowler as the highest scoring proposer. The city has established a 20% aspirational goal for state of Oregon, certified disadvantaged minority owned, women owned, emerging small businesses, and disabled veteran owned businesses for subcontractor work as well as supplier utilization. James W. Fowler made a commitment of 34.64% utilization of the contractors and material suppliers. 22.98% of that is for disadvantaged business enterprises and 11.66 is to emerging small businesses. The breakdown of that work, there is a subcontractor Eagle Striping Services, certified as an emerging small business. They are going to perform striping work, the ownership is Caucasian female. Another subcontractor, Ego Construction is a disadvantaged minority owned and emerging small business. They are going to do signage work for the project, and they are Asian Pacific and female. Eugene William Construction is a disadvantaged minority owned and emerging small business. They will perform excavation work. They are a Native American male owned, will perform concrete, African-American male owned company Innovative Manufacturing and Design is an emerging small business, will perform metal fabrication, a Caucasian male owned company. Room Traffic Management, a disadvantaged minority owned and emerging small business, will perform traffic control and they are Asian Pacific male owned, and Tree-Colony, emerging small business, and they are a Caucasian owned company, as well. In addition to the 34.64%, since proposals were received, there is an additional subcontractor that the James W. Fowler will use that has become certified by the state of Oregon, the specific landscape services they are a woman owned business enterprise and will be performing landscape services and are a Caucasian female owned company. So with that increase, that raises the percentage of utilization up to 55.28%, which is, you know, double what our aspirational goal is, that's phenomenal. We are happy about that. James W. Fowler is located in Dallas, Oregon. They are not certified. They are in compliance with all the city's contract requirements, and with that, we recommend that you accept this report and authorize execution of this contract. Ross and I here for any questions.

Fish: The original estimate was what and how, how far above the estimate is this particular bid?

Ross Swanson, Parks Project Manager: So originally, it was 6.7 million, and the bid came in at 8.7 million. We were able to negotiate that, that down to 8.1, which you see here today. And after the two-step process. Working in good faith with the contractor.

Fish: And what explains the -- when you look at the bids that came in and you debriefed this, why the -- why did the bids come in well above the estimates?

Swanson: That's a good question. On the large jail, marketplace right now. There is a lot of public money, in the marketplace, that's going into the ground as we speak this morning. We are going to see good bidders with the capacity to take on a project like this. This is

July 24, 2019

probably issue one. And that trickles down as we -- we are negotiating the cost down with the subcontractors. You can get fowler to move off their numbers, but they were having issues getting the subcontractors, again. With the firms that they got in the subcontracts, they are smaller firms, and their prices were sort of fixed. That's item one. Item two is we have a lot of steel in the project so there is -- although there is a lot of speculation in the market, so those numbers were not able to move very much. And then finally, time line. We requested that this be done in one year. That is not an easy task for the amount of work being done. So the contractors, as well as subcontractors plan on gearing up to a larger scale, and they will be working on this project six days a week to make sure that we get the time line done.

Fish: You mentioned the cost of steel, and you said it was speculative. Is steel one of those commodities impacted by the tariff discussions?

Swanson: I asked that question, and they were hesitant to answer that directly. That adds to the speculation, but I think to the, for the most part they went back to the marketplace. This is a landscape project predominantly but does have a lot of steel. The buildings you are seeing going up all over the city, I think that they are 12 right now in the city, and that's driving the steel, just from a supply and demand issue.

Fish: So the good news, our construction industry is working at near full capacity, the bad news is that builds in some inflation in terms of the bidding costs.

Swanson: Yes, exactly.

Fish: So we're generating systems development charges on a lot of construction work that's going on around the city, which helps us invest in our parks, but at the same time, our costs are going to go up a bit.

Swanson: Yes. Yes.

Fish: Thank you very much.

Wheeler: So to commissioner Fish's point, everybody is bidding a little higher because they are anticipating a rollup in the construction input costs, predominantly steel and concrete and labor, of course, and so when you got to the point where it came back at 88, you negotiate it had down about 8%, by my quick and dirty calculation. What are you negotiating down? Is that just who is going to take the risk for the potential increase in construction inputs? Or are you actually reducing the scope?

