



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **16th DAY OF OCTOBER, 2019** AT 9:30 A.M.

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

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Karen Moynahan, Chief Deputy City Attorney; and Cheryl Leon-Guerrero and Ian Williams, Sergeants at Arms.

On a Y-5 roll call, the Consent Agenda was adopted.

The meeting recessed at 10:12 a.m. and reconvened at 10:15 a.m.

Motion to hold an evening City Council session on Thursday, November 7, 2019 from 6:00p.m. to 8:00p.m. at Portland Community College, SE Campus for the remaining Portland Clean Energy Fund appointees, accepting a grant from the Bloomberg Climate Challenge and hear a report from Portland Bureau of Transportation on the Rose Lane Initiative: Moved by Wheeler and seconded by Fritz. (Y-5)

COMMUNICATIONS		
953	Request of Stan Herman to address Council regarding your constituents question (Communication)	PLACED ON FILE
954	Request of Amy Wilson to address Council regarding 3.96 Code change (Communication)	PLACED ON FILE
955	Request of John Teply to address Council regarding Neighborhood Associations (Communication)	PLACED ON FILE
956	Request of Avery Pickard to address Council regarding 3.96 Code change (Communication)	PLACED ON FILE
957	Request of Claire Coleman-Evans to address Council regarding the proposed changes to Code 3.96 (Communication)	PLACED ON FILE
TIMES CERTAIN		

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<p>958</p>	<p>TIME CERTAIN: 9:45 AM – Accept the Quarterly Technology Oversight Committee Report from the Chief Administrative Officer (Report introduced by Mayor Wheeler) 30 minutes requested</p> <p>Motion to accept amended Exhibit A: Moved by Wheeler and seconded by Eudaly. (Y-5)</p> <p>Motion to accept report: Moved by Fish and seconded by Hardesty. (Y-5)</p>	<p>ACCEPTED AS AMENDED</p>	
<p>*959</p>	<p>TIME CERTAIN: 10:15 AM – Authorize a grant agreement with United Way of the Columbia-Willamette, in an amount not to exceed \$600,000 for Portland-directed activities within a coordinated statewide Hard to Count campaign for the 2020 Census (Ordinance introduced by Commissioner Eudaly) 30 minutes requested (Y-5)</p>	<p>189731</p>	
<p>CONSENT AGENDA – NO DISCUSSION</p> <p>Mayor Ted Wheeler</p> <p>Portland Housing Bureau</p> <p>960 Reappoint Nate McCoy to the Portland Housing Advisory Commission for a term to expire October 16, 2021 (Report) (Y-5)</p>			<p>CONFIRMED</p>
<p>Commissioner Amanda Fritz</p> <p>Water Bureau</p> <p>961 Authorize an agreement with Clark Regional Emergency Services Agency for the co-location of radio equipment in the amount of \$162,000 (Ordinance)</p>			<p>PASSED TO SECOND READING OCTOBER 23, 2019 AT 9:30 AM</p>
<p>962 Authorize the Water Bureau to enter into an agreement with the Water Research Foundation, to participate in the Water Environment Research Foundation Project in an amount not to exceed \$65,000 (Ordinance)</p>			<p>PASSED TO SECOND READING OCTOBER 23, 2019 AT 9:30 AM</p>
<p>REGULAR AGENDA MORNING</p> <p>963 Authorize the Bureau of Human Resources to establish processes and procedures necessary to support Affinity Group work and membership Citywide (Resolution introduced by Mayor Wheeler and Commissioner Fritz) 15 minutes requested (Y-5)</p>			<p>37453</p>
<p>Mayor Ted Wheeler</p> <p>Bureau of Police</p>			

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<p>*964</p>	<p>Authorize a \$391,694 U.S. Department of Justice law enforcement and criminal justice community grant agreement and appropriate \$300,000 in law enforcement and criminal justice funds for FY 2019-20 (Ordinance) 20 minutes requested (Y-5)</p>	<p>189733</p>
City Budget Office		
<p>*965</p>	<p>Adopt the FY 2019-20 Fall Supplemental Budget and make other budget-related changes (Ordinance) 1 hour requested</p> <p>Motion to increase General Fund contingency policy set-aside by \$250,000 to be available for outside legal counsel for labor negotiations. Reduce General Fund unrestricted contingency by \$250,000 to fund this change. Update Exhibits 1-5 as needed to reflect this change: Moved by Wheeler and seconded by Hardesty. (Y-5)</p> <p>Motion to increase General Fund bureau program expenses by \$25,000 in the Portland Bureau of Emergency Management and \$25,000 in the Bureau of Development Services for Partnering to Mitigate Fossil Fuel Risk. Reduce General Fund unrestricted contingency by \$50,000 to fund this change. Update Exhibits 1-5 as needed to reflect this change: Moved by Wheeler and seconded by Hardesty. (Y-5)</p> <p>Motion to increase General Fund bureau program expenses in the Office of Equity & Human Rights by \$25,000 to fund unanticipated personnel costs in the current year. Reduce General Fund contingency by \$25,000 to fund this change. Update Exhibits 1-5 as needed to reflect this change: Moved by Fritz and seconded by Eudaly. (Y-5)</p> <p>Motion to increase bureau program expenses for Portland Parks & Recreation by \$31,344 in the Golf Fund (fund 603) and \$27,656 in the Portland International Raceway Fund (fund 604) for a net increase of \$59,000 in bureau enterprise fund resources to fund an operating shortfall in the Peninsula-1 (PENI) Drainage District. Reduce contingency in Fund 603 and Fund 604 by \$31,344 and \$27,656 respectively to fund this change. This amendment provides one-time funding for Peninsula 1 expenses attributed to the 640 acres of drainage district that fall within the boundaries of the Portland International Raceway and the Heron Lakes Golf Course. Update Exhibits 1-5 as needed to reflect this change: Moved by Fish and seconded by Fritz. (Y-5)</p> <p>(Y-5)</p>	<p>189732 AS AMENDED</p>
Office of Management and Finance		
<p>966</p>	<p>Authorize \$30 million of revenue bonds for North Macadam Urban Renewal Area (Ordinance) 10 minutes requested</p>	<p>PASSED TO SECOND READING OCTOBER 23, 2019 AT 9:30 AM</p>
Portland Housing Bureau		
<p>*967</p>	<p>Amend subrecipient contracts with Community Energy Project by \$290,000 and Portland Community Reinvestment Initiatives, Inc. by \$70,000 to support home repair services (Ordinance; amend Contract Nos. 32001943 and 32001942) 15 minutes requested (Y-5)</p>	<p>189734</p>

At 12:43 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **16th DAY OF OCTOBER, 2019** AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council, and Keelan McClymont, Acting Clerk of Council at 3:45 p.m.; Lauren King, Deputy City Attorney; and Cheryl Leon-Guerrero and Ian Williams, Sergeants at Arms.

968	TIME CERTAIN: 2:00 PM – Appeal of the Southwest Hills Residential League against the Hearings Officer’s decision to approve, with conditions, a 1-lot partition with concurrent environmental and planned development review adjacent to 1315 SW Broadway Dr (Hearing introduced by Mayor Wheeler; LU 18-119056 LDP EN PD) 2 hours requested No additional oral testimony will be taken. Written testimony may be submitted until 9:45 AM, December 4, 2019.	CONTINUED TO DECEMBER 4, 2019 AT 9:45 AM TIME CERTAIN
REGULAR AGENDA AFTERNOON Commissioner Chloe Eudaly Bureau of Transportation		189735
*969	Amend a contract with TriMet related to the operations and maintenance of the Portland Streetcar system to add payment to TriMet for operations, maintenance and other services for FY 19/20 through FY 23/24 in an amount not to exceed \$47,930,176 (Ordinance; amend Contract No. 30002872) 10 minutes requested (Y-4; Fish absent)	
*970	Authorize the Bureau of Transportation to acquire certain permanent and temporary rights necessary for construction of the Connected Cully Sidewalk Infill project, through the exercise of the City’s Eminent Domain Authority (Ordinance) (Y-4; Fish absent)	
971	Declare intent to initiate local improvement district formation proceedings to construct street, sidewalk, and stormwater improvements to NE Couch St from NE 97th Ave to NE 99th Ave and to NE Davis St from NE 97th Ave to NE 100th Ave in the NE Couch - Davis St Local Improvement District (Resolution; C-10068) 30 minutes requested Motion to amend the Resolution and Exhibits to incorporate the additional petition support which brings total to 71%: Moved by Eudaly and seconded by Hardesty. (Y-3; Fish and Wheeler absent) (Y-3; Fish and Wheeler absent)	37454 AS AMENDED
Commissioner Nick Fish		

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Bureau of Environmental Services		
972	Amend Public Improvements Code to make requesting and participating in Bureau of Environmental Services administrative reviews more customer-friendly (Ordinance; amend Code Chapters 17.32 through 17.39) 10 minutes requested	RESCHEDULED TO OCTOBER 23, 2019 AT 9:30 AM
973	Authorize the Bureau of Environmental Services to acquire certain permanent and temporary property rights necessary for construction of the SW Capitol Hwy Stormwater Improvements Project No. E10939 through the exercise of the City's Eminent Domain Authority (Ordinance) 15 minutes requested	RESCHEDULED TO OCTOBER 23, 2019 AT 9:30 AM
Commissioner Jo Ann Hardesty		
Fire & Police Disability & Retirement		
*974	Extend benefits currently provided to eligible members of the Fire and Police Disability, Retirement and Death Benefit Plan (Ordinance) 15 minutes requested (Y-4; Fish absent)	189737

At 5:06 p.m., Council adjourned.

**DUE TO LACK OF AGENDA THERE WAS
NO 2:00 PM MEETING THURSDAY, OCTOBER 17, 2019**

MARY HULL CABALLERO
Auditor of the City of Portland

Karla
Moore-Love

Digitally signed by
Karla Moore-Love
Date: 2020.04.27
14:04:19 -07'00'

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.**

October 16, 2019 9:30 a.m.

Wheeler: Good morning, everybody. This is the Wednesday, October 16th, 2019 morning session of the Portland city council. Good morning, Karla. Please call the roll.

Eudaly: Here. **Fritz:** Here. **Fish:** Here. **Hardesty:** Here.

Wheeler: Here, now we will hear from legal counsel on council rules of order and decorum.

Karen Moynahan, Chief Deputy City Attorney: Welcome to the Portland city council. 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 on 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 and 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 exiting or entering. 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 ejected for the remainder of the meeting. After being ejected, 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: Very good. Before we get to communications I would like to make a motion to hold an evening city council session on Thursday, November 7, 2019 from 6:00 to 8:00 p.m. At Portland community southeast campus for the remaining Portland clean energy fund appointees, accepting a grant for the bloomberg climate challenge, and to hear a report from pbot on the rose lanes initiative.

Fritz: Second.

Wheeler: We have a motion and second from commissioner Fritz. Any discussion? Please call the roll.

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

Wheeler: Aye. Thank you, colleagues. Motion passes. Communications is first up. Karla.

Item 953.

Wheeler: Good morning.

Stan Herman: Good morning. I want to start with, I am not trying to pick a fight with you guys, but I am not going away. Next month will be three years trying to get an answer from the Portland city council. You probably ask me why am I coming down here? Basically, I can't get any answers from anybody in the bureaus. They just kick the can down the road.

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Mr. Mayor, we did not meet, as you said, in the past. Your assistant, Michelle, was ordered to help me but that went nowhere. Robert King met with me almost three months ago. I e-mailed him back on questions, and I confirmed that he received the email and I got no answer. As of today. Last month when I was speaking I believe Amanda you tried to respond to me but I didn't hear you and Mr. Mayor, I think that you leaned over and told her it fell on deaf ears, and you are probably right for that insult. I am wearing hearing aids and the battery was dead. Amanda, thank you for your response, but your response was, you did not know the facts about a case or the applicable law. I am not -- just answer the question, as it is. I am not -- it's not nothing to do with any case. It's not asking for any legal opinion. Eudaly, you stated to me a year ago that you couldn't help me with my problem. I said I don't have any problems. I just need you to answer your constituent's questions. Hardesty, you are new at this, you don't know how long I've been here but I e-mailed you the question, and no response to the email last week. Fish, I liked you on tv you look good, but again, I don't get much response on my question from you. All I want to know now, I think I will email you all, request an, request a meeting, personally. I would like to know a show of hands if you will respond and have a meeting with me. Anybody? Thank you.

Hardesty: I meet with anybody and everybody who contacts my office and asks for a meeting. So you are not unique if you call and ask for a meeting you will get one.

Wheeler: I have already met with you as have members of my staff and we communicated with you. Repeatedly.

Herman: You will or will not be with you?

Wheeler: I met with you, sir.

Herman: I am asking again, will you meet with me again.

Wheeler: If there is something new that you have to contribute to the conversation, I would entertain an email first, so let's start there.

Herman: I just need a yes or no.

Wheeler: No.

Eudaly: No.

Fish: No, Mr. Herman, let me say you've been before us dozens of times, and there are other issues here than this question you are posing. This is not the appropriate place to hash these out. I wish you well, sir, in your life. I wish you well in whatever is going on in your life, but this is -- you have exhausted this process. You are not going to get any relief here. You've been told that repeatedly by people. I have a sweet spot for you because of your persistence in coming, but this has gone beyond a constituent request. There are other issues here. We wish that we could be helpful but we can't, and I think you are taking up the time of some other person that could come before us and raise a concern, and you have been told repeatedly, you have been given answers that you don't accept, and that's fine, but there is nothing that we can do for you, there is no further relief that we can give you, and this does not serve any useful purpose with you coming here. If there is other issues you would like us to address in your life, I think that we would be happy to do that but this does not serve any purpose.

Herman: It does, and there is more to it. One of them is to provide a city park for the Portland area for kayaks for kids, and the other, I've been holding back, to provide for low income housing for about 120 units. I am not going to step in those boundaries until we can get communication going, but I thank you.

Fish: Thank you.

Wheeler: Thank you, sir. Next, Karla, I can't tell if the next individuals want to come up together or separately.

Moore-Love: They do want to come up together.

Wheeler: Call them up.

Item 954.

Item 955.

Item 956.

Item 957.

Wheeler: Good morning welcome.

Hardesty: Who is going first.

John Tepy: I will go first.

Wheeler: Very good, thank you.

Tepy: My name is John Tepy, I am with the Mrs. Jones art center. I wish to thank commissioner Eudaly for coming to the art center during the neighborhood association rock exhibit and meeting with us. I will admit that I was totally charmed and when we talked, and any time that you would like to come back to the art center, it would be my pleasure to give you a personal tour. I wish to thank Mayor Wheeler who also came with his wife and family and thank you for the encouragement about putting up the two foot by one mural project. We found a city site to exhibit it, on the five city blocks, and it was amazing. Thank you. A few years back, I had the privilege to give testimony to the city council. This is for the vacation of a traffic island in St. John's called Ivy Island. I was against a vacation and then, and then the neighborhood association was for it. Through the process I submitted a petition with 1700 signatures, and we had a post-card campaign about the subject. It was the most pleasurable sight to walk into Amanda Fritz's office and see post-cards on her desk concerning Ivy Island, and I also started the code change, kind of my m.o., and I would like to thank commissioner Fish for seeing our group and listening to an Ivy Island presentation. This was the most amazing experience for me. I was just this guy in the neighborhood who had an objection to an official neighborhood association position. Here I was meeting with the city commissioners and their staff were returning my phone calls. I wasn't part of the official neighborhood association, my stature and my voice was elevated because of the neighborhood association. I lost that fight for Ivy Island. What is important is that even though I was outside the neighborhood association, we were playing by the same rules. These rules were published, and you could go, and you could go to them, go to what was then ONI, read the rules and find the staff to help you understand them. There was a thick booklet that contained the guidelines that was public, and that everyone had access to. It created a safe and transparent place with structure that allowed any person the opportunity to engage in local issues through the neighborhood association. Much of this was troublesome and hard to do, but it was all above board and amazing to see in motion. It kept everybody honest. Democracy in its purest form, a safe place for civic engagement for everyone. Strong support of coalitions is a belief in democracy, is the best system and that every voice in our community should be valued and respected. That's what I would like to see as a strong support of our coalitions. Thank you.

Hardesty: Thank you.

Claire Coleman-Evans: Good morning, commissioners, and mayor. My name is Claire Coleman-Evans. A major concern of neighborhood associations and residents of Portland is feeling like they have not been properly informed about this code change process in a timely manner. Going forward I would hope that everyone is willing to work together and be well informed far in advance of the process of a realistic schedule to be set for everyone, along those lines, there is much confusion as to what the immediate and long-term and end processes will be in the future. All of this uncertainty and divisiveness is a challenge at best for coalitions and neighborhood associations, which have been a model of strength recognized by providing communication and transparency between the city and the people of Portland. Rather than destroy the current neighborhood association, we should work together to strengthen and make sure that it is, it continues to work for all of Portlanders while being open to other models of engaging residents. What would really help ease the

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tensions in this process is to renew the coalition's contract for another five years. I would like to know what will the November 14th council session be about? Will this be a first reading? Will this be a vote requested? And in an email to the disbanded code committee on November 7, but was not shared with the public, indicated that an ordinance and an administrative rule and a resolutions would be presented to council. A resolution to convey a multibureau work group to review cross-sectional functions in the city code and work a diverse range of stakeholders who made recommendations to council for modernizing practices to equally provide services to more of Portland. I noticed on commissioner eudaly's Facebook post and the city website a few weeks ago that she said she wanted to slow the process down. Listen to other voices and maybe revise the code's proposed language. The October 7 email, however, does not seem to reflect slowing things down, and if you want to slow it down, so they can give input on how 3.69 code should be revised and not just have civic life try to sell us something that we did not have a chance involved in drafting and those think this should be consulted and commissioner should revise a proposal based on their input, as well, convene focus groups with neighborhood associations, listen to how they think the code should be updated and the standards should be revised and not just eliminated. Will there be a new process to taking input from the stakeholders' groups such as neighborhood associations and coalitions? Will there be a public involvement plan and project management plan put together that stakeholders can comment on before the process starts? And what will all of this timeline look like? Thank you.

Wheeler: Thank you.

Amy Wilson: Hi I'm Amy Wilson. Hi, thank you. So as Clair mentioned our district coalitions are in a state of chaos right now due to the funding. 40 plus years ago the city worked to set up an engagement system for the citizens, as Gretchen Kaufory was known to say the city funded in these to argue with them. Like anything important ongoing, dedicated funding was established to support it and a bureau was put in charge of insuring its success. Coalitions were the intermediary layer that hired staff, committed to leasing building space and managed the costs to provide the on the ground support, and because of these committed expenses, coalitions have to rely on reasonably predictable funding. However, occl has appended this model in favor of a competitive bidding process where instead of being seen as partners and collaborators, coalitions are applicants being pitted against each other as well as community groups. In the past, as Clair mentioned, five-year contracts were the norm. Now, coalitions are being told that they will only be offered 12-month contracts with no dollar figure attached. How can you plan? At its root, the neighborhood association system functions as a citizen's check on government to address the mistakes caused by top down policies that ignore citizen input, but instead of empowering grassroots citizens to fearlessly engage in important decision-making, groups of politically unpopular ideas could naturally be rejected, and irritating coalition, could just be starved into folding. It reminds me of the Reagan administration when they wanted to get the government sized down so small that you could drown it in a bathtub. We should not be upending our model until a code revision is adopted. This competitive bidding model is in direct contradiction to the current code which requires occl to support coalitions, but support staff have been fired, and the funding process is in chaos right now. There is a real possibility that this decisive process, if it continues, it could cause harm to our communities ability to come together to work on solving problems in the future. This process already is ripping up the social fabric of our community. There is already a growing resentful division happening between civic volunteers who used to be natural allies. Mistrust and disparagement are beginning to take root and that is frightening to those of us in the trenches right now. My two requests from you would be, restore the five-year contracts with the coalitions so that they can stabilize, we can reduce the tensions, and hopefully all

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move forward together to make improvements in the system. The other is we really need to engage in independent public involvement and citizen engagement professional or professionals to be a neutral party, to help guide us and move us forward beyond the growing mistrust and bring us back together. Thank you.

Wheeler: Thank you. Commissioner Hardesty.

Hardesty: Thank you. I just wanted to thank each of you for coming and say that I think that I can speak for my colleagues to say that all of us have spent a lot of time with neighborhood associations over the last few months. Let me say that I think that there is a real awakening, and acknowledgment that neighborhood associations are not all created equally, and they have not, as traditionally, represented all the voices and communities, so there will be changes coming. I hope that you have heard that it has been slowed down. So, nothing will be voted on before another process has been created to supplement the work that's already been done. I think that the very good news is that every neighborhood association, all 91 of them, are awake and aware that they need to look around the community and figure out who is not at the table and get them to the table. And so I look forward to working with my colleagues and all the neighborhood associations to make sure that we live our values, which we represent everyone. Not a specific demographic group, but everyone and I would love to hear neighborhood associations come here and tell us how they are going to achieve that goal. That's the question. The question is, if you exist for another 45 years, how do you represent the community that you represent? So thank you all for being here. Thank you for being willing to be part of the solution. But I have got to tell you, if I never have another meeting with another neighborhood association, at least in the next six months, right, because I have talked to a lot of people, and everybody has the same message, right, yes, we are not working the way that we are supposed to. Yes, we are not totally representative of our community. Yes, we know that we need to change. Right. So let's just do the work and make it so.

Wilson: I would love to invite you to a king neighborhood association meeting.

Hardesty: I would be happy. Just contact my office. I am at meetings every night. Just invite me.

Wilson: We appreciate your willingness and you coming.

*****: Thank you.

Wheeler: Commissioner Eudaly. Karla, is there one more person signed up?

Moore-Love: It was Avery Pickard, he may not be here.

Wheeler: Is Avery Pickard here? Commissioner Eudaly.

Eudaly: I want to thank you for coming here today. Mr. John Teply, I will politely decline your invitation to come back for the time being. It's been my experience your gallery was any indication of the safe space you provide for everyone to participate, I would not want to come back. There is clearly still a lot of misunderstanding in the community about the process and the proposal, so I want to invite all of you to visit Winta Yohannes my liaison in my office to civic life. She has been working closely on this issue since the beginning and hopefully she can clear up some of the confusion that you have. We have a busy agenda today, and I am not going to have a conversation from the dais with you but that's the first step, would be you talking to Winta. Thank you.

Wheeler: Thank you for your testimony. Have any items been pulled from the consent agenda, Karla?

Moore-Love: We have had no requests.

Wheeler: Call the roll.

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

Wheeler: Aye. Consent agenda is adopted. First time certain item, please, 958.

Item 958.

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Wheeler: The technology oversight committee or toc was established in 2011 for the purpose of providing citizens oversight on city technology projects that have a substantial impact on city operations, especially projects that are a high risk or are a high cost, toc members provide oversight and advise project staff throughout the projects implementation. The purpose is to increase both transparency and accountability for the technological aspects of significant city projects, and to identify any potential issues early, as early in the process as possible. The toc reports monthly to the chief administrative officer, who then submits reports to the city council on a quarterly basis, so today, we are receiving a status update on projects that are under toc oversight as well as the summary of the quality assurance assessments. The toc is comprised of individuals who possess impressive technology backgrounds and extensive experience with project implementation. On that note I am pleased to see the last original member is here with us today. Will Pinfold represents my office and has been serving the toc for 8.5 years. Will, welcome, and thank you for your many years of service to the city. Senior management analyst and toc staff liaison, heather Hafer, is also here to help to present this quarter's report. Good morning, everyone.

Heather Hafer, Office of Community Technology: Good morning. Thank you, mayor. Nice to see you, commissioners. I, too, am pleased that Will is joining us here today. He provide us with extensive experience and professional oversight and managing complex technology projects, and I think that benefits our entire organization. So we are incredibly thankful for your time. I am equally pleased to be joined by a familiar face, Jeff Baer, who serves as your chief technology officer. Jeff provides the managerial oversight of toc projects and in my opinion does a fantastic job of doing so. As the mayor said, toc members Represent each elected official, in addition to ill, Dyanna Garcia represents commissioner Fritz, Victoria Trapp represents commissioner hardesty, Jimmy Godard represents commissioner Eudaly, and our newest member represents commissioner Fish and I hope to introduce you to him in January. The toc oversaw two projects during the last recording period, from July through september. That is the projects were the Portland online permitting system and the open and accountable elections. We will be presenting the project dashboard so you can see an overall rating of the projects, from both the toc and the quality assurance, but both Will and Jeff are here to provide you with additional product information and answer any questions you might have.

Moore-Love: We have that amendment we need to do before that power point.

Hafer: Yes.

Wheeler: This is amended exhibit a in the Tuesday memo.

Hardesty: I am sorry, an amendment?

Moore-Love: To exhibit a, it was in the Tuesday memo, page 4.

Hafer: On the dashboard, or you are seeing the pops rating sheet, unfortunately, there is a tremendous amount of copying and pasting that goes along with this reporting and you originally saw the toc's assessment in July, as yellow, yellow, green, and green. And it is yellow, green, and green.

Wheeler: Do we need a motion to substitute the exhibit?

Moore-Love: That would work.

Wheeler: I so move.

Eudaly: Second.

Wheeler: A motion and second from eudaly. Further discussion? All in favor please say aye -- I am sorry, call the roll.

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

Hardesty: Aye.

Wheeler: Substitute is on the table, aye. I did aye.

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Jeff Baer, Director, Office of Community Technology: Thank you, heather and mayor wheeler and members of the city council, I am Jeff Baer the director of technology services, and was introduced, we are here with our toc member dr. Wilf Pinfeld here to provide updates to the reports. Since it only covers the July through september time frame, there have been a lot of activities that occurred since the project period ended, and we are here to answer any questions you have regarding the projects. Just to focus on pops, the Portland online permitting system, it continues to move forward towards a q1, 2020 go live for the main permitting system. Both the qa and the toc members are assessing the object in yellow and green status, and the project team has been actively hosting Amanda road shows, really to highlight the system features and we have got foundational courses and the learning labs are available for employees to start taking advantage of for the testing and training that will occur over here over the next few months. The bureau of development services director Esau and I meet weekly with the team to review project status, risk, and different issues as they occur to make sure that we have or are addressing those as they occur each week. The user acceptance testing, uat, is a significant phase, and that will be beginning soon.

Wheeler: Can I interrupt for a moment? Commissioner hardesty.

Hardesty: Thank you, mayor. Thank you. Two questions. One, Amanda is an acronym? We are not talking about commissioner Amanda Fritz.

Baer: That's correct.

Hardesty: And would you tell us what the acronym stands for so that the listening public --

Baer: I have tried for the last year, commissioner.

Fritz: Automated mechanical -- the first letter is automated.

Hardesty: Let the record reflect we are not talking about commissioner Fritz.

Fritz: I like that, look like we are talking about my project. [laughter]

Hardesty: I love that you are in this road show, but can you tell me what changed between July and august that gave you less confidence in the pops project as it relates to the budget?

Baer: Yes. So the budget was -- the overall project budget did not change, but there were questions about the line items, expenses that were attributed to different expenses that we had to go back and reconcile, so bottom line, the number didn't change, it was just reconciling the different expenses.

Hardesty: Thank you. That helps.

Baer: Just to report on the development hub pdx or dev hub we went live on July 1st, we retired the system in august, and customers are now applying for permits through this online permitting website. Reports indicate this is very well received so that is going very well.

Fritz: I beg to differ, I tried to get a, to get a street tree trimming permit, which previously I had been able to do with no difficulty and I could not -- I couldn't do it.

Baer: Okay. We will follow-up on that.

Fritz: If you could, please.

Baer: Was that a tree permitting?

Fritz: A street tree permitting, which was previously was easy to do, when I clicked on the pops website it sends me to this development hub, and I clicked on every link and couldn't find it.

Baer: We will get back to you.

Fritz: I did send an inquiry, so I will update my colleagues on that, and I am sure the development services and technology services will make sure that customers are given training, if we are not doing it correctly.

Baer: I want to follow up on these different activities that I noted. These are really more internal facing to talk about how do we train staff to be able to use the system, and also,

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bd's has been working directly with the development review advisory committee, which also is known as the dracc and their customer advisory committee to keep them a -- to keep them apprized. I think the team and I and the director Esau and I are feeling good about the progress that we are making and heading towards a launch period in February of next year. And do you have anything to add?

Will Pinfold: I would like to add something. I think that both these projects represent a shift going on in the way that the city looks at software, and I think it's in line with where the industry is moving, and it's moving away from this as an item, as a product that you buy and you purchase and you have it for a period of time, and then it's out of date. And a good way to think about this is you know, in the old days we would go out and buy windows and it was packaged and stayed stable for a long period of time, but today, on our smart phones, typically there are updates coming for all of your apps on an ongoing basis. And to think about software more as a service than as a thing. It's really there to help members of the bureaus get their job done in an efficient way and it should align with the processes they are using, which is a moving target, but we're improving those processes and changing those processes on a regular basis, and both these projects have taken a step in the right direction of moving towards that ongoing support. Pops, I think, we have now reached a point where we are quite well aligned with the provider in delivering the technology in many of the challenges that we have in the next step. Our challenges are that they have across the user base so we are, actually, on the leading edge of the delivery, which I think is a good achievement to have reached. And the work done on the open and accountable elections, you know, one of the things that you will see is that we have marked down the completion as uncertain. That's not actually necessarily a negative in our view. We would expect the, the, as we develop the processes, as we understand what the weaknesses are and as the process is used, we expect that package to advance, and the relationship that has been developed with civic, recognizes that and will continue to move it forward, so I would ask the commission to think more about ongoing software efforts as purchasing a service rather than just purchasing an item and think about it in that way, and I think it will help us all as we go forward to think about these procurement staff and recognize that completion is not quite as crystal clear as it has been in the past.

Wheeler: Excellent. Great.

Baer: And I'll give a quick update on the open and accountable elections. The report that you see before you indicated that they had civic software foundation had delivered all components for implementation we were calling it plan b. I learned yesterday from the director Susan Mottet that they have delivered 100% for plan a with one exception, and that is for the auto notification process. So it's coming together, and it's really progressing well.

Wheeler: That's good to hear, thank you.

Fritz: We have got it, and it's working.

Baer: Yes.

Pinfold: I think I covered them both, and I would agree, I think that ongoing improvement to this, and I think that there will be -- part of this is the certification process which is, do we know how it is that the tool is being used? And if there are anything that we are concerned about, ways that the process is being managed, we should have the option to add those as we go. In the same way as you would add patches to an application of the phone to ensure that security is maintained, I would expect us to continue to do that with open and accountable elections on an ongoing basis.

Wheeler: I appreciate that clarification, and I had a question just about the way that we were reporting out information. And I realize it's a quarterly report, and it's my understanding there was a deadline for this report that's approximately, what was it, september 19.

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Pinfeld: The completion of the.

Wheeler: Yes, we have red reflected here in our report, close to the end of October, but we're hearing a verbal confirmation from you that a lot of the issues that led this to be red are now either yellow or green. Is that a fair assessment?

Pinfeld: Let me add a bit to that. I think that that's, that's a correct understanding but let me add context to that. At the beginning, of this project we realized the time schedule was very tight and the objectives that were being laid out were quite stringent, in other words, if we met the completion of the project, that would be fairly remarkable in the amount of time it was provided. So we said as a group, if you want this completion, you know, we think it's red and you have seen that throughout. However, we all strongly supported doing the project because the alternative is a manual process, and the manual process would be very burdensome. And even early on, it was clear that we could do a fairly significant percentage of that manual work automatically, and that would be an enormous benefit. And I think that the deadline you are talking about, we had 80% of that manual work covered by this process, which for us, knowing where we started, we thought was good. We still marked it, you know, negatively because we did not want to set expectations that it was going to be complete. We never believed that it would be complete on-time. We believed it would be a significant benefit.

Wheeler: But the trend lines are good?

Pinfeld: Right.

Fritz: And it's working. It's so exciting, and I need to give a shout out to the civic software foundation and their volunteers. We have got the automated system for permits, which has been going as long as I have been on the council, I think, or nearly that long, and it's still not quite ready to implement, and this system, which is somewhat complex, has been done largely by volunteers, and gotten done so that it was ready to use the day that the program stuff opened for candidates.

Pinfeld: Yes, I think that that's true, and I think that something else that is attractive about this, because it is open and because there are volunteers who are able to work on this, things like some of the visualizations will happen through community activity and they will be very beneficial, and I know that, I know that some of our press who would like to be able to monitor the process will be very delighted that when they start to raise questions, we can create visualizations that let them take a look at what is happening within the election, and I think that that's very healthy for our democracy, an ability to be able to say okay, you know, something is going on here, can we visualize it in some way and have a civically conscious group come up with a visualization that lets us look at it better without a burden cost on the taxpayer, which I think is an excellent place to be.

Fritz: And I did find Amanda stands for application, management and data automation.

Wheeler: Amanda sounds so much more exciting. This is the first time you are going to hear me speak in favor of the acronym. [laughter]

Eudaly: I need to hear that again.

Hardesty: I just want to just really appreciate the volunteers on the toc. The resources that you provide to the city are priceless. Your expertise that you are willing to bring on a volunteer basis over and over again really has helped us to, actually, for those of us who are not -- and I say this kindly, tech geeks, those who are not tech geeks, you help us understand what we're investing in and what we should expect the outcomes to be. And I love your cautious nature because when I watched the red go to yellow and then to green, I know that we have accomplished something. So, thank you, thank you, thank you. I am greatly appreciative.

Wheeler: Thank you all. Does that complete your presentation?

Hafer: It does.

Wheeler: Any further questions? I will entertain a motion.

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Fish: So moved.

Hardesty: Second.

Wheeler: We have a motion to accept from commissioner Fish, a second from commissioner hardesty, any further discussion? Please call the roll.

Eudaly: Thank you for the report and for your work. Aye.

Fritz: Thank you for being here Mr. Pinefold for your comments. You've been so supportive throughout this experience, and thank you to Chris Smith who provides quality assurance oversight for the open and accountable elections technology, and civic software, thank you to the whole technology oversight committee and particularly thank you to the open and accountable elections director, Susan Mottet, who worked incredibly hard to get this going in record time, and I am real excited that it is. Aye.

Fish: Thank you for the presentation, and I also appreciate the perspective that you shared with us about software and thinking about it differently. Thinking about it as a service. I think that that's -- that's something that we need to ponder as we go forward, but this exercise that we go through quarterly where we get these reports that are easy to understand, they are color coded, I think it's a model for how we should do a lot of oversight in the city, and thank you for your service. Aye.

Hardesty: I want to say that you reported today on two projects that cost the most angst with the public. The permitting process and who has the privilege of running and serving in public office. Neither of those tasks are easy, and you have brought us along every step of the way. I am honored to vote aye in favor of your report, and I want to thank you once again for your work.

Wheeler: This is a process that works really well. I really appreciate everybody's service. I vote aye, the report is accepted. We will see you next quarter.

Hardesty: Unless something weird happens and you need to come earlier. [laughter]

Wheeler: Like I said, we will see you next quarter. Next item, 959.

Item 959.

Wheeler: Commissioner Eudaly.

Eudaly: Thank you mayor, colleagues I am pleased to introduce the next item.

Hardesty: Excuse me, commissioner, I noticed that this is a time certain item and it's not quite 10:15 yet.

Wheeler: That clock is slow. [laughter]

Eudaly: 10:12, okay.

Wheeler: Let's go to -- do we have a second reading? Hang on, of course we don't, well take a three-minute recess and I will refill my coffee.

At 10:12 a.m. council recessed.

At 10:15 a.m. council reconvened

Wheeler: We are back in session, it is now 10:16, according to the large novelty clock in the back of the room. Commissioner Eudaly.

Eudaly: Colleagues, I am pleased to notice the next item. Today we will be voting to authorize a \$600,000 grant agreement with the united way to support the 2020 census preparation efforts. Before we begin, I would like to thank my colleagues for their support of this census budget request. This work is vitally important, and I am proud of the city of Portland's contribution to the effort. I will have more to say about that after the presentation. Joining us today to share more about how Portland fits into the we count Oregon campaign, are the director Suk Rhee who I actually just saw walk into my office, not council chambers. Here she is. From the office of the community and civic life, Amanda Whelen from united way and Esperanza Tervalon-Garrett of dancing heart consulting. Please come forward to the table.

Wheeler: Good morning.