Swanson: That's a good question. So your first characterization is always, no matter what change order you are having, you are trying to figure out who is taking on the risk, owner or contractor. And I will say that fowler and their team have been excellent to work with in those two weeks of negotiations. They have been transparent, and I would say that the process that we have done added a lot of merit to that ability to be transparent. And then -- sorry, I am drawing a blank. There was the balance of risk. Oh, scope. So, the big item that came out of this scope was a misinterpretation of our warranty. The landscape contractor had assumed quite a large one-year obligation that they were going to have staff out there sort of making sure that everything is, you know, at a premium level for the entire year. We have the benefit on this project that we have leach garden friends out there, who have a huge volunteer staff as well as professional gardens on staff. So when we started comparing notes on who thought they were taking care of what, we could reduce a lot of that. It's not scope that's going to go in the ground, in this case, it's just maintenance. There is other issues and small items, and we have identified future savings just from timing for this to get under contract. We have agreed to defer those additional savings talks, so hopefully, to august 1 when we are under contract.

Wheeler: Very good. I will entertain a motion.

Fish: Move the report.

Fritz: Second.

July 24, 2019

Wheeler: A motion from commissioner Fish, a second from commissioner Fritz. Please call the roll.

Fritz: Commissioner Fish, you have been a champion for leach gardens as long as I have known you, and you must be very delighted this project is moving forward. Ron, thank you very much, again, ross, for having, especially when I was in charge of Portland parks, to have the parks and recreation done in a very different way, and I really appreciate the work that you do to make sure that everything gets done correctly on-time and on budget, and great, great minority and women participation, thank you. Aye.

Fish: Commissioner Fritz, back at you, i've been a champion of the leach garden, it is a hidden gem in east Portland, and it will be one of the great attractions in east Portland when this investment is concluded, and as we heard in the presentation, there is a sense of urgency in terms of doing the work because in june of 2020, Portland is hosting the american public garden movement, and we'll have the most important people in that movement here for a convention, and we want to show off our great gardens, including leach botanical gardens, so thank you for an excellent report. I vote aye.

Wheeler: I am happy to support this. I vote aye. The report is accepted. Thank you. Next item, 692, also, a second reading.

Item 692.

Wheeler: Colleagues, this is a second reading. We have already heard a presentation and taken public testimony. Is there any further discussion on this item? Seeing none, please call the roll.

Fritz: Aye. **Fish:** Aye.

Wheeler: I vote aye. The ordinance is adopted. Next item, 693, please.

Item 693.

Wheeler: Commissioner Fritz.

Fritz: Thank you, this is the project that we were hearing about, or alluding to earlier to do the treatment facility and turn it over to staff for a presentation.

Ben Gossett, Water Bureau: Great, my name is ben gossett, the right-of-way manager with the Portland water bureau. Good morning. I am here to talk to you about five properties where the water bureau will be acquiring easements. On one of those properties, we will also be acquiring small personal fee. These improvements are related to our corrosion control project that will reduce the corrosion of lead and the household plumbing. We have a power point for you. Just a moment, and you will see a map that will give you the proximate locations of the easements, incidentally, most of the easements are being revised within their existing location. Some of these are --

Wheeler: You can grab the whole laptop and bring it closer to you, if you want.

Gossett: Oops.

Wheeler: Whatever works.

Gossett: Here's our project, you can see that we are near our existing hill treatment facility. And the yellow dots on the map indicate where the water bureau will be acquiring permanent easements. As I mentioned, most of those easements are being revised within their existing units. We are doing that because many of them are quite old. The water bureau has had facilities in this area for over 100 years, and we added new facilities, incrementally over that time. One of the easements will be expanded by about 15 feet on either side. That makes room for new pipelines, construction and maintenance. Then on that map, the pink dot is a fee acquisition of about 1.66 acres of property. Particularly a location for the water bureau, it's one of the few locations where our conduits all run together. On the next page, I will show you next steps. This ordinance is the first step in a process. The next step in the process is for the water bureau to hire an appraiser. All of the interests that are the subject of this ordinance will be appraised. Each of the owners is invited to accompany our appraiser on an inspection of the property. The appraisal will

July 24, 2019

prepare written reports that outline the value, and the water bureau will make offers to each of the owners based on that appraisal and we will offer the appraised value. And a period of time is established both by a statute and the water bureau allows additional time for negotiations. To resolve problems, and this authorizes, with your approval, will authorize the water bureau to file with the county for eminent domain. I would like to stress that that's a last resort. We have an excellent track record of negotiating with owners and reaching agreements. I believe that's it for the presentation.