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Suk Rhee, Director, Office of Community and Civic Life: Good morning elected officials and colleagues and our community members, including spirit of Portland honoree last night Angela Harris, my name is Suk Rhee and I serve as director for the office of community civic life. This presentation is to provide you the context and update you need to authorize a transfer of \$600,000 to the united way as our fiscal sponsor for the census 2020 work. I am going to give you an update. There is a slide deck that they are arranging to load with the council clerk, but my remarks do not need a power point presentation so last year council allowed for three investments in the 2020 census. The first was a \$225,000 award in the fall of 2018-2019 fall bump and council allowed civic life to redirect \$125,000 in general fund resources in the spring bump and in the fiscal 2019-2020 budget, there was an additional \$220,000 for a total investment of \$600,000, and the first \$20,000 the city funds were pledged to hire a state wide census equity coordinator with the census equity funders committee of Oregon, sometimes referred to as sefco, and the sefco is comprised of the philanthropic private funders, so sefco then chose a community-led proposal to work with dancing hearts consulting in January, who then worked with multiple entities to develop a campaign plan from February to June. At the same time, in the same period, sefco and dancing arts used this plan to secure an additional \$7.5 million from the state of Oregon, now towards a total \$10 million investment and in a hard to count campaign statewide. I will pause because this is the first time that this actually happened in our state's history. Council's first investment through the fall bump last year was the critical step that enabled all of us to leverage early and limited dollars towards a \$10 million outcome, and so thank you for that. Today we request your support for transferring the city's \$600,000 to the fiscal aging for sefco and Amanda Whelen from the united way of the Columbia Willamette will share information about the census equity fund and the sefco partnership, and then Esperanza Tervalon-Garrett of dancing hearts consulting will talk about the we count campaign implementation plan, so if we are ready to load and thank you for your help.

Amanda Whelen: Thank you very much for having us here this morning. I am Amanda Whelen, chief impact officer united way and I'm here representing sefco and the census equity fund. So, the census equity funders committee of Oregon is a collaborative of philanthropic organization that have been working together for almost two years now to address the hard to count issue here in Portland -- in Oregon. And we are looking at a \$10 million overall statewide campaign that's part of a larger \$14 million campaign that's trying to make sure that all of the Oregonians are counted in the census.

Wheeler: Thank you for that.

Whelen: The census equity fund, what you have in front of you in this slide, is our operating thoughts on how we move forward. A couple of things to point out. What we have done is we have created an aligned pooled fund able to remove barriers for community-based organizations and have one place where they are applying for funding in order to do field and community-based work to ensure that our hardest to count populations are reached. Second, as far as we know, this is the only private and public pooled fund in the country, so a number of states are running private funds and public funds in order to reach hard to count, but as far as we know this is the only place where we are doing that sort of aligned work where cbos can apply to one single place, and finally a part of our work is also going to be the evaluation and the gear-up for 2030, so one of the things that we found was that a number of states, Minnesota in particular, had started earlier than we had, two years ago, seems like a long time in preparation for this, but what we know is by gathering this aligned group and doing this work, we are able to get ready again and be more prepared for 2030, which is an exciting thought.

Hardesty: Let's hope that we will have federal help in 2030.

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Whelen: Agreed. So in November of 2018, we put out an rfp for a statewide equity coordinator and we are lucky enough to have a group of organizations from around the state who applied to run the campaign. They nominated dancing hearts consulting to be the lead applicant for that coalition and in May they developed a hard to count campaign that I believe has been shared with you already. So I just wanted to update you on where we are around the funds raised for the campaign. So, as Suk said, we are looking at a \$10 million hard to count campaign fund. Sefco had an early \$1 million pledge, and as you can see we are almost to that pledge, and that's from private philanthropy. We have another \$8.1 million that is so far committed from public funds, and so our total pledge is almost \$9 million. Total committed is almost \$9 million and almost \$9.4 in terms of the pledged so we have, so we are anticipating that we have approximately \$600,000 more to raise in order to reach our hard to count campaign goal.

Fritz: So, have no other local jurisdictions, cities or counties contributed a part from the city of Portland?

Whelen: Not have contributed to the fund directly. We have other jurisdictions that have set aside the dollars, but have yet to contribute directly to the fund.

Rhee: Can I mention that in the 2019-2020 budget the Multnomah county matched the city's commitment of \$250,000, as well.

Fritz: That's the pledges?

Whelen: Is that included in the pledges? Yes.

Fritz: Thank you.

Whelen: So united way as mentioned, we are providing backbone support to sefco and to the census equity fund, currently what we are doing is continuing to provide that support to dancing hearts consulting, we're funding and contracting with those 13 partner organizations leading the field campaign. We are supporting Portland state university, at the population research center and they are doing a ton of data work that's preparing for the campaign, and we are also preparing for the census assistance center at rfp so those will be census assistance centers in all 36 counties of the state that will be providing support to the community. Now I will turn it over to you.

Esperanza Tervalon-Garrett: Thanks. Hello, my name is Esperanza Tervalon-Garrett, and I am the ceo of dancing hearts consulting. I am the first woman of color and black woman in the country to run a c3, c4 pact focused on turning out voters of color, and I live in Ashland. I am a mother, wife, and a horse woman, and I am honored to be here so thanks for having me.

Wheeler: Thanks for being here.

Tervalon-Garrett: Thank you, I want to talk about the we count Oregon mission and campaign, we are a different kind of campaign for a different era. This campaign is being run by black indigenous and women of color, we are a campaign that is putting race and culture first, centered in the campaign, it is not secondary or ancillary. We are -- we believe that using trusted messengers with tailored messages are how we are going to move about 1 million hard to count communities to understand, be educated around and be compelled to take this census. So I think that you will all know, but a refresher, a hard to count community is a community that has a less than 76% self response rate in the first few weeks of the census. Generally speaking, those are people of color, renters, immigrants, children under five, and people with limited English proficiency. I should just tell you, in Oregon, for example, some of those communities, you know, 38% of Oregonians are renters, for example, 6% we think of children, of Oregon's population are children under five, we think about 25% of the state population are people of color, so we know that they are large demographics.

Hardesty: I have a question. I am fascinated by the children under five being hard to count. Why would they be hard to count?

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Tervalon-Garrett: Thank you very much for asking, so for a couple of reasons. Often newborn babies are sometimes not thought of as part of the family, so we see kids under one often being undercounted or just left off, just not, not sort of counted. The other pieces that's been a big one that's come up is around co-parenting. So if a person is co-parenting with a partner, what we are telling folks if you have that child on April 1st then you count them so sometimes in the shared family, and rearing of children, children cannot be claimed because nobody knows who is supposed to claim them. And the impact of not counting children zero to five means those children up to the time they are 15 or 20 will not -- we won't receive the resources we need to make sure that they are educated and supported so the impact is huge and a long lasting one, a decade of impact. I want to talk about the partner organizations and how this came to be. We are so fortunate to partner with these 13 organizations, and recently, I think that people were asking how did you apply for this? I say I didn't apply, I got a you will call over the winter break from some amazing organizers who said listen, we absolutely believe that our, that we're working in hard to count communities, we think that these communities should be -- continue to be in communication with us about this important democratic process and we are interested in trying new things. We know we want to use field focused strategies, they worked with them and we would like to try a new hit at this, and so I said well, okay, sure, I said don't worry, it will be easy. [laughter] and here we are. Excited to see if the second time, and so it has not been easy, but I will say that when we look at this, I am so fortunate to be able to be the person who represents us as the lead consultant and I am happy to carry some of this work alongside of them, and none of this is possible without their leadership, their contribution, and their fingerprints are all over this plan and we created this together so I want to acknowledge that. We have partners -- I want to let you know that as Amanda was saying our campaign is different and its being lifted up in different spaces for being so different. We are one of the few black indigenous women of color-led consultants across the country, in fact we don't know of any other that have an all women's shop or color shop and we decided that we wanted to partner with the best of the best so we work with psu, the population research center, and that team to make sure that all our information is correct so they do all our fact checking and we do deep dive like data nerd stuff you don't want to know about, just prepare us for when we do the count and how to report that. We work with scan, the state count action network, which is made up of Asian, American pacific, and islander advancement project, and the leadership, the leadership council, and state voices, and we are, basically part of a national network that has done a ton of polling about what messages work, what's moving folks, and the funders census initiative is where we are learning from other consultants about what they are working on and what other consultants are working on and how they are moving the census in their places. Our goals are lofty 200,000 hard to count contacts, the contact is not a knock, how many of you like no knocks you use -- we are not doing knocks. That's about how much energy you put out. We are curious about how many you talk to, we will partner with 100 organizations and train 10,000 people, and we are going to have 50,000 people participate in a text account program. Don't worry and I will pitch it to you later because we are on television and I have slides. There are four main parts, campaign infrastructure, which we've been building since july, and that's really about our data and sort of campaign space and all the trainings and technologies that we need to move this campaign. We are doing a ton of education and training, and yesterday we had our first webinar for census 101, we had 156 people register and 128 people show up, so the conversion rate, the percentage at which people are participating is extremely high. And we are developing strong communications. Our communications are persuasive, and they are in multiple language and targeted for constituencies, so the language for children under five, for example, will be different than the language for black immigrants. And we are focusing on field. I was asked to talk about

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field, so that's what I am going to pinpoint here, if you want to ask other things, happy to do that. We are in a preparation period right now where we are all learning about the census, and we are you know, doing our work to put in place our field plans. January to April will be an education phase, mostly you will see trainings and opportunities for people to sort of learn about the census. We call April to August activation and that's where we will be running a 100-day campaign to reach 200,000 people. And impacts will be after we have agreed to do a ton of evaluation because there is not a lot of information and knowledge known about census, and we want to make sure that we do a good job like really being critical.

Wheeler: Commissioner Fish.

Fish: What's an example of the egregiousness information about the 2020 census?

Tervalon-Garrett: Sure. So recently, I think just last week, a mailer came out from the RNC asking people to donate, but it had the census information all over it, so it's a census 2020 is an example. Oregon is probably the 15th state to be targeted. There is a federal law prohibiting anyone from sending email through the postal service that says "census" that is not census related, so we put out a mailer to let people know that that is not a census form, that they did not have to fill this out. It had a number that you were supposed to put into a website, and so that information is on our website, we sent out a mailer so we got the information, we sent out an email within 24 hours to let people know that this is not a real thing and to try and make sure that we are giving people the right information, so that they can make well informed choices, and are fearful, fear is a huge issue that we are combating with the communities.

Fish: How did you determine the RNC was behind that?

Tervalon-Garrett: It has their name on it.

Fish: And who is, who were they coordinating with in the state of Oregon?

Tervalon-Garrett: It's unclear, the person who got it was a democrat so we don't think that -- it's not necessarily partisan. But it is -- they have been flooding and they started in New York, I would say, we saw this and tracked it through our partners, and we tracked it last, I guess in May, and we saw the first one fall in New York, so we knew it was coming. And we were prepared to respond.

Fritz: The Republican National Committee is sending out illegal mailings. Is the Oregon state attorney general going to sue them?

Tervalon-Garrett: I don't know what the plan is around pushing back against this. It's a national push. I think that the envelope and the framing and the messaging on it talks about the census as an entry point, and it becomes clear that it's a fundraising email.

Fritz: Have your organizations complained to the attorney general?

Tervalon-Garrett: We have not.

Fritz: I would like you to do that.

Tervalon-Garrett: I appreciate the recommendation.

Fritz: Thank you.

Tervalon-Garrett: I want to talk a little bit about Portland because I know that you all love Portland just like I do. So, I had a request, and I want to acknowledge that Suk made an amazing request for me to get some real deep dive data on Portland, who and where and what languages and how many and, you know, and what would be the percentage and I talked to Jason, and we talked for about an hour, and I am sorry to be the bearer of bad news but to tell you it would take us a year to put that kind of disaggregated data together, and the process through which we would do that would be to look at 2017 data. And we are six months away from just doing the census. So to ask that you all offer some grace in us in not being able to provide that level of data which would be out of date and exactly what we are here to talk with you about today. We are sort of starting at a baseline. The data we are using is a little old and 2020 is the time to count new people. We have some

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projections. We have ideas about what the demographics will look like and where we should target, but we will, we conduct this every ten years so we can be sure and that's where we are. Here's what I can tell you about the campaign in Portland. Ten of the 13 organizations will be focused here. And each organization will be hiring a paid team. We projected 150 short-term temporary jobs will be -- we will have that many, 150, and they pay \$17 per hour, and folks will work for 100 days. We also know that we have targeted trainings for communities happening mostly in Portland, although in the metro area, you know, the tri-county for sure, and two of our staff are based here in Portland, both our field director and our training, our community engagement staff person are here in Portland and our final piece is that we will have an office here. So we are deeply committed to making sure that this city is counted, we think that there is a lot here, a lot of communities, a lot of connections, and our trusted messengers with the right messages can move those folks.

Fritz: Before you move off that map, as is often the case with city staff, my neighborhood is not on the map. It's too far south, and it's maybe the demographics of that census track are not such that it shows up that's hard to count but there are a significant immigrant and refugee population, so west Portland park, and it's at the intersection of i-5, barbur and capitol highway, and as I say, if we are looking to find hard to count populations, it's going to be in some cases the populations which are concentrated but swamped by not hard to count populations.

Tervalon-Garrett: I am glad you raised this. This is not the map that we will use to go out and talk to folks in Portland. These are the hard to count tracks from 2010 that show the degree to which they were -- they were, they required additional in-person engagement. We know that there are hard to track counts so we will be in these areas, but we know that they are, there are hard to count people. We are not going to get 1 million people out of these neighborhoods, and frankly, if you pulled back the map we will not get 1 million out of that, Either, so we are doing an overlay between geography and demographics to fuse together this statewide campaign. We think the target universe, the total number of people that we reach out to is right around 860,000 people. Through phones, doors, and cell phone information.

Fritz: Are you looking at schools, particularly elementary schools and the demographics served by those?

Tervalon-Garrett: So, traditionally and historically, yes and no, traditionally and historically the Oregon complete -- whatever the count is for a state, is responsible for working with government entities and all of the agencies funded by the state. So schools, libraries, all these things would fall here. They are developing their plan, and we are excited to partner with them. We are putting together and working with -- so you know, organizations that work with children and families would be more our, more our schtick but we are happy to fill whatever gaps need to be filled so children are being counted.

Wheeler: Commissioner hardesty.

Hardesty: Thank you mayor and thank you very much for the information. Who is going to be counting people houseless in our community?

Tervalon-Garrett: Thank you very much for asking. So actually, there are some communities that do -- that we do not provide forms for, and houseless folks would be in that demographic, indigenous, native, tribal people will be enumerated in person so the u.s. census bureau will send someone out to places where they understand houseless people to be and count them in person there.

Hardesty: Let me say that they are not going to have a lot of success because people who are houseless don't talk to people who say that I am from the government, and I am here to help. It would really be important to partner with organizations who already have a relationship with folks who are houseless, and frankly, you will find in the population of people who are houseless the hard to count population that we say that we are targeting.

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So I would hope that you would add one or two organizations that have a relationship with folks who are houseless as part of the team, and then, you know, whatever the federal government does, when and if they show up, hopefully adds value.

Tervalon-Garrett: Thank you.

Whelen: Sorry, and as we mentioned a bit earlier, there is an opportunity for those organizations to apply to be a census assistance center, as well, so one thing is that as people are coming to get services, setting up those computers and in the lobbies in order to help people complete forms, if possible, if they are coming in, which is another issue, so it's going out to where people are.

Hardesty: I was going to say they are not going to come to you, right. Which is why it's really important, and when you say have them apply, I mean, you know, I think it's the responsibility of the complete count committee to identify those organizations, work with them to develop an application, and then help them do the hardest job that there is in the census, which is counting folks who don't have a house, right. So I think that we have to do something different if we are really intent on counting folks who today don't have a roof over their head.

Wheeler: Commissioner Eudaly.

Eudaly: Esperanza could you explain what you meant by not having forms for houseless population?

Tervalon-Garrett: Sure. So the process for the census is that people will get a mailing from the federal government. It will have your web address because we are taking an online census form this year, or 2020 and it will have a url and you will get six mailings with an opportunity to respond to that before an enumerator comes to your home. In the case where people do not have homes, the federal government has decided to enumerate them, which was the process until about the 60s when you have the first mail-in census, and that is where the people would, I mean, it's problematic. It's a process through which the federal government sends a paid staff member called an enumerator to come and count you, so they might say that there are one, two, three, for you five people here and they will say, they are under their -- under this intersection under this bridge, and in this park, etc. They will write that on the form, and that will count for those people.

Eudaly: So this isn't the case of us not treating people equally or wanting to count this population, but the process is somewhat prescribed by the federal government?

Tervalon-Garrett: It is and, and you know, a bit unjust, and not equal and unfair, but it is the process that the federal government has set forth to date.

Eudaly: But that does not preclude us from doing outreach to that population, correct?

Tervalon-Garrett: You are right. And we, for example, are partnering with the Oregon food bank and other sort of service agencies. I don't think that gets to commissioner hardesty's question, which I think is a good one and I am happy to revisit.

Eudaly: I am really interested in that subject but I understand that list that we saw of hard to count populations doesn't include every hard to count population. It's the most significant populations that we are targeting to try to get to the most complete count possible.

Tervalon-Garrett: Houseless people are not included in the hard to count traditional bucket at all because they would not have homes. It's based on the 76% response rate.

Eudaly: And that's not our definition. That is the federal government.

Tervalon-Garrett: That's correct.

Wheeler: Commissioner hardesty and then commissioner Fish.

Fish: So before you are finished with your excellent presentation, can someone for the benefit of the public take a moment to explain why this is important? I think that sometimes people don't connect the dots. We know, for example, that if we get a good count this time, we may get an extra congressional seat so that adds to the clout in Washington d.c. We

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know that there are a lot of programs the federal government funds based on a formula. So your population determines how much you get of an entitlement but I think it's helpful to use this forum to remind people, what's really at stake here? And why -- what is the big win for our community if we get an honest count?

Tervalon-Garrett: May I? You did a great job, by the way. Thank you very much. Those are all the ones. You did all the things, and you know, one example, I think, one important thing to remember is that for each person, the state of Oregon will receive \$3,200 in federal funding for each person. You know, in 2016, federal funding made up \$13 billion of Oregon's general fund, and that is a huge amount, and so we know these federal dollars are coming in because people in Oregon rely on a federal services like medicaid and snap, public transportation dollars, and so, the -- there is a direct connection between participating in the census and literally the tax dollars, the money that gets to be in our own pockets, so leaving anyone out is a, is -- has a fiscal impact on all of our lives. The other piece is around apportionment. We expect to count 450,000 new Oregonians in this state, and it is it only a clout in d.c. it also a constitutional right to have representation when we have more population, we are deserving of a seat in congress to make sure that everyone's needs are reflected in the debates that happen and shape all of our lives.

Fish: I know that in my home, my birth state of new york, they are bracing for the loss of some congressional districts. So, we have a chance to pick up another congressional seat, which would be huge for Oregon. I think that \$3,200 per person number is easy to understand and really, really compelling. We should probably allocation additional moneys so well offer people up to \$3,100 to do the census so they will get \$100 out of it, but that's a compelling number, and I think, I think that's easy for people to understand, and those dollars flow to programs that they care about, so I thank you for reducing it to something that's bite size, and I think that's part of the messaging that we should help you with.

Wheeler: Before I go to commissioner hardesty can I get a time check? How far through the presentation are you?

Whelen: I can be done. I wanted to make sure I talked about the assistance centers.

Wheeler: It's a great conversation and I don't want to cut it off.

Whelen: I can do whatever is helpful.

Wheeler: Commissioner hardesty.

Hardesty: Thank you, mayor. So it occurred to me -- is the census based on our physical street address?

Tervalon-Garrett: So there are 50 questions that have been standard on the census since it was initiated in 1790, and the questions include your name, your address, a phone number, your relationship to the head of household and social security number. We know that in this climate of fear, these questions feel scary. Whether you are a citizen or a non-citizen. I feel afraid about what is possible by providing this information. I want to offer the title 13 does protect us under federal code that information shall not be used in court cases, by the government, or for any purpose that the individualizes you, so you cannot see your individual information, and anyone who violates that law is up to five years in prison, \$250,000 fine, or both.

Hardesty: I asked that question because to register someone to vote they don't have a physical street address? You can register someone to vote who is in the county jail, you can register people to vote using community services as their address for them to pick up the ballot and so what I am trying to understand is what case would you make to someone who's houseless, why it's important for them to fill out the census material?

Tervalon-Garrett: Again they won't fill out the census material but will be counted by someone who is identifying them and doing a number count and identifying them to a location under a bridge or in a park.

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Hardesty: Are they doing demographic information, so are they looking at you or me and saying, oh, they are both african-americans who live under this bridge?

Tervalon-Garrett: I do not know that information, but I am happy to talk to the census folks and know more.

Hardesty: I would love to know more about that. I am sorry. My original question was, so what happens with no address?

Tervalon-Garrett: So they are marked as living under the bridge, some number of people, that becomes the physical location, the, whatever the coordinates are for that location. It could be a park or whatever. And that is what gets submitted, so there are two ways this is happening. One is called self response, and that's the form that you are going to get where you tell them hey, this is my information and this is who I am, and there is an enumeration where they come and it is true that in the past, you know, the history, it's racist and terrible, where someone would show up and say that you were, for a while, black, white, or milano, and those were the options. That leaves questions about how we will get race data and other demographics about gender from -- and sexuality from that, not sexuality but gender and sex from that form but I don't know, I don't know their process, and again, our campaign is really about the community-led effort to connect trusted messengers with communities they are working in, but these are important questions that I think need to be answered.

Hardesty: Thank you.

Wheeler: Commissioner Fritz.

Fritz: If someone's mailing address is a post office box or sisters of the road do they go the form delivered there?

Tervalon-Garrett: Where is your form delivered, that's a really good question. It is supposed to go to the home address. It's a bit problematic for renters who might get mail coming and it will say the name of the homeowner instead of the folks who live there, it is supposed to go to your helm, to the mailbox address not the p.o. box.

Fritz: And then I think I heard, when presentation with the metropolitan advisory committee, you don't have to fill out every question?

Tervalon-Garrett: That's true.

Fritz: Are there any mandatory questions?

Tervalon-Garrett: That's a good question. We've been trying to get a clear answer from that right now. I think it's unclear still. I will say this about the census. I've been working on the census now, this is my second round so I am at least ten years in, and after ten years and 20 years in my field I definitely am an expert but I am no authority and the current government is making it very challenging to get clear answers to go clear answers so I can tell you what I know but not what I don't.

Fritz: The goal of the census is to get a count of the people, regardless of whether they are documented or not.

Tervalon-Garrett: That's correct.

Fritz: And so you would not have to put in social security numbers for example if you did not have one?

Tervalon-Garrett: You would think.

Fritz: Got that.

Rhee: Can I make a comment? The discipline that Speranza showed about what we can and should not say and what we are legally held to is part of the ambassadors training. Everyone, volunteers, community leaders alike that are talking about the census in the hard to count campaign will go through the census education and training because it is not good to have inconsistent responses to difficult questions and we want to make sure the campaign is completely legal, and completely consistent because that helps to create a

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somewhat lessened state of fear in response and we are going to ask for that from all our community partners.

Wheeler: Very good. Commissioner Eudaly.

Eudaly: I just wanted to thank all of my colleagues for these questions. Who would have thought something as boring sounding as the census, which is just data collection, vital statistics, but it is so profoundly important, and we, you know, this particular census is so fraught. I am very interested in this issue around the homeless count because we struggle as a city to get an accurate count of our own homeless population. I think that we can help and I am wondering if there is any way to connect with or collaborate with the federal government, the enumerators, and commissioner Fish's questions about what this means, I think, is so important to convey because there are people who, whether they distrust the government, whether they face barriers to participating, whether they are just really busy, and this is one more task and burden for them to deal with in the course of their day. That's a lot to overcome and I know from personal experience when you feel like the system is not serving you, and you will not get your needs met, by this person who is coming and asking to take your time and energy, a lot of people are not likely to want to give that time, and you know, Oregon has a booming economy, yet we are almost dead last in mental health services and addiction services. We have high food insecurity, we have low high school graduation, and we have a statewide housing crisis. And it's just vitally important that we count every person that we can to increase that funding and to hopefully alleviate some of these issues, so thank you.

Wheeler: Very good. Commissioner Fritz and to public testimony.

Fritz: Director Rhee, I was wondering are you engaging the neighborhood association in the district coalitions in encouraging them to sign up to be ambassadors?

Rhee: We need everyone's help on this.

Fritz: So if you could combine the comments we had earlier, you know, neighborhoods and volunteers would not only get paid 17 an hour but also be knocking on doors and saying come to the meeting next week or whatever.

Eudaly: If that's allowed.

Rhee: One last thing, we will ask you for not just your vote today but on November 12 the population research center and sefco are holding a symposium at PSU and one of the target audiences are elected officials so we would like for you to join us there and also to get your other colleagues when to have this important conversation with the state.

Hardesty: Do you know what time?

Rhee: I think it's all day, 8:00 to 4:00 p.m., and the most important time for you to join is in the morning.

Wheeler: Very good. Thank you for the presentation. Appreciate it. Karla please call the first three, name for the record.

Moore-Love: Lightning and Maggie.

Wheeler: Come on up. Good morning, Maggie. Would you like to start, please?

Maggie: You know, someone a long time ago said to me, do something right or don't do it at all. These women, collectively, in conjunction with these agencies are putting out a tremendous amount of effort, and I totally get the whole idea is to get those federal dollars, but for me it's about what you are going to do with the federal dollars once you get them. I see indigenous people in the shelters and on the streets, see people of color in the shelters and on the street, I see immigrants in the shelters and on the street, I see aging people who have lived here all their lives and are disabled, and they are on the street. Why are they not in housing if they have lived here all their lives? I see Cascadia, who apparently, will admit to the facts that they use 65% of their budget to administrative costs and then on top of that, then they used the shelters to shelter lifelong disabled people and aging people in with people who have addiction issues of meth and heroin and, you know,

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and incarceration, have had incarceration and violent issues. Why are they in the shelter together? I want to know, you know, united way, they are doing a horrible job with 2-1-1. Everyone who's houseless hates 2-1-1. It does not do -- it is completely useless, it is an abysmal service. It does not hook them up with housing or social services, and I am talking about people who have been kicked out of shelter and have died or have been kicked out and they ended up getting pneumonia from exposure. They were in a wheelchair or they were kicked out because they went to county council to talk about unfair dream because the staff that they hire for these places are untrained.

Hardesty: Maggie, good morning, how are you.

Maggie: I know, we are talking about the census.

Hardesty: As you know, we are taking testimony on whether or not we should be investing in hard to count people. I know where your passion is. However, comma, it's on the table -- what's on the table at the moment is the census. Do you think that this is a good Investment or not?

Wheeler: In 20 seconds or less.

Maggie: If we could get away from some of these bad acting contractors that the government looks away from.

Hardesty: Maggie we are not talking about contractors today, we are talking about counting people so that we can get the resources we need.

Maggie: I would say hire houseless people to count the houseless.

Hardesty: I think that's a great idea, boom. Thank you, Maggie. Talk to the topic. Appreciate that. Good morning.

Lightning Super Data: Good morning. My name is lightning, I represent lightning super data. One of the biggest concerns I have on the census is commissioner hardesty, and I believe commissioner Fish brought up really good points is that on that list of five, you would have thought that the hard to count would have been the homeless community without any doubt we are in a state of emergency and the main thing from the city, the county, the state is to focus on the homelessness and the homeless themselves on making sure that they step up and they do these census survey. Now, it was quoted that there was 3,200 per person. I have heard another number of 1200 per person, and we need to really narrow these numbers down to get a clear understanding what the real number is. You know, on the federal assistance distributed using the census bureau data, to me that's the most important issue here. When you are looking at the section 8, when you are looking at housing for seniors, when you are looking at housing all across the board, if you don't get the numbers in, we lose that money. Then we have to go back to the general fund at the city and start pulling money and start worrying about providing services. This, to me is, about the most important issue that we have had in the city that I have ever seen because that number has to be met. We need to get the people that are not being counted to understand, and I am proposing that what we do for the homeless community is that if we can do this by law, and that will need to be checked, we offer to pay them \$20. You step forward and you do this, and you receive \$20 for participating. Now, look at what commissioner Fish stated. We need to check on that if there is -- okay.

Hardesty: It is illegal to pay people to fill out a census document.

Lightning: Okay, and I will check on that, too, with attorneys. Now, my point is what is the incentive for them to step forward and do this? You can say we are going to lose \$3,200, and their going to say I will not appear. And that's, that's a big deal here on how we could do that. Could we even work something out on that because I mean, let's face it, the state put up what, \$7 million towards this and there is other money being put up on the table, too. We need to look at something to really incentivize that hard to count population. We are in a -- in the digital community, the digital time, the technology is very advanced on using different software, rome, tiger and different things on this issue, but the reality is we

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need to get people to be incentivized to do this. If we don't, the city loses big, big money on this. Huge money in the billions of dollars, when you start calculating and you look at the numbers distributed if we don't take this serious, probably the most serious thing we should, the amount of money we can lose to the city is tremendous.

Wheeler: Thank you for your testimony. Any further business? Commissioner Eudaly.

Eudaly: Before we move to the vote I have a couple of clarifying questions. I'm not sure which of our panels can answer it.

Lightning: I wanted to add one more thing to commissioner Fish. Not to cut anybody off, if you could check on that monetary incentive to see what the legalities are on that.

Eudaly: You did cut me off but I will grant you --

Lightning: I would like to finish my conversation. Thank you for your time, commissioner eudaly.

Wheeler: Maybe we could have the panel come back quickly. Commissioner eudaly.

Eudaly: We have heard strong interest from the council and from public testimony in this issue around counting our homeless population and as you explained it's somewhat proscribed by the federal government, but I'm very interested in any way we can support or facilitate that process. Let's follow up on that. It's rare that Mr. Lightning and I agree on anything, and so when we do, I have a sense that it's vitally important.

Tervalon-Garrett: The federal bureau is actually hiring for enumerators so I'm happy to connect you with Sarah, who is the lead person in the bureau here in our region, to talk about what that might look like and how to distribute those job applications or processes.

Eudaly: Great. That's a great opportunity. Do any of you know what the estimated undercount was for the state of Oregon in the last census?

Tervalon-Garrett: So we do not. We are not doing that. What I can tell you is what an undercount of 1% would have cost Oregon. It would have cost approximately \$44.8 million starting in fiscal year 2015 every year thereafter. So it's extensive and I wanted to speak to the gentleman's question. You're right, the numbers did change. In 2020 the federal amount for each person counted was right around \$1200. Around there and we are projecting for 2020 that the new number will be \$3200, so thank you for giving me an opportunity to clarify that.

Eudaly: That was my second question that you said 2020. In 2010 it was \$1200, now it's estimated at 32.

Tervalon-Garrett: That's correct.

Eudaly: Okay any final?

Tervalon-Garrett: Just for clarity, one thing about the 2010 census, is that was the most well funded in history and it was still an undercount. So, we can anticipate that this was the very underfunded census.

Eudaly: Just to make sure the subtlety of your answer was not missed you cannot tell me what the estimated undercount --

Tervalon-Garrett: I don't know the estimated undercount. There are many reports with differing numbers. What we feel is the most important thing for everyone to walk away with is the census has already been clouded in a shroud of controversy and miscommunication. There's huge misinformation coming in and we only want to put out information that we feel 100% certain about. There's no reason to muddy the waters. Where we are unclear or there isn't alignment in the sector we would ask that we just not unless it's critical. I think these questions about the past are sort of in the past now as we look to 2020.

Rhee: Because, rebecca, we missed the last slide, you can text Oregon to, what's the number?

Tervalon-Garrett: I would appreciate it. We can get everyone to participate. If you have a cell phone you can text word Oregon to 33339. Follow up to our we count Oregon page. Sign up on the link. It will give you an opportunity to pledge to take the census. We will not

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over text you. You can hit to stop receiving any time, but it will give you opportunities to get updates on the census, participate in events --

Whelen: Let us know when the webinars are too.

Tervalon-Garrett: Yes, lets you know when the webinars are.

*****: Thank you. [laughter]

Wheeler: Thank you all for your presentation. Thank you. Please call the roll.

Eudaly: Well, I don't know if I feel better or worse about the fact that the federal government is possibly even worse at counting renters or engaging renters than the city of Portland, but I'm not going to forget that detail. Thank you to Suk, Amanda and Esperanza for that fantastic presentation. The census is an exciting opportunity about affirming our democracy gives every person the right to be counted similar to the right to vote, the right to be counted is a basic right and it is absolutely fundamental to our democracy and it's vitally important to our state. Both in federal funding and in political representation. We're fairly certain that the 2020 census will bring us an additional seat in congress, but that depends on our ability to make sure that all community members know and believe this. This is why our limited financial resources must go towards reaching hard to count communities. All of us in this room I think understand the very real barriers to participation and the blatant attempts by the trump administration to instill fear and confusion around the census. It's absolutely reprehensible. This is why the coordinated campaign across multiple sectors is so critically important before I close I want to highlight director Rhee's observation about the impact of Portland's early commitment. As elected city officials we have an obligation to exercise fiscal responsibility over our limited funds and yet we know that many of our most pressing issues are not neatly confined to the borders of our jurisdictions. Our communities expect that we will work together across jurisdictions and this effort proves that leadership and sharing responsibility leads to better outcomes so, thank you, Suk. In closing I would thank all of our presenters, Lauren and Esperanza, thank you for taking on such an important role in this work. It's a huge undertaking, but I have the utmost confidence in you and your teams to get this right. I want to thank the civic life team Suk, Michael, Perla and Diane for getting us to this point and continuing to lead the work to coordinate through our bureau. And finally, I feel I should also thank commissioner Stegmann from Multnomah county who was our county partner in the complete count. Finally, thank you, Suk for your early identification of the census as a top priority, I honestly don't know if I would have identified it without your guidance or at least identified it as early and as urgently important as you did. I want to acknowledge that \$125,000 of these funds actually came from Suk scraping together savings from civic life's already tight budget when we couldn't get the full funding in the budget. That type of commitment and your leadership in coordinating the city's efforts is to be commended. I'm very pleased to vote aye.

Fritz: Fascinating and important discussion. Thank you for coming from Ashland your leadership statewide. It's great we have this public-private partnership. Aye.

Fish: This brought back a flood of memories. In 2010 then commissioner Kafoury and I co-chaired the complete count and it does seem like we have really advanced the conversation and we have a much more sophisticated and comprehensive approach to getting a good count. I think the concern that we have all identified today is there's a lot of headwinds. It isn't just the misinformation coming out of Washington. It isn't just the climate of fear. We're asking people to fill out a form and in some cases these are people that still choose not to vote, these are people who do not necessarily participate in civic activities and civic literacy generally is at an all time low. Some of the statewide surveys recently had as many as one half of Oregonians surprised to learn we have two united states senators. I think if we present this exercise as an abstract good government exercise we're going to lose, which is why I was very pleased to hear the tangible benefits

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to our community, I think for some people they can understand another congressional district means clout in Washington. Others will understand that \$3200 means a hungry child will get a meal in school or whatever but I think our goal should be to come up with talking points that really put the human face on what the benefit is because if we present this as an exercise in good government or as an obligation or whatever, we're going to lose people. The head winds are pretty stiff. I'm comforted by the presentation because I think we have an excellent team. I think the plan makes a lot of sense, obviously the time constraints are rough, and the fact that you're having difficulty getting clear answers from Washington is obviously disconcerting but not surprising. I want to thank our presenters for an excellent presentation. I thank commissioner eudaly for the leadership she has shown in tackling this issue. This is a really one of those below the radar issues that has huge ramifications for our community and we all have a collective interest in getting it right. I want to thank you. Aye.

Hardesty: I agree I want to also thank director Suk. I want to thank commissioner eudaly, and in 2000 when I worked with then commissioner serena cruz to ensure that there was a full count in Multnomah county --

*****: There you go.

Hardesty: See? See? It was a community effort because the community knew what was at stake. This year there's even more -- next year in 2020, there's even more at stake because we know that we have a federal government that would rather not count most of us. So the reality is that it is vital that we hire people who are deeply connected in the communities that we're attempting to reach. There's nothing like community advocates who absolutely know the community that they are serving and I look forward to doing all I can to support this effort. Yes, I appreciate the entire council supporting this investment of dollars, but I think we have to use our voices in ways that actually encourage people to fully participate in this effort. Fear not withstanding I think we as the elected leadership of the city have an obligation to make sure that we talk about this everywhere we go. So I vote aye.

Wheeler: I agree with all of the sentiments expressed by my colleagues. This is a great presentation. Thank you for being so organized, so provocative and so interesting. Excellent conversation, colleagues, for a very important cause. I vote aye. The ordinance is adopted. Thank you. Colleagues, I'm going to reshuffle the order. We're going to next items 963, which is the first item on the regular agenda. We have a lot of city employees waiting patiently and selfishly I want them back to work as soon as possible. We'll take 963 then I'll move the fall bump into the second place that will be 965 emergency ordinance followed by 964, which is the jag grants. So, we'll start with 963, please.

Item 963.

Wheeler: Colleagues diverse and empowered employees of Portland also known as deep are dedicated to enhancing the work environment that's inclusive and supportive. The work of deep is fostered through affinity groups. Affinity groups of course are voluntary employee driven groups organized around a particular shared interest or dimension. Generally infinity groups are organized around protected classes such as race, disability, ethnicity, gender or sexual orientation. The city of Portland supports the valuable contributions infinity groups create to honor a diverse employee culture at the city of Portland. To more formally recognize these groups and to provide the time necessary for them to achieve success, it's now also appropriate to look at establishing more formal process to protect the time commitment group members and leaders need to make this important contribution to our city. Here to walk us through the process and what it looks like is interim chief human resources officer Cathy Bless. Good morning.