Theresa Lee: I am teresa lee, chief engineer, and we are here to answer any questions. Colleagues, I just -- I didn't have my talking points in the right place, so we want to stress that this is a process, and I have had ongoing discussions with the transportation department, as well, over the process of eminent domain. If council hasn't authorized it, maybe staff feels uncomfortable approaching property owners with this specific, here's how much we need because we have not authorized it, on the other hand this is the time that the council is authorizing the project, and so it seems reasonable to me that the property owners would be specifically notified we are thinking of taking 75,000 square feet, so I think that there are some further discussions to be had with the property owners, and you just mentioned that will happen. The other, the other issue, in terms of how those negotiations happened, which thank you, ben, for discussing that, and I learned when I was on the planning commission that, in some cases, property owners want to have the condemnation because of the tax benefits of that versus the straight sale, so it is called a friendly condemnation, and that may not be -- it sounds like over the past many years that, hasn't happened very often because usually the terms are so favorable that with paying the tax, the condemnation is not necessary. Just wanted to let my colleagues know that I am a little concerned about how we do things in general in this city, not just in the water bureau, and that I want to make sure that the property owners have enough time to get their concerns and questions answered. This is a first reading of a non-emergency ordinance, so we may or may not bring it back next week, depending on how the conversations go.

Wheeler: Thank you. And it's my understanding that some of the properties that we're discussing have easements, is that correct?

Gossett: In fact, all of these properties have existing water bureau easements. Again, is those have been acquired over more than 100 years. So, those are the easements in most cases that will be, we'll be updating, and we have a policy of bringing the old easements up to the current standard, and when we come across them with a capital improvement project such as this one.

Wheeler: Thank you.

Fritz: We heard about the need for the cross-examination control facility. Is there anywhere else that this facility could be put other than this, other than in this location?

Gossett: The improvements to the facility will include the corrosion control facilities, the new facilities we are building. These are really, in addition to or being added to our existing facilities that are in place. So, the answer is, the short answer is no. And because they will be added to existing facilities.

Fritz: They need to be --

Gossett: We are specifically connecting to the existing pipes at that location.

Fritz: Right.

Gossett: So no.

Fritz: We couldn't put it somewhere else?

Gossett: No.

Fritz: Thank you.

Wheeler: Very good. Thank you. We will move onto public testimony. Karla, I understand that there is a number of people who would like to testify?

July 24, 2019

Moore-Love: We have four people signed up.

Wheeler: Very good. Three minutes each. Name for the record. And the microphones move around six inches, away is good. Karla, we will read your name.

Wheeler: Miss white, would you like to start, please?

Dee White: Do you want me to go first, lightning or you want to go? Go on.

Lightning: All right. My name is lightning, and I represent lightning super humanity. I always have a problem with the eminent domain. The government. Stepping in on the nuisance liens foreclosure, so I have a problem. Now, if the private property owners are happy with it, fine. Have a happy day. But I don't think that they are, and that's why we are at the table here to propose that in the event, and this is a real strategic move on negotiating, in the event you don't agree to our appraiser that we will bring out to your property and our number that we provide to you, we will go into eminent domain, so really, you might want to take our first offer and just understand if you don't, we are going to end up with the property anyway. Now, what's interesting here, too, is that you have easements on four of the properties, and one you are purchasing, and I assume that the one that you are purchasing is the lusted road farms property because when you are looking at the square footage analysis on these tracks, they are at about 72,000, and then you have for another track, the sandy river property, the [inaudible] track is 164,000. My position is that if you are going to do eminent domain in this area, forget the easements, purchase it, all the properties that everybody has. Combine them together, and be equitable and fair, and give them the market rate. Now, here's the problem that I have. Since you are going to be so hostile, which you are, you are just hostile to these people, I am not only going to ask for market value, I will ask for double the value because of your hostility on eminent domain. There is no reason to do eminent domain, if I am talking to you, mayor, and you are the owner and I say can we buy your property? We will do a project and will go under contract -- let's move this deal forward. You say fine. But you are coming in hostile to me, and to them, and you are saying no, if you don't accept the offer, we go right to a court, and we go right to a judge, and we will take your property because we are the big, bad, government. We can foreclose on the property for nuisance liens, and we don't worry about your private property rights. Guess what, appraisal value, double the price, and because of the way that you are being hostile on these negotiations. Double the price. I am not happy with this. I am not happy with this to move forward. I vote no because of your host. Thank you.