Cathy Bless, Interim Director, Bureau of Human Resources: Good morning mayor Wheeler, commissioners. Thank you so much for having the opportunity to come before

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you today with this resolution. I'm so pleased today to be able to advocate on behalf of the important work of the affinity groups within the city of Portland. Having a process by which they have protected time to do this important work and participate in events and plan those events is critical to being an inclusive and diverse organization. I'll keep my comments brief because I know we're running a little behind. I want to turn it over to Debbie Caselton for her to offer comments as well.

Wheeler: Thanks Cathy.

Debbie Caselton, Diverse and Empowered Employees of Portland: I'm Debbie Caselton, I'm the chair of the diverse and empowered employees of Portland. By day I work -- I'm on management leave this morning because this is a volunteer position, but I work for environmental services proudly for 17 years now. I have been the chair of deep as a volunteer position for 12 years now. I have been through several mayors. I have received much support from commissioner Fritz all these years. Thank you very much for all of your support. I'm going to miss you. Happy belated birthday, commissioner Hardesty.

Hardesty: Thank you.

Caselton: We have at this time nine affinity groups that are very active. We have the city african-american network, the filipino american city employees, Hopi, the Hopa asian pacific islanders, we have City mamas, pdx city mama. Women's empowerment team, the veterans empowerment team, lgbtq and friends affinity group, Slavic empowerment team and latinx pdx. With these nine affinity groups we have over 1,000 city employees signed up to be included in these groups. We have over 30 leaders of these affinity groups that volunteer their time to be leading these and share that workload as volunteers. I myself as a leader of deep volunteer at least approximately -- I calculated -- 40 hours a week.

Hardesty: Wow.

Eudaly: Incredible.

Caselton: Like I said at the diversity conference the other day, people ask why I continue to do this and I am a workaholic and it is a passion of mine. I love working at the city and the great joy it brings me to see employees so happy after being involved with an affinity group, going to an event, seeing other employees, seeing different employees come together at meetings. They haven't met each other before and they are like I didn't know there was someone like me at a different bureau. Then having this come to council after 12 years, I feel emotional right now so I apologize if my voice cracks a little bit. There are so many field employees and remote locations, employees that have not been able to attend a meeting because they don't have the support or the time or ability to come downtown where the average meeting is at lunch. We have parks employees, field operators, we have so many different locations for environmental services, the water bureau, emergency communications, we have police officers, we have firefighters. We have so many different employees. At this time we have an average of five to 20 employees that are downtown that can attend a meeting and we have that many people putting on the monthly cultural celebrations and volunteering their time, and then people get burned out. This is not just about having fun or just networking, this is also about employee retention. This is about being an employer of choice. This does -- I have people from all over the country asking my advice on how to start affinity groups appeared how we have such a successful program.

Hardesty: That's why you spend 40 hours a week volunteering.

Caselton: Exactly. Then I have to tell them a lot of people thought deep was my paid job. When I explained that, no, I actually do community relations for environmental services proudly and that's what I do full-time, and they are like, how do you do all this? I'm like after hours did you ever notice my emails at lunchtime or after work? I do have definitely my bureau support, my commissioner, commissioner Fish has been very supportive, and director mike jordan has been amazingly supportive and my boss aaron abrams is

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amazing. He says I know you'll make up the time if I have to do something like this today, I know you make up the time don't worry, your workload you make up for it. I see there's definitely an increased need for people to get together. Also, it's not like I said not just networking among bureaus and offices. It's finding other employees that are like yourself. It's an increased number of employees retiring, an increased number of employees coming in. Then accessing that knowledge from those retired employees. We have also a policy within deep that if you're a retired employee you can come back to affinity group meetings because we don't want to lose that knowledge and there's also a camaraderie. We want to keep that knowledge. Also if you have left the city due to layoff and you don't have another job yet, you can still come to an affinity group meeting. You may not vote or you just have to follow city guidelines but that's also how you can learn of new jobs coming up, et cetera retain that knowledge. Most of the meetings that we have for affinity groups are we work on events for cultural celebrations, potential policy work, a lot of it is again gaining knowledge for other -- from other employees and getting questions answered about city policies and then in addition to the affinity group meetings we also have affinity group leadership councils quarterly and that's where all of the leaders get together with the deep executive committee who meets once a month and then on the quarterly meeting we asked Serilda at the time, the h.r. director, if we could have an h.r. representative attend those meetings. Cathy volunteered and we were so lucky. That was before she was promoted and she wanted to continue, which is awesome. And karen brooks, who one of the affinity group leaders volunteered with myself to work on this policy. So thank you. We worked with Cathy on this.

Wheeler: Commissioner Fritz.

Fritz: I just want to be clear that we're not proposing we're going to be paying an extra 40 hours a week for doing her work with the diverse empowered employees of Portland. What we have been able to do with Serilda Summers-Mcgee and with Cathy Bless's assistance is set all code in the payroll system so one hour of regularly scheduled work time monthly will be paid, which as was referenced by a parks employee who works at Charles Jordan would be able to take their lunch hour and make it to the meeting and back again.

Caselton: Travel time, yes.

Fritz: Employees who have established leadership have two hours per month and employees with establishment can use of to 12 hours of unscheduled work time to host or plan special events which actually are open to the public and great community.

Caselton: Educational.

Fritz: It's still modest but we appreciate human resources partnership on this.

Bless: We'll be able to track some data and report back to you.

Caselton: Yes. We already started doing that even though it has not started yet.

Fritz: Thank you.

Wheeler: Excellent. Any further questions? Thank you both. Public testimony?

Moore-Love: One person signed up. Maggie.

Wheeler: Thank you both. Excellent work. Is Maggie here? Okay, very good. Call the roll.

Eudaly: Debbie, before I dive into my remarks I just want to specifically thank you and say that you've possibly done more for the morale of the city of Portland than any other individual, and you were also probably working longer hours than I am, which I'm a little concerned about that. Let's talk about self-care later. The city of Portland's diverse empowered employees of Portland gave their first official annual report to city council in 2007. In those years it has grown into an incredible network of co-workers and colleagues focused on equity, inclusion and connection. Not only away to provide fellowship amongst colleagues, deep is an important mechanism for professional development and advocacy. Deep is not just inward facing. Many deep affinity groups like the city african-american

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network, The hopaa asian and asian pacific islander and latinx pdx create public programming often using city hall as a venue to invite community to come and celebrate their communities. Their mission is simple but meaningful. Deep is dedicated to enhancing and work environment that is inclusive and supportive of the city of Portland's but committed to quality public service. In my three years as commissioner I have seen and heard this mission fulfilled firsthand and I want to thank all of the members of deep, city employees, but especially once again Debbie Caselton for pushing this important policy change forward. I vote aye.

Fritz: Very happy to co-sponsor this resolution, the diverse empowered employees Portland has been housed in the office of equity and human rights since its inception and we're very happy with that partnership. Debbie, you've been the heart and soul of this group of affinity groups and congratulations on your winning the recent Roberts Philip diversity award well, well deserved. Thank you, Cathy Bless, and your predecessor Serilda Summers-Mcgee for working on this, this has been a great partnership between the office of equity, the diverse empowered employees of Portland and the bureau of human resources appeared we're happy to see all those connections strengthened. As was mentioned we are striving to be an employer of choice this is one way this does it. When for 8 years I was the only woman on council I had to form my own group of elected leaders, women to get some support so I'm happy that that's no longer the case and also glad there are specific groups mentioned. Cynthia Castro and Cristina Nieves were instrumental in forming the latinx group five years ago. Thank you for your work, Cynthia Castro, on getting this to fruition. Really happy that we all embrace this amazing program. Aye.

Fish: Well, I'm still trying to figure out how Debbie manages 40 hours on top of her day job. For those of you that don't know she's not only the public face of the bureau of environmental services on many of our capital construction projects, but Debbie pioneered a new way of connecting with the community. That is businesses and homeowners that are impacted by our work, which is we have put a cover letter on top of the flyer that they get and the cover letter is a personal note from Debbie that also has her phone number and email address. It's a demanding enough job as it is but to be that accessible all the time to answer people's questions, what we have found is just putting that letter on the cover of a document, having a single point of contact and someone willing to share their contact information meant that a lot of things that used to come to us or maybe the bureau now filter through the lead community outreach person. So when Debbie said that she's pleased that the bureau of environmental services and leadership supports her work let me just say thank you for saying that but we're proud to support your work. It's an honor to support your work. If we didn't there would be something wrong with us. Thank you for all of your work, commissioner Fritz, thank you for your leadership in moving this thing forward. I love what Debbie said about being an employer of choice because really when you boil it down that is what we're talking about making sure that everyone feels welcome and supported and as part of the employer of choice philosophy which we have adopted and we have a lot of work to do, but this is a step in the right direction, so I'm pleased to support this. Aye.

Hardesty: I also am very pleased to put my support behind this particular issue. It's absolutely key that employees feel welcome here, not just welcome but able to bring their entire selves to work. There are too many environments where people are restricted based on the perception of how others will interpret them and their needs, and I am honored to know that the city of Portland is moving in the right direction to make sure that all employees feel that they have a place where they can be themselves 24 hours a day seven days a week and they don't have to change to accommodate the city of Portland, but in fact the city of Portland needs to embrace the differences that they bring. It's what

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makes this city vitally a place that people want to move to, which is why people are moving here on a daily basis. So I am thrilled to be able to vote aye.

Wheeler: This is a great day. I think for city hall I feel like we are showing that we are a city that works and we are a city that has made it very clear from the perspective of this council that we will be open, welcoming and inclusive to people from wherever they are, whatever their circumstances or lived experiences or histories or traditions are. That same set of values has to hold true for our work force as well. I just have to call out one statistic that I thought was really interesting that Debbie and Cathy brought up, nearly 1,000 people, employees, participate in one of our affinity group programs. That means one out of every five or one out of every six employees at the city are actively participating in this program. That goes a long way towards demonstrating the values that we all talk about. Debbie your amazing, I don't know you all that well, but I know what you're doing now. You're working pretty much all the time. So thank you for your leadership on a host of front. Cathy, thank you for stepping in when we really needed you and for doing such a fantastic job in your position. To all the folks who worked so hard and volunteer so hard to make sure that our affinity groups are successful here at the city of Portland so we not only attract a great work force but maintain a fantastic workplace as an employer of choice. Commissioner Fritz, I have to acknowledge your long standing leadership on this issue. You really helped lay the foundation for us to have a strong affinity group program, and I know you know based on the presentation we heard today and now everybody knows we really have one of the strongest affinity group programs of any employer in the city of Portland and probably in the region. You are largely to thank for that based on your work on the council along with the Debbie's of the world and others who worked so hard from the employees' side. Thank you for that leadership. I'm very happy to vote aye. The resolution is adopted and we look forward to the extended work. [applause] now as commissioner Fritz likes to say, now for something completely different. 965, please, the fall bump.

Item 965.

Wheeler: Colleagues, before us of course we have the fall supplemental budget also known as the fall bump. The fall bump is primarily meant to address technical adjustments to true up budgets between fiscal years. Bureaus of course may also appropriate new resources or request general fund contingency for urgent and unforeseen needs that cannot be accommodated within the current budget year and we have a number of those. City budget director Jessica Kinard will walk us through the current ordinance. We'll hear and second amendments to the ordinance. I have two council is well aware of and after that we'll have public testimony before final deliberations and voting. I'll turn it over to director Kinard.

Jessica Kinard, Director, City Budget Office: Good morning. Thank you. Good morning to you, mayor, members of council, Jessica Kinard, city budget director. Jane Marie Ford is our budget monitoring process coordinator. We held a work session on October 3 where we reviewed details of the requested supplemental budget changes. I know that council has a full agenda, given that we did just hold a detailed work session on the topic I intend to be brief and give my presentation on key points primarily impacting the general fund however entire supplemental budget ordinance is open to discussion and I'm happy to answer questions on any aspect of the proposed bump. For the benefit of folks watching in the audience and at home I want to provide contextual information related to the budget monitoring process or the bump. The fall bump is the first of three budget monitoring processes we undertake each year, the fall bump is primarily meant to provide priority recording, make current year budget adjustments and true up costs between fiscal years. Specifically in the fall bump we true up the ending balance from prior year to account for carryovers and other technical adjustments across fiscal years. Once these adjustments

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are accounted for we deposit any excess fund balance into contingency for one time expenditures in current year. This fall we are recognizing a total of \$11.1 million in excess general fund balance, this amount is consistent with what we would expect given city financial policies forecasting conservatively and with a continued strong economy. Per city financial policy half of this is dedicated to major maintenance and infrastructure costs thus approximately \$5.5 million are being budgeted in general policy set aside which will be allocated through the capital set aside process during fiscal year 20-21 budget development. In total allocations in the proposed supplemental budget in front of you will yield a balance of \$3.5 million in unrestricted contingency to address any unanticipated needs throughout the remainder of the fiscal year or one time needs next year in the budget process. You should have in front of you exhibit 4, which details alternatively shaded document that details requests impacting current year general fund. Again, in the interests of time I'm only going to highlight allocations of general fund contingency included in the mayor's proposed supplemental budget however council should feel free to ask questions or interject about any of these requests. So to start off the current mayor's proposed supplemental budget has \$174,876 to fund limited term election coordinator in the auditor's office following a court ruling upholding new campaign finance relations. Include \$392,000 to support over time training required to implement the new integrated priority dispatch system in the bureau of emergency communications. Skipping down now it includes \$1,984,400 to fund currently estimated general fund obligations related to the Portland harbor remedy design work including payments to the trust. It includes \$250,000 in the Portland housing bureau to start work on procuring an expanded rental registration system. Skipping down it includes \$6800 in the bureau of human resources for a western states center training for city commissioners and bureau directors in alignment with resolution 37474 which condemned white supremacists and alt-right hate groups. \$194,000 in Portland parks and recreation for vehicle purchases associated with operations and maintenance work funded through budget development. It includes \$31,000 in Portland parks and recreation for pioneer square rest room services. \$50,000 for safety barriers which occurred during the august 17 protests in downtown Portland. \$120,000 in the bureau of planning and sustainability for additional work related to the anti-displacement action plan. It includes just over \$1.2 million to fund the city commitment pursuant to the intergovernmental agreement for the columbia river levy system through office leader 25/26. It includes \$131,528 in special appropriations for experienced pdx and includes \$30,000 in special appropriations for immigration legal services at the gateway center for domestic violence, a one-time allegation that does not change the city's ongoing funding baseline. Includes \$500,000 in special appropriations for the depaul treatment center and \$66,000 to fund a public right of way study for wireless and the Portland bureau of transportation. These allocations yield a balance of \$3.5 million in general fund unrestricted contingency to address future urgent needs or one time costs during next year's budget development. Are there any questions on any of those items? Great. Next I would like to turn council's attention to current upper level target adjustments included in this proposed supplemental budget. So in the fall supplemental budget council may direct city budget office to make adjustments to next years current appropriations level target which we refer to as the col target and that's for the future ongoing allocated resources for bureaus. This proposed bump includes one adjustment to col, which increases the col target by currently estimated total of \$1.8 million in the office of management and finance revenue division for the integrated tax system. This was also signaled through a budget note passed by council during the development of the current year budget. It's worth noting this amount assumes the project is able to recover cost sharing from affected funds and entities. Finally I would like to highlight some position changes because we didn't have sufficient time to fully discuss those changes during the work session. So you have with

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your exhibit 5 there's a summary document that details all the position changes that are included in the proposed budget. These position changes are all funded with internal bureau resources with the exception of limited term position in the auditor's office connected to the request for resources related to the new campaign finance regulations. You'll see the bureau of transportation is adding 27 fte, eight were previously authorized but did not get processed in time to be included in the current year project and the other seeks to meet increase work demands and develop permitted transit, engineering, parking, business services and policy planning and projects. Then another -- there's 4.5 fte in parks associated with the new operations and maintenance funding approved through the 2019/'20 20 budget development so no new resources required there. Are there any other questions around the positions? You have a copy of the full proposed supplemental budget in front of you. I'm happy to walk through exhibits or answer any questions before we move to amendments and public testimony.

Wheeler: Commissioner eudaly, did you have a question?

Eudaly: I just want to make a statement on behalf of pbot. I appreciate cbo's recommendation and the mayor's inclusion of \$66,000 for completion of the right of way study and the study is related to collection of resources from small wireless facilities. I would also appreciate if the hammering outside would stop for the duration of council. However, pbot also invested 1\$86,691 to update engineering standards and pole designs to allow for attachment of small cell equipment on our street and signal poles. These were necessary to advance the city-wide priority of bringing 5g capability to our community and resulted in \$950,000 of new, ongoing general resource funds. Pbot is not receiving any of this completed on the city's behalf if funding is not awarded to in fall bump contingency funding is available in the spring pbot should be reimbursed for the cost of improving this effort. I believe the resources collected as a result should pay for the work completed and I hope that my colleagues will support that.

Wheeler: Thank you. Commissioner eudaly, I just got a note from my office saying they are going to track down the hammering and see if they can get it suspended for the remainder of the session. Commissioner hardesty.

Hardesty: I want to compliment the budget office, Jessica, director, you do a fabulous job of both making this understandable, right, and being collaborative with our offices. I want to publicly say what a difference a year makes. I feel so much more knowledgeable about the budget now and it's because of your office's ability to just go through and discussing anything that needs to be discussed. I want to appreciate the forward thinking that allows us to put almost \$2 million into a trust for the Portland harbor cleanup because we will have an obligation to do that and though it's distasteful to think we're spending city money to make that happen we know it must happen and we're still hopeful that we will get the polluters to pay their own way, but we have an obligation to make sure that our community is not inhaling those toxics. The last kind thing I will say about you today, Jessica, maybe there will be more, at least for the moment, is that I am also grateful there was one other one I wanted to really highlight. It was another appropriation. It was something we have to do but not now.

Kinard: The Columbia river levee.

Hardesty: How can I forget the Columbia river? Again I think that we are making really smart decisions because we're thinking about what's going to be coming down the road that we are responsible for, and you are helping us quite a bit, you and your staff have been phenomenal in helping us understand that. So thank you.

Fish: Are we moving to amendments now?

Wheeler: Very good. I would like to propose two. I make a motion for the following adjustment to the supplemental budget as proposed. Increase general fund contingency policy set aside by \$250,000 to be available for outside legal counsel for labor

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negotiations. We would reduce general fund unrestricted contingency by \$250,000 to fund this change. We would update exhibits 1 through 5 as needed to reflect this change.

Hardesty: Second.