Wheeler: Good morning.

Dee White: My name is -- can you hear in a he? My name is dee white. I am very much against your plans to take this property from these five parties in order to lay pipes for a 20 million treatment project that has a five-year life-span. According to your plans, once your other 500 million treatment plant is in place, in 2027, plans are to close down entirely and abandon this treatment facility including the pump station and the pipes. That's a five-year life-span for this facility, a pump station and pipes running through these properties, and all these people's land will have been taken and torn up, up in pipes laid. All of this will be shut down and abandoned. 20 million of rate payer money wasted. How can you possibly be justified taking the toll on these parties like this and doing this to the parties as well as the damage that you are doing to the greater public good? I am going to read from a Portland water bureau status report on this project that was put out last july, a year ago, and Portland water bureau is aware of the short-term life of the potential, of the short-term life of the current project. The cost impact of this facility and the potential for stranded assets. So you all are aware of it. Then it goes on to say that you are going to look and try to find some way to transfer the property and the new facility over to the treatment plant to the filtration plant, so then later, two months later at a pub meeting, which is the oversight committee for the water bureau, which, by the way, half of them resigned last month

July 24, 2019

because of perceived bias and conflict of interest, and anyway, at the pub meeting, another water bureau employee said, oh, well, the only thing that's going to be available to move over is the, the storage components because many of the feed equipment will reach the end of life. So again, you are going to be building this plant, laying the pipes, and closing that in five years. How in the world was this the best alternative? Given that the epa, three years ago, directed the water bureau to immediately take action to reduce the lead using already existing infrastructure? That's infrastructure that is at Lusted Hill that's due in the -- expanded it when you were trying to thrust fluoride on everybody, and we voted it down but you expanded it anyway. It's there. It's available. And shockingly, now, after three years of the epa telling you, you are failing to deliver safe water. Again, I am against taking this -- the taking of the parties for a temporary project that has a five-year life-span.

Wheeler: Thank you. Good morning.

Charles Bridgecrane Johnson: Thank you, Miss White. Obviously, Miss Dee White is the expert on lead here among all of us gathered to talk about this right now. With this project on the connected 17-page, pdf, which is mostly the maps of the properties affected by sending pipes to the facility, which we hear is only going to have a five-year service life. We need to -- she mentioned Pub. We didn't get a chance to say Portland Utilities Board, and it's sad to hear about the resignation and staff changes there. It makes me think that we might, actually, need for a change the Cascade Policy Institute, which usually is wrong, but they should probably come and look at the overall running of the Portland Water Bureau and compare the capital expenditures incurred by the water bureau of alcohol, tobacco, and firearms on a pro rata basis with the public water utility in New York. A public water utility with beautiful open reservoirs functioning. So, on this particular Lusted Hill facility, where is the outside advice that tells us a five-year, 20 million facility is going to give us that slightly more alkaline water and that magically in five years, we will have gone into all the homes to have lead solder and fix that problem? I don't know -- it seems like there is a missing over-arching guidance of how we're going to deliver safe water in the most cost effective manner, which is one of the reasons that the water bureau and the city was sued before. I didn't particularly agree with all of the aspects of that suit, but the city lost, in part, and so you know, it looks like rate payers will have to look to other advocacy organization, if not the Portland Utilities Board or Cascade Policy Institute, somebody else who is going to do an outside analysis of the habit that seems to be developing, you know, the water bureau moves around to different commissioners, but for places with water, it seems easy that burning money there, so I hope that some outside watchdogs will possibly be able to cosign that this is a good investment. Or explain to us why there are better ways that the water bureau can deliver safe drinking water without the expenditure and the impact on the property owners. Thank you.

Wheeler: Very good. Karla, was this one other?

Moore-Love: Last person who signed up is Cynthia Frazier.

Wheeler: Very good. Thank you.

Cynthia Fraser: Hello. I am an attorney with Garvey, Shubert Bear, representing Luster Farms, I am getting up to speed, so in full disclosure I had a conversation this morning with the city attorney Monaghan so I am still learning, I presented a letter yesterday, which hopefully you have received. I am giving you this -- my background very briefly just so that you understand that I am approaching this from the precondemnation, preresolution standpoint. I was a department of justice attorney, that's how I started out doing condemnation. I, then, in 2005, with the company where I represent a lot of governments and what I do for them is make sure that they are following the condemnation procedures' act. That's primarily what I do. Then I also do represent some property owners, which is why I am here today. My big concern here is whether or not you are going to meet the

July 24, 2019

legalities of least private injury and greatest public good with respect to my client. Based on what I have learned and been told, which is changing, he only received notice that his property was going to be taken on July 2, and that it would be at this hearing that there would be a resolution for eminent domain. He told me that he does not have any background information on whether or not this property is the only location for -- he's the 1.6 acres in fee. He does not know that. He's not seen any plans. He spoke with, and I actually spoke with yesterday -- excuse me, Monday afternoon, the agent that was going to be acquiring the property pursuant to the condemnation procedures act, didn't know what was going to go on this property, himself. It's still in design, but it's like secret. So my concern, are we putting the horse and the cart in the wrong spot here? Has my client received adequate notice of what's going to happen out there? Has it been properly vetted that indeed this 1.66 acres is, actually, the correct spot for it to go? Otherwise, you are subjecting yourself as a legislative body to did you have enough informed decision to pass this resolution, that indeed, this location is the least private injury in the greatest public good? That's what I am asking you, to pause here and give my client an opportunity to get a bit of information, for me to get more information, and for us to evaluate whether or not you are going to meet that legalities. So thank you.

Wheeler: Thank you, commissioner Fish. Did you have a question?

Fish: My understanding is commissioner Fritz said that following this hearing she would evaluate whether to bring this back next week. It would be inappropriate to engage an attorney in a public forum on this question. She's made a -- an argument. We need to get confidential legal advice and then decide how to proceed, but I think that it would be inappropriate to engage the merits of that argument before we get legal advice.

Fraser: I appreciate that. We are just looking for more information, and I appreciate, you know, this is your agency, and I have actually did work for the water bureau years ago, and the big pipe project, and I was involved in the relocation with complicated things, so I do understand both sides. I am requesting a pause here, so my client feels that they have had full notice and opportunity to understand what's going on there, and I understand whether or not, indeed, this is the only location or it makes logical, and I can explain to my client so that there is -- I am trying to stop the project right now. I am just trying to understand it, get him to understand it, and try to hopefully reach some type of a resolution so we do move forward. With the normal condemnation procedures' act, and no one is happy when the property is taken by eminent domain. I know that. We all know that it's a process.

Fritz: I am feeling fortunate that you are engaged for this property. Having had all of those backgrounds and experiences and certainly I am very willing to give you the time that you need to talk with Karen Moynihan, of the water bureau, so you have more time to understand -- to get the facts of what's going on and what's not. So we look forward to talking with you and your client over the next week, at least, and if we need to extend it, I am happy to do that.

Fraser: I appreciate that, and I would appreciate more time than one week. Thank you.

Fritz: I guess -- leave it there, if you are satisfied within a week you can let me know if not we will assume that it's going to go out further.

Fraser: I have got to satisfy a client, too. Thank you.

Fritz: I understand that. Thank you very much for being here.

Wheeler: Very good. Thank you. Anything else on this? This is a first reading, non-emergency ordinance, moves to second reading. [gavel pounded] next item, 694. We are going to move it but if you could read it, please.

Wheeler: Colleagues, land exchange is by ordinance requires four votes in order to be authorized, and therefore, going to move this to July 31 where we'll have the appropriate number of commissioners present. Item 695. Colleagues, this is a second reading. We

July 24, 2019

have had the presentation and public testimony. But it is also my understanding that there may be an amendment offered?

Wheeler: Very good. Madam auditor, come on up. Good morning.

Mary Hull Caballero, City Auditor: Good morning. Good morning, mayor and commissioners. We have an amendment on this item at the request of commissioner Hardesty, and a memo has been distributed to your offices and attached to the agenda, and the amendment is striking the word "private" for private police officers, and special as descriptors of the police officers who would be subjected to the oath of office.

Fritz: I move the amendment.

Wheeler: Motion.

Fish: Second.