Wheeler: We have a motion from myself, second from commissioner hardesty. That is now on the table. We'll keep it open pending public testimony. The second motion I would like to make is an adjustment to the supplemental judgment is proposed as follows. Increased general fund bureau program expenses by \$25,000 in the Portland bureau of emergency management and \$25,000 in the bureau of development services for partnering to mitigate fossil fuel risk, reduce general fund unrestricted contingency by \$50,000 to fund this change and then again update exhibits 1 through 5 as needed to reflect this change.

Hardesty: Second.

Wheeler: Motion and second, commissioner hardesty.

Fritz: I move to increase general fund bureau program expenses for the office of equity and human rights by \$25,000 to fund unanticipated personnel costs in the currently years. Reduce general fund contingency by \$25,000 to fund this change and update exhibits 1 through 5 as needed to reflect this change.

Eudaly: Second.

Wheeler: A motion from commissioner Fritz, a second from commissioner Eudaly. Commissioner Fish?

Fish: Yes, I have -- did you say someone in your office is going to ask them to stop?

Wheeler: Yes.

Fish: Are we having protracted negotiation over that or can we have someone follow up on that? I can't hear my colleagues. I think we need to tell the person to stop.

Wheeler: Take this with you. [laughter]

Hardesty: We got law enforcement in here. Maybe they can go out there.

Fish: We have a big building. They can go somewhere else for an hour or so.

Wheeler: Kirsten dennis is on it. Thank you.

Fish: My amendment is to increase bureau program expenses for Portland parks and recreation by \$31,344 in the gulf fund which is fund 603' and \$27,656 in the Portland international raceway fund, fund 604, both enterprise funds for a net increase of a \$59,000 in bureau fund an operating shortfall in the peninsula one pen 1 drainage district this, it would reduce contingency fund 603 fund and fund 604 for \$31,344,027,656 respectively to fund this change. Update exhibits 1 through 5 as needed to reflect this change, This amendment provided one time funding expenses attributed to the 640 acres of drainage district as needed to reflect this change. This amendment provides one time funding for peninsula one expenses attributed to the 640 acres of drainage district that fall within the boundaries of the Portland international raceway and heron lakes golf course update exhibits 1 through 5 if needed.

Fritz: Second.

Wheeler: We have a motion from ,commissioner Fish and second from commission fritz. Any further amendments? Are we ready to -- I would like to go to public testimony before we call the roll. Have you completed your presentation?

Kinard: Yes.

Wheeler: Is there any public testimony on the amendments?

Moore-Love: We have six people signed up.

Wheeler: Very good.

Moore-Love: The first three

Wheeler: Good morning. Thank you for being here.

*****: Thank you.

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Caron Kushner: Good morning. Thank you very much for giving me the time today, mr. Mayor and commissioners, members of the city council. I'm a board member from metropolitan family services, and I'm here delighted to explain to you why I feel like we need to review the deficit that's currently in the budget. So again, thank you for your time. As you know, pdx experience corps is a very strong intergenerational program its showing very strong results, and in one site alone 93% of the children met or exceeded fluency. There were 75% of children --

Fish: Excuse me, ma'am. We have about two inches of paperwork in front of us. So can I just make a suggestion? This won't be used against your time.

Kushner: Yes.

Fish: Could you each begin by saying whether you're here to support an existing budget ask or seeking an amendment? It would be helpful to understand are we talking something that's in the mayor's proposed or an amendment then give us your best argument but it would be helpful to frame this up in terms of what are we talking about.

Wheeler: This can get complicated because it was not in the bureau proposed but it is in the mayor's proposed for experience pdx.

Kushner: Would you like to speak to that?

Fritz: Could you identify yourself, please?

Fish: Its within the mayor's proposed -- just want to be clear. Are you here to support something that is in the mayor's proposed?

Kushner: Yes, I am.

Fish: All right, thank you. Very helpful.

Kushner: My name is Caron Kushner. I'm a board member, and this is a wonderful program. It's currently serving five schools. We have 1450 students in the classrooms and we have 108 students that have a one-on-one relationship. We have ongoing partnership with sei, naya, latino network and irco so we can recruit mentors and introduce these children to immigrants and refugee elders. The current program is serving 75% of children who are children of color. As a board member I want to ask your support for this program. We have a lot of mentors in the room currently, a lot of staff, the e.d., and the program manager. So thank you so much.

Wheeler: Thank you, commissioner hardesty.

Hardesty: Thank you, mayor. You started your presentation by saying there was a shortfall, and that's why this is in the mayor's proposed budget?

Kushner: Yes, commissioner. We're running at a deficit. We currently have 1.5 full-time employee as opposed to the 2.5 full-time employee it takes to run the program.

Hardesty: What are you going to do to make sure you're not coming back to the city next time because you had a budget shortfall. Is this a temporarily thing or do you expect this to be ongoing funding?

Kushner: I believe it was an accidental issue that happened in the budgeting. That's my understanding of it. I think that something happened when we proposed the original budget that covered the 2.5, and I think there was a mishap.

Hardesty: I think there's someone back there that wants to come up and explain that. I just want to say it has nothing to do with whether I like or dislike the program, it's just as an elected official who has a city budget that we have to balance, I just want to understand why we're doing this and to make sure that it is a real emergency and it's not something that becomes ongoing.

Kushner: No, okay.

Judy Strand: I'm Judy Strand, chief executive officer for metropolitan family service. Experience pdx was a project that started in partnership with the city from the last budget cycle. So that was an allocation that we all had invested in together. We had proposed for that investment to be renewed as we had understood we should that got overlooked by the

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city inadvertently so we were asked to apply for the fall bump because the proposal did not get noticed. It was just an oversight. We are just here to speak to the fact that the program needs are still present. We had to cut because we didn't have the ongoing funds that we anticipated. Does that make sense?

Hardesty: It does. Maybe we could have an off line conversation to illuminate the questions that I have. Again, nothing away from the quality of the program, but I'm always concerned when someone says oh, there was a shortfall so here we are.

Wheeler: Can I just be really clear? We're in the fall bump process right now. There's no commitment at this point for ongoing. This is a conversation where we need a more thoughtful conversation in the upcoming full budget process.

Fritz: It was a pilot project, not authorized as ongoing allocation.

Strand: Yes, and at the same time we were encouraged to apply again for this time period.

Fritz: The challenge is we didn't have any extra money this year. I'm supportive of the mayor's proposal but we may not have any extra money next year.

Strand: I understand. I think we may have some other ideas.

Wheeler: I'm just saying the conversation about ongoing will continue with the regular budget process.

Hardesty: We encourage a lot of people to apply but we don't have all the money we would like to have to fund everything applied for. Thank you very much this has been very helpful.

Wheeler: Appreciate you being here as always. Thank you. [audio not understandable] Go for it.

Coi Vu: There you go. Perfect. I'm Coi Vu, director of Asian family center with immigrant Refugee Community organization I'm also here in support of metropolitan family service to talk about this fall bump in regards to the mentoring program that we partner with mfs with. For those who don't know and I will be brief Irco is a culturally specific nonprofit organization in the Portland area that provides direct holistic wrap-around services, education, advocacy services to immigrant and refugees. In Portland primarily in the tricity area but also we have a presence in Ontario to serve our African, Syrian and Iraqi refugees in Ontario. We serve multi ethnic intergenerational population from prenatal through our parent child development services to end of life in our senior citizens services programs. I have been here to testify before wearing different hats. He last time I was here with my -- I guess we're all aging. [laughter] aging services colleagues and peers from metro family services. We highlighted the importance I highlight the importance of oral history and story telling in ethnic communities because that's the way our ancestors have been doing it from the beginning of time. Through these mentorship programs and Irco has been partnering with, we are able to do this with our communities. Truth is many of our newly arrived immigrants and refugees are still trying to survive, learn and integrate into a new world and way of life however as they live here longer they realize we're no longer going back to our own countries and that we have to integrate into this new system and oftentimes it's very isolated in an individualistic country that we're part of. So many retirees and adults want to give back to the communities and don't know how other than the larger community engagement, civic engagement on a individualistic level or interpersonal level. Sometimes it's not as available. So we want to build the relationships, preserve their cultures and languages for the next generation. That's why we're so excited to be partnering with mfs, to partner with experience core experience pdx to support the intergenerational mentoring program and use the equity lens for culturally responsible programming and matching of mentors and mentees. At the beginning of the work, early iteration Irco along with other culturally specific organizations naya, latino network, sei, provided coaching and training to mfs staff and leadership on working with diverse

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communities, specifically irco refugee and immigrants community then now we are working very closely together to identify culturally specific mentors to work with the students.

Wheeler: Thank you.

Vu: Yes. We're here to continue to support the work that mfs is doing and we ask your assistance in supporting that work.

Wheeler: Thank you. Good morning.

Adam McBride-Smith: Good morning. My name is Adam McBride-Smith. I'm here speaking for real choice initiatives. I would like to speak in favor of the expanded rental registry and to ask also to be fully funded at the requested amount. This registry would include basic accessibility features and price ranges so renters can use the registry to find housing that works for them. There's a pressing need for renters with disabilities, older renters, low income renters and people of color and many others. In the city it's nearly impossible to find accessible affordable housing but an inclusive rental registry could change that for the better. The disability community needs to keep us out of medical facilities, institutions and off the streets because that's where people with disabilities end up when they can't find appropriate housing. I appreciate the fall supplemental budget funds a percentage of the cost of expanded registry but we would urge you to provide the needed funding to get the expanded registry done as soon as possible. I would also like to say on a personal note my wife was diagnosed with ms several years ago and I can say that keeping health insurance and maintaining care are burden enough. We're lucky enough to have stable housing but many in our community with other conditions who use power chairs, who have mobility issues, who have low vision and other disabilities struggle to find appropriate housing. Having an expanded rental registry including information related to accessibility and price ranges is vitally important to this community. If you're sincere about ending houselessness in the city if you want to be leaders in disability rights as you should want to be we would urge you to support the expanded rental registry.

Wheeler: Could I briefly comment on that? I want you to know it has my 100% commitment, and what I have requested in the mayor's supplemental is what I believe we can actually deploy between now and end of the year given what I have heard from the bureau of housing. We are moving forward. Next year's full budget will include more funding for additional resources both for the product that we're going to need as well as the personnel and the systems to go to the unit by unit data collection which is where we all want to ultimately get. We're not being stingy here. If I felt realistically that by the end of the fiscal year we could do it I would put the whole amount in today but it's been made very clear to me and my colleagues that the resources that we have included in the supplemental budget is what they can realistically deploy by the end of the fiscal year. I personally have an ongoing commitment into the next budget cycle as well. I wanted you to know that.

McBride-Smith: I'm very glad to hear that. Thank you.

Wheeler: Thank you for your testimony. Thank you both.

Wheeler: Welcome. Good morning. For one more minute.

Laura Heller: One more minute. Good morning. Almost good afternoon, my name is Laura Heller, I'm the program manager of older adult and intergenerational programming at metropolitan family service.

Fish: Can I say something very encouraging? There's no one in tis council that has indicated they are going to take this out of the mayor's proposed.

Heller: Okay.

Fish: We welcome testimony but no one has signaled this is coming out. So, it looks like you have five votes and anything you want to share just to reinforce would be welcome, but I think you've won the day.

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Heller: Well, thank you. Out of respect for your time I'll turn my time to you then. Thank you.

Wheeler: I would like to hear something of what you have to say. You came all this way.

Fish: I was trying to reassure you, not cut you off.

Heller: I wanted to share a story but first I wanted to acknowledge we have several of our volunteers in the room who have taken time out of their service today to be here because they recognize how important it is --

Hardesty: Please give us your name.

Heller: I'm already tearing up because I'm going to share a story with you that Carol, one of our volunteers here, shared with me at a team meeting. We have monthly team meetings at our schools, and Carol's story I think really articulates the power of an intergenerational connection between an older adult who really is there to support a child in both their learning, academic success, but also in their development and their growth. Also there to here when things are not going well. The following story provides a compelling illustration of the impact of the training that we offer support and growth provided by ecpdx for students, mentors and schools. Carol met in early May with one of her third grade student matches Enrique. He had recently returned to Portland from Guatemala, his home country, but Carol learned that his father had been deported and was able to return with his family. In their meeting Carol observed that Enrique was not able to focus enough to read together. So they talked. The student told Carol that his family did not have a lot of "stuff" in the house. His mother was looking for work but they were hungry most of the time and "running out of money fast". Enrique showed Carol stitches where he had fallen and hit his head while they were in Guatemala. He did not know if he was checked for a concussion and he said he had been having headaches recently since he fell. Carol shared this information with a student's teacher and school nurse. The teacher immediately e-mailed the son's site manager, after school manager, programming manager and school social worker. By the end of the day the manager had spoken with Enrique's mother, helped schedule a medical appointment for Enrique and provided the family with a food box. Additionally, a school employee had scheduled to meet with Enrique's mother to purchase additional food and hygiene items and the family was provided with vouchers to purchase shoes, information regarding the district clothing closet and other resources. Lastly the family was approved through self-enhancement incorporated to pay an overdue electricity bill. By listening and leading with relationship this mentor was able to activate a community of support around the student steps she had not felt empowered to take previously. Carol attributed this outcome in part to the additional training and knowledge she had received through irco, our partner.

Wheeler: Thank you.

Fish: Thank you very much. Good morning.

Allen Hines: Good afternoon. Mayor, commissioners. To make sure the registry is fully funded so we can find housing when we need it. Thank you.

Wheeler: Thank you very much. In response to the prior gentleman, I said that this is a commitment and I believe it's a commitment on the part of the entire council to make sure that we get that registry at a unit by unit data basis. In particular the people with disabilities know where the units are and can be connected to those units. It's really important and I appreciate the fact that you've testified in front of this council many times to make that case. Thank you again for doing it. Commissioner Eudaly.

Eudaly: Thanks for being here again, Allen. I want to personally attest to the challenges of finding accessible housing. My son is 18 now. I am moving out. He is staying in the accessible rental property that we have. I can afford almost any rent in the city, and I'm struggling to find a place that he could visit let alone live. So this isn't just an issue for low income renters or people living on restricted incomes, this is an issue that is affecting all

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families. It's very expensive to convert or adapt houses to be accessible and when you're a renter you don't necessarily have the ability to do that at all. So, I want to thank you for your support but I want to underscore the urgency of being able to match people who need accessible housing with the very limited accessible housing that is available.

Wheeler: Thanks, Allen.

Nico Serra: Good afternoon, my name is Nico Serra. I'm a white passing mixed race queer and transgender person with disabilities and I am here to speak in favor of the expanded rental registry. Reiterate what my colleagues have said. Just that the inclusive rental registry will make life so much easier for so many people. It's really something that we need and I'm not sure how many of you are familiar with Fairview. Okay, yeah. Fairview was a place where basically instead of making the world accessible people with disabilities that were using wheelchairs and had other very severe disabilities were sent off to a place. The place was Fairview. It was near Salem and it was really a difficult place. A large institution where people were kept basically because the world is not wheelchair accessible. So we have moved from that model into more smaller houses, group homes and things like that, 24-hour residential facilities, but people who are in these places really want to get out of those places too. We have between having care workers through our DHS and our social security where we could have more independence than a lot of us do just because we can't find the housing we need. So just really want to reiterate we want you to fund this. If we say, you know, you're probably going to be the ones telling us we need more funding for the software, please do everything you can to make this happen. Please include us when you start asking about the accessibility features. We can really help make that process easier about, you know, our basic, are there stairs, can we get in and out of the bathroom, stuff like that to make this process as smooth as possible.

Wheeler: Thank you for the suggestion. Appreciate it. Thank you all. Were there more?

Moore-Love: That's all who signed up.

Wheeler: Very good. Why don't we go through the amendments in the order that they were presented. First with regard to my first amendment with regard to the \$250,000 set-aside for legal counsel for labor negotiations. Did you have more testimony? [audio not understandable] were there any other questions before I call the roll? Very good. Please call the roll on the mayor's amendment 1.

Eudaly: Mayor, I want to thank you for funding this request. I think it's vitally important, and I vote aye.

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

Wheeler: Aye. The amendment is on the table. Mayor amendment 2, which was the \$50,000 for the bureau of development services for partnering to mitigate fossil fuel risk. Any further questions? Please call the roll.

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

Wheeler: Aye. The amendment is on the table. Commissioner Fritz number 1 with regard to the office of equity and human rights. \$25,000. Any further discussion? Please call the roll.

Eudaly: Aye.

Fritz: I appreciate my colleagues' support. Aye.

Fish: Aye.

Hardesty: Thank you, commissioner Fritz, for bringing this to our attention and my conversation with the mayor I suspect there will be more of these and I look forward to supporting those as well. I vote aye.

Wheeler: Thank you, commissioner Fritz. I vote aye. The amendment is on the table. That gets us to --

Fish: One more.

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Wheeler: I'm sorry, commissioner Fish's amendment. That was a series of increase to program expenses in parks and recreation, golf fund, pir, and pen 1.

Fish: To be clear, this does not involve the general fund. This is two enterprise funds setting aside some resources for pen 1.

Wheeler: You got it. Call the roll.

Eudaly: Thank you for that clarification commissioner Fish. Aye.

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

Hardesty: I also appreciate the clarification and I vote aye.

Wheeler: Aye. The amendment is on the table. To the main motion to the supplemental budget as amended any further discussion? Anything else from the budget office? Please call the roll.

Eudaly: Well, thank you, everyone who came to testify, who knew the fall bump could be such an emotional item, but between the stories shared about the sun school -- I'm sorry, I've forgotten the name of the program. Experience pdx story and fairview I feel like we're doing some really important work in a relatively boring seeming moment. I vote aye.

Fritz: I appreciate that this budget adjustment includes something that is important to each member of the council. That's partly what we do in the budget process, making sure that we listen to each other and work together to be wise stewards of taxpayer money. Aye.