Wheeler: And a second. Commissioner Fritz moves, commissioner Fish seconds. Just out of curiosity, I know that last week on the fly we did not have the time to be able to properly define those terms. Did we figure out, are these historical legacies or where did those definitions actually come from? Do we know at this point?

Hull Caballero: We asked the police bureau and checked in with the city attorney's office about whether or not this would pose problems to strike that language. They came back to us and said that it was no problem to strike them, so I am assuming they are obsolete terms. It was a very old code.

Wheeler: Very good. And we will take testimony on the amendment if there is anybody who wants to testify specifically to the amendment. Seeing none, please call the roll on the amendment.

Fritz: Absolutely delighted that commissioner Hardesty shares my delight in reading all of the details and making sure that the code amendments in particular as well as other things are accurate and thank you to the auditor for being willing to accept the amendment. Aye.

Fish: Aye.

Wheeler: Aye. The amendment is adopted. Any further business before I move this? This is a first reading of a non-emergency ordinance. Moves for second reading, as amended. [gavel pounded] thank you, madam auditor. 696, please.

Item 696.

Wheeler: Also a second reading. Further business, please call the roll.

Fritz: I asked for this to be pulled from the consent agenda while I was gone so that I could make some comments at the vote. I certainly appreciate the auditor's desire to update and clarify the Portland policy documents and how they get into the code, there is a lot about the language in the code, and I am a little concerned in reading the amendments, which I agree clean up the old code, and that's not actually what we do. And for city council and hasn't been my understanding, for example, that even the ordinances have to say what they are not there binding city policy, and I know that for commissioner Fish and me for the last ten plus years, it's been a -- it was my understanding that the ordinances were binding, resolutions are not unless they say that they are binding, with the changes that are outlined in this, the details in this revision, it says that all ordinances and resolutions have to say either it is binding policy or it is not binding policy. And I think that may, may result in some confusion for the ordinances which were passed in the past with the understanding that they would be binding policy and which under this revision, wouldn't be because they did not say that they were. So, what I am proposing, I would like to lead a task force or a staff group to look at the revisions as proposed -- as a technical matter that the auditors proposed, and as a policy matter have a discussion on, is that really what we want to have going forward? Or not. And it may be, but it may not be. I just -- I have not been briefed on this before it appeared on the consent agenda, and I think that it's worthy of more time, especially if you both look at going into the charter commission in 2021, it would be helpful

July 24, 2019

to have some council discussion prior to that as to what do we want to be -- how do we want to do this in binding city policy and not.

Fish: I have a suggestion.

Wheeler: Commissioner Fish.

Fish: Commissioner Fritz signaled she's not prepared to support this matter today, which means we don't --

Fritz: No, I would support it today. This is clarifying -- I am absolutely going to vote for it today. I am also saying that I don't think that what this is, it may or may not be actually what we want to have happen, and rather than delay all of the other more technical and kind of removing outdated language I don't want to do that. I don't want to revisit the whole thing. There is just a few pieces of it that I think would benefit for more discussion. It may be at the end of that, that we decide to leave it as we are parting today.

Fish: So you and I are scheduled -- we have a sit-down later this week. If we vote this out today, I would be happy to have that conversation with you. Know more about it, I am not prepared to authorize a task force until I have a better understanding of the subject.

Fritz: I would have assumed you would be the second person who would be most interested in having that process. Obviously, no commissioner needs the council authorization so set up a working group to revise the code at any time. So I am looking forward to having that conversation. And I vote aye.

Fish: Aye.

Wheeler: I think that's a worthy conversation to have and I appreciate you taking a lead on that, and I vote aye. The ordinance is adopted. And last but not least, 697, please.

Item 697.

Wheeler: Also a second reading. Any further discussion? Please call the roll.

Fritz: Mary has made several really great improvements over this time that she has been here, and that she and I have served together. And for the citizens of the community of Portland, and I think that this -- her revisions to the administrative appeals process, has to stand out as one of the top five things that you have done, and I think it's really great that you and the ombudsman recognize the challenges of people who want to appeal the administrative decisions and made sure that they would be able to do that without great cost, so I very much appreciate these changes. Aye.

Fish: Aye.

Wheeler: A lot of detailed work but I appreciate it, as well, and I vote aye. The ordinance is adopted, and we are adjourned. [gavel pounded]

Council adjourned at 10:40 a.m.