Fish: Just a couple of comments. First, because ted wheeler is the mayor he generally gets blamed for everything that doesn't work in our community including he's very gracious, he takes the flak for a lot of us with our deficiencies. Let's acknowledge that the mayor under our charter, which grants the mayor very few powers, has three unique powers, and one is the mayor is supposed lead the budget process. So if the budget process is a smooth ride, if it is collaborative, if we're able to reach a soft landing based on consensus and conversations as we are today I think the mayor deserves the credit. Lord knows he gets enough blame for other things. Thank you, mayor. I have been involved now in I think 40 different budget modification processes. There have been some fireworks at some. There have been some sticking points. There have been issues that really provoked a lot of passion. This is a relatively soft landing and we have brought the council together around what I think is a prudent set of choices so thank you for that. Director Kinard, who is now in her which month of full-time employment? She's in her third month of being the permanent director, is doing a terrific job. I want to echo what commissioner hardesty said. She's very accessible and she spends a lot of time with commissioners in their office explaining things and getting feedback. I think she's doing a great job. Thank you Director Kinard to you and your staff. There are a number of things that I deeply care about in this bump. I'm pleased that the money set aside for the Portland harbor trust was identified. By the way the trust idea is so great that polluters' favorite lawyer and attorney is suing us over implementation but that's par for the course in government. I'm pleased that we're making real progress on the cleanup. Pleased that the council is showing this foresight to put the money aside. On behalf of the rangers and my bureau, parks bureau, thank you for funding some additional vehicles that will allow them to actually get around the city as they are required to. While we haven't really talked about it much I'm pleased the mayor has brought forth an ask for the depaul treatment center. One thing we know about the current crisis on our streets is that a lot of people are suffering from addiction. The worst place in the world to treat addiction is on the sidewalks. We need more beds. We have some very dubious statistics in the state of Oregon in terms of level of services we provide to people who have addiction. We have an opioid crisis and other things that are exacerbating the situation. Depaul does a terrific job and gets great outcomes, also serves a lot of very vulnerable low income people and helps them deal with their addiction. I'm pleased as part of our overall response to this homeless crisis that we're investing in

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the new depaul treatment center located in gateway. Thank you to my colleagues for the conversations we have had. I'm very pleased to vote aye.

Hardesty: I also am very grateful that this bump process has been a very inclusive process. It's been one where we have had hard conversations and had to make hard choices because we don't have all the money we would like to have to do all the things we would like to do. I am very grateful and appreciative that the mayor has taken a very collaborative approach and actually has had really deep conversations. I actually feel like the city council is in a place that I wish we were long before I got here, which is that I think we respect different world views. We have had different life experiences but at the end of the day we're here just to serve the people of the city of Portland to the best of our ability. So I'm honored to put my support behind this budget. This bump process, and I vote aye.

Wheeler: I want to thank my colleagues and the bureaus for their commitment to fiscal responsibility throughout this fall bump process. I want to second the thanks for director Kinard and her entire team. They have done an outstanding job. I thank my team especially kristin dennis, who has worked very hard on this process. There's a few items I'm particularly pleased about that I want to quickly highlight. First the \$120,000 for joint effort between city bureaus and community organizations in the advancement of our anti-displacement action plan. And as we all know community organization versus a proven track record when it comes to researching anti-displacement policies to the city's benefit there are some really good coalition work already under way through the city's comprehensive plan, the southwest corridor's equitable development strategy and east Portland action plan. It's my belief that we must support the city and community partnerships on displacement so that Portland gets it right. If we create anti-displacement action plan with insight from the bureaus and those who are the most impacted we can obviously create better, more durable solutions. We can become that city we want to become where people don't fear investments and services as precursors for displacement. The \$500,000 commissioner Fish mentioned for the depaul treatment center we know the addiction crisis here is a serious one. Some recent statistics that I have heard include that Oregon is the fourth most addicted state in the united states and depending upon whose statistics you believe we're the 47th or the 49th in terms of providing treatment services. So that does help explain some of what we have seen in terms of the crisis that's been unfolding on our streets. With this investment and investments from many other supporters depaul will be providing new space and new services to provide critical treatment to those who are in need in our community. The \$50,000 for joint funding between bds and Portland bureau of development services and bureau of emergency management for a psu study on mitigating fossil fuel risk, I'm proud to be working with commissioner hardesty on this. I'm proud of the fact that the entire city council is behind this. And we're glad to seek a foundational piece to the city's strategy to transition to a clean, secure and safe energy future. We can't wait on action around climate change. We have to make the necessary investments to make the transition. And I want to thank the many Portlanders and environmental organizations and neighborhood organization offices who contacted my office in support of these efforts. Finally, this is the smallest item that made it into the fall supplemental budget but it's not an insignificant one. It was \$6,800 for a city employee training pilot in partnership with the western states center. In February the city council unanimously passed a resolution condemning white supremacy and alt-right hate groups. That resolution directed the city to develop training for city employees about the history of white supremacy and white nationalism in the Portland area. The funding is for development of a pilot training that will be first offered to city commissioners and bureau directors and then expand from there and I look forward to being part of the first group to receive this training under this particular grant. Just a couple of quick footnotes here, during the budget process as commissioner hardesty mentioned we had significantly more

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demand for general fund dollars than we actually had in terms of resources to support those requests. So I'm pleased to announce that we have landed on a strategy to support both division transit and the James beard market study from existing funds. I directed prosper Portland to allocate general fund dollars to support small bean outreach as part of the division transit project and through its partnership omsi and the central eastside they will work to fund the james beard market pre-development work through the central east side tiff investment, the tax increment financing and I have asked that they bring back to us by 2020 a report on whether there is or is not a feasible path forward for the james beard market. So with that I vote aye. Fall supplemental budget ordinance is adopted as amended. Now for something completely different. [laughter] item 964 is up next.

Item 964.

Wheeler: In the interests of time I'm going to forego my lengthy introduction. We're all very familiar with this proposal. I apologize that I have to leave at about quarter till. So I won't speak and I'll just turn it over to our able bureau folks to answer any questions that we may have on ,this.

Bob Del Gizzi, Portland Police Bureau: Thank you. For the record I'm Bob Del Gizzi, business manager with the Portland police bureau here with a short presentation on the Edward Byrne memorial assistance grant for the program fiscal year 2018 application. On august 22, 2018, the city submitted an application to the united states department of justice office of justice programs bureau of justice assistance for the Edward Byrne memorial justice assistance grant fiscal year 2018 local solicitation. In 2018 solicitation still requires a minimum 30-day review by the governing body of local government although the office of justice programs decreased the application window from six to four weeks this year. Upon advice from the city attorney the bureau is proceeding with the application ordinance to fulfill review requirement. The grant program instituted by the department of justice in 2005 is named after Edward R Byrne, a new york city police department officer who was killed in the line of duty in 1988. The department of justice directs funding to the local enforcement agencies to assist in their efforts to prevent or reduce crime and violence. The 2018 jag funds will be made under the disparate certification to the city of Portland, Multnomah county, and the city of Gresham. The solicitation requires the city to submit a joint application for the disparate municipalities and to act as fiscal agent for the grant. Formula ward amount is allocated to the three entities based on a statutory formula by the bureau of justice statistics. Police bureau will receive \$189,585, Multnomah county \$148,960 and Gresham police department \$53,149 for a total of \$391,694 in federal funding. Although the federal grant award period is four years per federal statute local agencies spend their awards within two years. Police bureau will utilize jag funding for the following item. To support the first of the three-year bicycle registration program designated for the bureau's bicycle theft task force. This is modeled after the successful Vancouver, British Columbia program. Grant funding will provide for personnel and event expenses for participation in bicycle events to encourage on the spot registration and registration kits for low income community members. Bike thieves target about 10,000 bicycles each year in Portland and this equates to about \$10 million worth of property loss for the community. Bicycle is not registered there's less than a 10% chance that it will be returned to its owner. Multnomah county will fund a portion of the personnel expenses for the north neighborhood deputy district attorney position. The Gresham police department is asking for grant funds for their education program called every 15 minutes which is designed to dramatically instill teenagers with potentially dangerous consequences of drinking alcohol and texting while driving, distracted and impaired driving behaviors. The department of justice states the 2018 grant will be awarded after september 30th of 2018.

Hardesty: Thank you, mayor. I want to thank you because when we met you talked about the fact that you would not have taken the grant had you been required to do some of the

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things that they wanted done around us being a sanctuary city. I think that that is huge. I think that's important and that's why I want to put that on the record. We'll see how successful the bike project is. Sounds like a good project. Glad that it's being funded by this grant but I just wanted to put on the record that it's a great thing that we can draw a line in the sand and all money as I have said before isn't good money so I'm glad it was cleaned up before we got it so thank you very much. Appreciate that work.

Wheeler: Very good any further questions? Commissioner Fish?

Fish: Yes. A similar but slightly different twist on that observation. After we declared that we were a sanctuary city, the trump administration said there would be steps taken to retaliate and punish cities that did that. One of the things that they highlighted was withholding any kind of discretionary or formula money to law enforcement. This city joined a lawsuit challenging that. The courts rejected it looking at both the 10th amendment and other parts of the constitution. I want to acknowledge that our system of checks and balances works. That it is well established under federal law you that you cannot coerce a jurisdiction to do something and use funding as the threat and the trump administration lost that in the courts and today we're getting a grant that was in jeopardy in response to our designation. I want to just acknowledge the fact that we do have, a, a functioning constitution, and, b, a set of checks and balances where we can test these theories and this idea that funds could be withheld, which was when jeff sessions was the head of the justice department he and trump made that proposal has been rejected and we are getting the funds. I think that is a good day for people who believe in checks and balances. Thank you.

Wheeler: Good point. Any other questions? Any public testimony on this item Karla.

Moore-Love: No one else signed up.

Wheeler: Very good, call the roll.

Eudaly: I would just like to share the 529 shield information. It takes five minutes to register your bike through the 529 garage app, available on itunes and goggle play store and if you don't have a smart phone you can go to project529.com, I plan on doing this today. I don't think I have ever registered my bike and I have had multiple bikes stolen. I'm pleased to vote aye.

Fritz: Thank you for getting this, thank you to our city attorney for working on making sure our federal government did what they were supposed to do aye.

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

Wheeler: Aye, good work, thank you, the ordinance is adopted. I'm going to move to 967 please the housing bureau I think we can get through this relatively quickly.

Item 967.

Wheeler: Alright colleagues good morning, actually it good afternoon, the neighborhood housing prevention team works to stabilize communities at risk of displacement through a variety of homeownership retention actions. Emergency home repair funds are critical to help low-income homeowners to stay in their homes. This year the Portland housing bureau issued a competitive request for proposals in both the Lents urban renewal area and the interstate urban renewal area for home repair grant services. Portland community reinvestment initiatives, inc. was selected to provide these grants in the interstate ura and the community energy project was selected for both the lents ura and the interstate ura. This action allows us to add these funds through existing through contracts, these are cultural responsive service providers, they provide to Portlands low-income homeowners, helping to prevent displacements, stabilize neighborhoods and preserve intergenerational wealth. I want to thank the community members that donated their time to reviewing these applications and great insights they provided. I will turn it over to the housing staff Dana Ingram and Emma Deppa to talk in more detail about the programs. Good afternoon.

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Dana Ingram Shephard, Portland Housing Bureau: Good afternoon commissioners and mayor, my name is Dana Ingram Shephard, I'm the neighborhood housing manager and the housing bureau.

Emma Deppa, Portland Housing Bureau: I'm Emma Deppa the housing coordinator.

Wheeler: Did you catch that.

Shephard: Home repair grants. The housing bureau has the home repair grant program to stabilize communities at risks of displacement through home retention efforts. We do target households at or below the 50% area median income, \$43,950 for a family of four and prioritized seniors and people with disabilities. I want to add here of the folks who received home repair services through the funding from the housing bureau, over half represent communities of color and on top of that over 85% have been reported as being households over the age of 55.

Hardesty: Excuse me.

Shephard: Yes.

Hardesty: Quick question the \$43,950. Is that 60% of the area median income?

Shephard: That is 50% of the area median income.

Hardesty: 50%? Thank you.

Shephard: We submitted a request for proposals, for a total of \$360,000, \$200,000 in Lents and \$160,000 in interstate area. The requirement of that application is it had to be a nonprofit organization, serving low-income homeowners, culturally responsive and have the ability to perform outreach to targeted areas. I want to add the interstate TIF funds are a direct advocacy initiative from the north, northeast neighborhood strategy. So the funding awards. So Lents, the \$200,000 went to the community energy project this would be added to an existing contract that the organization has with the bureau through the master ordinance passed earlier this year. Interstate \$70,000 awarded to Portland community reinvestment initiatives, inc., PCRI. And \$90,000 awarded to community energy project.

Fish: Can I just ask a question.

Shephard: Sure.

Fish: \$70,000 seems like a fairly modest amount of money. You have to administer the program, staff costs, overhead costs. What are we buying for \$70,000 for PCRI?

Shephard: We are buying seven additional households to be served with these funds. However I do want to add PCRI does already provide these services, home repair services. They are already serving this community and because of the time frame allowed they did not fully apply for all of the funds, so about seven households.

Fish: They had the existing infrastructure we're not funding that, we're getting, these are dollars that will be going out the door?

Shephard: These are not 100% going out the door. There is a certain amount of administrative cost. There is a partnership with this particular proposal in it actually is with NAMAC, help me out with the acronym.

Deppa: The national association of minority contractors.

Shephard: Thank you. So NAMAC looks to add RFP funded awards to the existing contracts will provide critical repairs for 49 additional households. That's it. Do you have questions?

Wheeler: Very good presentation. Thank you for your hard work. Is there any public testimony? Karla: No one else signed up.

Wheeler: Alright, very good then we'll call the roll.

Eudaly: Thank you, aye.

Fritz: Great aye, thank you.

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

Wheeler: Very happy to support this, thank you for your work, Aye. Ordinance is adopted. Last but not least, 966, this is a first reading.

Item 966.

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Wheeler: Colleagues, this proposed ordinance authorizes the issue of up to \$30 million in revenue bonds to finance infrastructure and economic development projects in north macadam urban renewal area. The financing authorization will allow prosper Portland to execute projects under the north macadam urban renewal area plan as opportunities avail themselves. We have staff here who can address this. Hello. You are not the staff on my list. That is why I'm just surprised. Stand by. Update. Matt Gierach.

Matt Gierach, Office of Management and Finance: Debt manager. I wasn't anticipating being able to join. I was able to join last minute. Accompanied by --

Tony Barnes: Tony Barnes financing from prosper Portland.

Wheeler: Hey, tony, good to see you.

Gierach: Summarize the authorization. The proposed revenue bonds will initially be structured as one or more lines of credit, which will be a refinance with long-term tax increment revenue bonds at a later date or potentially repaid by future tax increment revenues. The initial line of credit will be secured by tax increment revenues of the north macadam urban renewal area. However, the city's full faith and credit may be offered as security on the interim finance of the infrastructure projects in order to decrease interest costs. Project within north macadam urban renewal area will focus on economic development, consistent with the urban renewal area plan.

Wheeler: Commissioner hardesty has a question.

Hardesty: Excuse me.

Gierach: Yes.

Hardesty: What basis do you see issuing the bonds will decrease interest costs? What is that based on?

Gierach: Issuing the line of credit initially will decrease interest costs rather than issuing the long-term bonds initially. With a line of credit we are able to draw down the principle amount over time so the interest calculation essentially is on a smaller basis for what you are paying interest on versus with the bonds, you're essentially borrowing all the money up front and those monies will be reinvested in our investment fund. So typically short-term rates we invest at are lower than the borrowing rate, which is long-term rates. Typically it makes sense for when you have project uncertainty to use a line of credit.

Hardesty: So I appreciate you attempting to answer my questions before this hearing. I'm still not clear as to why we would allow the \$30 million line of credit when you don't have projects specifically that you are -- that you have identified that funding will be used for.

Gierach: Oh, I see.

Hardesty: I still haven't been able to connect those dots based on the information you have provided.

Gierach: Okay. The debt will not actually exist until we draw it. We won't be able to draw on the line of credit until those projects are actually approved within the budget process.

Hardesty: Does that limit our ability to do bonding in other areas of the city of Portland if you have tied up the \$30 million for projects you don't know yet what they look like? If I wanted to do a bond is that a problem because we are at our maximum indebtedness amount?

Gierach: No. This is specific just to that urban renewal area. That really won't affect any of the other types of borrowings we do.

Hardesty: I tell you. This is fascinating to me. I appreciate your patience in unpacking this for me because I don't give away \$30 million every day, so I have to know what is going on with it. So thank you. Please continue.

Gierach: So I mentioned the projects, we won't be able to draw on the line of credit until the projects are budgeted through in the annual budget process or fall or spring supplemental processes. Within that \$30 million a portion of that will be dedicated to debt service reserve fund on a future long-term bond issue. So \$30 million won't technically be

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used 100% for the projects. It will be used to fund debt service reserve fund helping the marketability of the long-term bond issue when we sell those in the open market.

Hardesty: I feel like I need a bond 101 class, right?

Gierach: It is not the most straightforward thing.

Hardesty: Bonding for idiots. It is important to see a big picture of this. Prosper comes in and they want \$30 million and transportation comes in and talking about something else, right. So I would love the opportunity to schedule something like that for my office.

Gierach: Oh, sure.

Hardesty: I think it is understand the big picture not just the narrow focus we have today.

Gierach: Absolutely. So, yeah, and also we currently are -- so we already have existing lines of credit for the urban renewal areas. Those are up for expiration. We will roll those over and renew them. This authorization is part of the rollover process scheduled to occur this December.

Wheeler: Very good. Any public testimony?

Moore-Love: No one signed up.

Wheeler: I will end on this note. I'm actually really pleased that commissioner hardesty just asked to learn more about bonding. I think bonding is one of the most exciting things ever. There is a tremendous, as they say, there's gold in them. Understanding the nuance of it is really important and very few people take the time to do it. I appreciate your proactive attitude. Thank you, gentlemen, for a good presentation. This is a first reading of a nonemergency ordinance. It moves to second reading. We are adjourned until 2:00 p.m.

At 12:43 p.m. Council recessed.

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Key: *** means unidentified speaker.**

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2:00 PM

Wheeler: October 16, 2019. Good afternoon, Karla, please call the roll.

Eudaly: Here. **Fritz:** Here. **Fish:** Here. **Hardesty:** Here.

Wheeler: Here. Now we'll hear from legal counsel on the rules of order and decorum.

Lauren King, Senior Deputy City Attorney: Good afternoon. Welcome to Portland city council. City council represents all Portlanders and meets to do the city's business. The presiding officer preserves order and decorum during city council meetings so everyone can feel welcome, comfortable, respected and safe. To participate in council meetings, you may sign up in advance with the council clerk 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 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'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. 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 and would like to show your support for something that is 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. If you're filming the proceedings please do not use bright light 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 ejected for the remainder of the meeting. After being ejected, 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.

Item 968

Wheeler: Thank you very much. All right. The first item is 968, land use appeal.

Moore-Love: Appeal of the Southwest Hills Residential League against the hearings officer's decision to approve with conditions a one-lot partition with concurrent environmental and plan development review adjacent to 1315 Southwest Broadway Drive, LU 18-119056 LDP ENPD.

Wheeler: All right. First the city attorney will make some announcements about today's hearing. Good afternoon.

Lauren King, Senior Deputy City Attorney: Yes. Good afternoon, again. This is an evidentiary hearing. This means that you may submit new evidence to council in support of your arguments. The order of testimony for an evidentiary appeal hearing: We will begin with the staff report by the bureau of development services staff for approximately ten minutes. Following the staff report, city council will hear from interested persons in the following order. The appellant will go first and will have ten minutes to present his or her case. Following the appellant, persons who support the appeal will go next. Each person will have three minutes to speak to council. The principal opponent, the applicant, will have 15 minutes to address the council and rebut the appellant's presentation. If there is no principal opponent, the council will move directly to testimony from persons who oppose

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appeal after supports of the appeal conclude their testimony. After the principal opponent, the council will hear from persons who oppose the appeal. Again, each person will have three minutes. Finally the appellant will have five minutes to rebut the presentation of the opponents to the appeal. The council may then close the hearing, deliberate and take a vote on the appeal. If the vote is a tentative vote, the council will set a future date for the adoption of findings and a final vote on the appeal. If the council takes a final vote today, that will conclude the matter before the council. I would like to announce several guidelines for those who will be addressing the city council today. Submitting evidence into the record: Any letters or documents you wish to become part of the record should be given to council clerk after you testify. Similarly the original or a copy of any slides, photographs, drawings, maps, videos or other items you show to council during your testimony, including power point presentations, should be given to the council clerk to make sure they become part of the record. Testimony must be directed to the approval criteria. Any testimony, arguments or evidence you present must be directed toward applicable approval criteria for this land use review or other criteria in the city's comprehensive plan or zoning code that you believe apply to the decision. Bureau of Development Services staff will identify the applicable approval criteria as part of their staff report to council. Issues must be raised with specificity. You must raise an issue clearly enough to give the council and the parties an opportunity to respond to the issue. If you don't, you will be precluded from appealing the issue to the land use board of appeals based on that issue. An applicant must identify constitutional challenges to conditions of approval. Additionally, if the applicant fails to raise constitutional or other issues relating to the proposed conditions of approval with enough specificity to allow the council to respond, the applicant will be precluded from bringing an action for damages in circuit court.

Wheeler: Very good. So colleagues, just a housekeeping item, I want you to be aware that I have a hard out tonight at 4:45 p.m. and I don't know what other people's schedules are. I notice after the land use item we have a number of emergency items that I'm hoping we can get to prior to my departure.

Fish: Mayor, I had intended –

Wheeler: Commissioner Fish.

Fish: To put an absence in. I don't want to have the council lose a quorum so we'll play it by ear but 4:30 may be the outer limit of what I can do as well.

Wheeler: Okay, so I have a question of legal counsel. I took a sneak peek and it looks like there's about 50-ish people signed up to testify on this land use matter. If we give them all three minutes, we're going to be way over that. So the question is can I limit that to two minutes.

King: Staff, do you know how much time you noticed in the – I didn't notice how much time people would have.

*****: In the notice?

King: Mmhmm.

*****: It's at three minutes.

King: Yeah. So the notice did indicate that people would get three minutes today.

Wheeler: Okay, so I just want people to be on notice, then, that if it's three minutes each and we have 150 minutes of testimony after what will probably be at least a half hour presentations, there is a chance we will not get through the testimony or the hearing today and I just want people who are signed up to be aware of that. Alternatively, what I would encourage, it's been my experience, and I'm speaking, you know, painting with a broad brush, that testimony on these land use items tends to get very repetitive, and so if you hear testimony that you agree with, just give a big thumbs up or maybe come to the microphone when your name is called and say all my points have been made but I want to be very clear I'm either for the appeal or I'm against the appeal, and maybe summarize

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your comments. Not everybody has to speak for the full three minutes. That would just be my personal admonition and request. Commissioner Fritz.

Fritz: There is an hour and 20 minutes of additional hearings that have been asked for this afternoon.

Eudaly: Yeah.

Fritz: So if we were to get through them all, it would likely get it to 5:20, and hearing that you can't stay --

Wheeler: I must leave at 4:25.

Fritz: Commissioner Fish needs to --

Hardesty: Well, I --

Wheeler: Commissioner Hardesty.

Fritz: So we can do the emergencies, perhaps.

King: Can I make a suggestion?

Wheeler: Yes, please.

King: If the council -- sorry, Commissioner Hardesty I need to interrupt.

Hardesty: Go ahead.

King: Oh. If the council decides to continue the hearing and leave the record open to provide additional written testimony, we can consolidate the oral testimony today.

Wheeler: Yeah, okay. So we'll worry about that when we get there. Commissioner Hardesty.

Hardesty: I tell you, we have fabulous legal counsel because she anticipated, those were the words coming out of my mouth --

King: I interrupted, I'm sorry.

Wheeler: Excellent.

Hardesty: And answered them before I asked. Thank you.

Wheeler: All right. Very good, so first off, do any members of city council wish to declare a conflict of interest?

Hardesty: No.

Wheeler: No members of the council have a conflict of interest to declare. Do any members of the council have ex parte contacts to declare or information gathered outside of this hearing to disclose?

Hardesty: No.

Wheeler: Other than a staff briefing I have no ex parte contacts to disclose. Have any members of the council made any visits to the sites involved in this matter?

Fritz: I have traveled along Broadway Drive in my time of 30 years here, but not specifically related to this hearing.

Wheeler: Yeah, ditto. Do any council members have any other matters that need to be discussed before we begin the hearing? Very good. We'll start with the staff report. Ten minutes. Come on up. Good afternoon.

Hardesty: I appreciate the ties. We like it when people put ties on to come talk to us.

Shawn Burgett, Bureau of Development Services: [whisper] Oh yeah, uh, okay, sweet.

Fritz: If you're tieless, you're also welcome.

Burgett: Thank you. Good afternoon. My name is Shawn Burgett. I'm a city planner with BDS who worked on this land use review being presented to council today. My colleague, Stacey Castleberry, a senior planner with BDS, is behind me. This will be an evidentiary hearing. New information can be submitted. As background, the hearings officer approved the applicant's proposal on the 4.6-acre site which included a plan development review, environmental review and land division review. The hearings officer approved a 1.33-acre parcel that will accommodate 20 new dwelling units, ten sets of attached units, via the plan development review. Access to the site is proposed from Southwest Tangent Street and the environmental review approved a 3.27-acre environmental resource tract that will

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provide environmental protection at the site. The hearings officer also approved a new public pedestrian path, built to trail standards, connecting Southwest Tangent Street to Southwest Broadway Drive, and minor improvements along the south side of Broadway Drive opposite the subject site. This slide shows the applicable approval criteria in the zoning code which the hearings officer based his decision on. The appellant, the Southwest Residential League, has based their appeal on transportation impacts, rights of ways, and Title 17, as indicated in the slide. The appellant's primary concerns are related to lack of improvements required along the north side of Southwest Broadway Drive adjacent to the subject site. The zoning map here depicts the site area. The site is zoned single family residential R10 with an environmental conservation zoning overlay. Southwest Tangent abuts the site's northwest corner and Southwest-Northwest, and Southwest Broadway Drive abuts the site south, southern property boundary. Here's an aerial view of the site showing kind of the forest canopy that exists there today. Here's the proposed lot layout overview. The yellow highlights parcel one where new development is proposed. The green represents the environmental resource tract around parcel one, and the light green represents the location of the pedestrian path connection between Southwest Tangent and Southwest Broadway Drive. I also want to quickly show some slides related to the development ***** pros on lot one, as approved via the plan development review, which allowed the applicant to cluster the development proposed on one lot in order to lessen the impacts to the environmental zone. This is opposed to having detached dwelling units on individual lots. The private driveway proposed includes guest parking, a turn-around that meets fire bureau requirements and pedestrian improvements along the private drive. Here's some conceptual renderings of the new units of this, proposed on the site. Southwest Broadway Drive is partially visible in the slide. Here's some conceptual renderings from the new units from the west -- from west the site. And this is a conceptual rendering of the new private driveway entering from site from Southwest Broadway, er, Southwest Tangent Street. Here's a photo of Southwest Broadway Drive looking west. You can see the arrow pointing to the subject site. Here's another photo of Southwest Broadway Drive facing northwest. So here are the, here are the council, city council alternatives today based on the appeal. And I also wanted to note some new information that was submitted, it was basically put on -- put on the record following the hearings officer's decision and the appeal. The applicant initiated a public works review process in correlation with PBOT and BES in order to explore additional pedestrian improvements along the south side of Southwest Broadway Drive, which have received concept approval. Therefore, I want to allow PBOT staff that's here today to step in and to discuss the requirements regarding this proposal. Thanks for your time.

Hardesty: Thank you.

Wheeler: Thank you.

Kurt Krueger, Portland Bureau of Transportation: Good afternoon, mayor and commissioners. I'm Kurt Krueger with the city Department of Transportation. I'm an engineer with the city of Portland. Shawn can walk through some slides but to speed this up, I'll let him walk through the slides as I walk through my comments. I don't typically put these comments in writing but I want to make it very clear you're going to hear about legal matters, constitutionality, and some other issues today, and I want my comments as transportation representative to be focused on this particular site and not as it may apply to other development actions throughout the city so that's why I want to make sure I got these comments down. I want to first start out by familiarizing yourself with the project, and more specifically on the existing conditions of Southwest Broadway Drive along the project's 740 feet of street frontage along this roadway. You're going to hear significant testimony from both the applicant and appellant regarding the condition, constraints, safety, and level of appropriate improvements that should or shouldn't be required along

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this corridor with the proposed development. As I said a couple minutes ago, I'm an engineer. I'm not a land use attorney, but it has become vitally important to my team and I that we become very familiar with case law surrounding property takings and exactions. I want to take a minute to give you a short excerpt from the US Supreme Court decision, *Dolan vs The City of Tigard*. It states, "If the court finds that a nexus exists, then the court must determine whether the city has shown a rough proportionality between the exactions and the projected impact of the proposed development. That is, while no precise mathematical calculation is required, the city must make some sort of individualized determination that the permit conditions are related both in nature and extent to the impact of the proposed development." I just want to reiterate the court did not give us a formula, a book, a calculation of how we determine this. It's an individualized determination on a site by site basis. It is important for city council to understand that not only does the development application need to comply with locally adopted zoning codes which the hearings officer has found to go the case, but development conditions and exactions that the city imposes must pass this constitutional taking test of rough proportionality. PBOT, in coordination with the bureau of environmental service, has struggled from day one on finding the appropriate requirements for improvements along Southwest Broadway Drive, balancing our city standards and the lawful requirements that will pass the court tests. Our public works appeals committee met and discussed three public works alternatives before we landed on the requirements that were included in the hearings officer's decision. PBOT originally required standard half-street improvements including bike lanes and sidewalks. It didn't take long to realize that significant retaining walls, off site sewer extensions, and conflicts with the environmental zone, were going to preclude standard street improvements. The required improvements to Broadway Drive are currently under engineering review and are less than what the bureau would like to see on a street that is intended to serve pedestrians, bicycles, and motor vehicles. But as this set of requirements that do not step over the line that would trigger much larger scale infrastructure development that would likely not satisfy the constitutionality standards. The conditions surrounding Broadway Drive are not unique to Broadway Drive. Nearly all 25 neighborhood collectors in Southwest Portland are asked to serve the needs of pedestrians, bicycles and motorists, but are some of the most costly streets to improve and are very difficult to engineer and construct one development at a time. Unlike an infill lot on a quiet residential street or street with better site lines found in flatter areas of the city, isolated improvements on a street like Broadway Drive are difficult to permit and construct as utility and bike and ped infrastructure needs to connect on either end to provide a functional facility. Capital Highway, for example, currently under design, has been discussed and desired to be improved for nearly 20 years, currently at a cost of over \$20 million. Broadway Drive has more significant topographical constraints and a greater length that would result in an even higher price tag to deliver. The improvements the city has imposed include right of way dedications to allow for more complete improvements in the future, along with improvements to the existing conditions that will somewhat improve the pedestrian experience along the distance of the site's frontage. In closing, both the city staff report to hearings officer and the hearings officer's decision found that the development application met the approval criteria of the Portland zoning code while also not resulting in conditions that would not meet constitutional standards. I'm available now and throughout the hearing to answer any of your questions.

Wheeler: Could I ask you a commonsense question here? So, this issue of proportionality, just so I understand it, in layman's terms, the concern you're expressing based on case law, based on the constitutionality, is if the conditions of development are out of proportion economically with the value of the project or the cost of the project, that constitutes

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potentially a land taking? Is that your concern? Explain it to me in simple layman's terms so I get it.

Krueger: There are three primary court cases that set the table for this conversation. The first, I don't think anybody is going to disagree is met, it's the nexus test. We have a legitimate interest of having Broadway Drive developed to a larger standard. The next is the Dolan case where we have to find some way of saying if we are going to take somebody's property for governmental interest, we have to show that what, the impacts of the project are going put into the system are proportional to what we're asking of their property.

Wheeler: And by, when you say "asking of their property" –

Krueger: Right.

Wheeler: You mean in a financial sense?

Krueger: The first sense would be we're physically going to require them to dedicate some of their land to become public right of way. The way we have typically done that in transportation, and jurisdictions around the country have struggled with this, is we measure vehicle trips to and from the site and compare that to how many vehicles are on Broadway Drive for example and we come up with a percentage of impact and then we compare the percentage of their land and how much we might be exacting.

Wheeler: Okay.

Krueger: So, the courts didn't set that table for us but absent a formula or a book or some table, that's a quantifiable method of calculation for us. The third test, and the city could certainly can always interrupt me if I misstate this, one step further and said financial exactions from an applicant are now part of the takings test. This was a case that came out about two and a half years ago. So, to answer your question, when we're asking for improvements, those improvements come with a monetary value and they have to be proportional to what the development is proposing. With 20 units that is also building a new street to serve those units and extreme constraints of building standard improvements on Broadway Drive, absent the formula, I think it's, and in your words, a layman's look at it's not going to be proportional to ask for, and I don't want to put numbers into the record because they are not cooked or baked or figured out yet, it is going to be very, very costly street to build and having the burden placed on the development for 20 units probably isn't going to pass that test.

Wheeler: And the consequence of not passing the test is this would potentially be appealed to LUBA, the Land Use Board of Appeals?

Krueger: So, um, what's before you today is, did this meet the zoning code, which the hearings officer recommended it did, or decided it did. If the council were to disagree with staff, or disagree with the hearings officer and say more improvements should be required, the concern would be we ask too much and it goes to LUBA and then it could go to the court of appeals and then on to the supreme court.

Wheeler: Okay. That makes sense. Thank you. I appreciate that description.

Eudaly: And, Mr. Krueger –

Wheeler: Commissioner Eudaly and then Commissioner Hardesty.

Eudaly: Thank you, mayor. You said that you didn't want to enter numbers into the record because they may not be completely baked. I am curious if you could you share the impact of those 20 -- the estimated impact of those 20 units on the roadway or is that one of those numbers that we can't --

Krueger: Let me make sure I understand the question. Is there a dollar amount that we could assign to the impacts that the development –

Eudaly: Not a dollar amount. The percentage of increase of traffic. You said that –

Krueger: Okay, that I can do. Broadway Drive again is unique. You don't just drive up Broadway Drive and turn into a street and end up in the subdivision. There are a couple

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access points depending where you're coming from. So, if you're coming from downtown, you would access a street at the lower end of the hill. If you are coming from the west side, Beaverton, you would probably take another street. It's very difficult to figure out how many cars are actually going to be traversing across Broadway Drive in front of this property. Our best calculation is about 60 new vehicle trips per day. There's about 4,000 and some currently on Broadway Drive today. So it's less than a percent or so.

Eudaly: Than 1%.

Krueger: It's very small.

Eudaly: Thank you.

Wheeler: Commissioner Hardesty.

Hardesty: Thank you, mayor. So I want to take the mayor's question to a conclusion. So if LUBA got this case and they ruled against us, then it would trigger a state law that would basically say that we've taken this developer's land? Is that an accurate statement?

Krueger: I'll let the city attorney correct me if I'm wrong here, but what would likely happen is LUBA, if they found that we overreached and didn't agree with your decision, if you're to uphold the appeal, would likely remand it back to the city to correct the mistake that they would have identified us making, so we would probably be back here again, redoing this.

Hardesty: Thank you.

Krueger: Mm, hmm.

Hardesty: Thank you.

Krueger: Okay.

Wheeler: Was there more to your presentation?

Krueger: No.

Wheeler: Very good. All right. Next we'll have the appellant for ten minutes. Good afternoon. Thanks for being here.

Lisa Caballero: Hello. How are you?

Wheeler: Good.

Caballero: Can a technical person help me move off of the city –

Hardesty: Right behind you, coming, coming –

Caballero: Oh, thank you.

Wheeler: Karla to the rescue. [laughter] And if you could also just, when you speak, if you could just enter your names for the record please.

Caballero: My name is -- Mr. Mayor, commissioners, my name is Lisa Caballero, and I'm the transportation lead for the Southwest Hills Residential League.

Wheeler: Thank you.

Caballero: We are appealing the hearings officer decision on the grounds that it accepted a mitigation plan which fails to provide pedestrians with a safer walkway and releases applicant from code required frontage improvements. This summer PBOT presented to council PedPDX a Vision Zero plans, and we learned a lot about walking in Portland. I think we all agree to the aspirations and goals in these plans. We all want Portland to be a safer place to walk, but it is in this type of hearing with a real street, a real developer and a real set of neighbors that plans and aspirations can become a reality. In this hearing, you have, you all have the authority to take a concrete step today towards making Portland a safer place to walk. Let's keep it there for now. The PedPDX report states, per city charter and city code, property owners are responsible for constructing, maintaining, and repairing the sidewalks abutting the property. Traditionally, the requirement to construct sidewalks is triggered when a development is proposed. As part of the development, property owners must construct or improve the sidewalks fronting their property. This is how the vast majority of sidewalks have historically been built in Portland. That's a clear layman's statement of Portland's sidewalk policy and code. It's not something that PedPDX made up. It's not new. This is common knowledge and understanding of city code that is

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repeated regularly by city employees. If every new development improved their frontage, then eventually a street gets a continuous sidewalk. In theory, this policy can work but only if the city consistently enforces it's code and makes developers provide these frontage improvements parcel by parcel. The grounds for our appeal are narrow. Please understand that there is a significant qualitative legal difference between a frontage requirement and an off-site mitigation. A requirement is strict and defined. A mitigation has no bottom. It is a slippery slope to nothing. You can see the frontage improvements bounce down the slope and the city's responses to the applicant's three alternative requests for relief from frontage improvements. Here's PBOT's March, 2018, response to the early assistant request. "The proposed subdivision will also trigger standard frontage improvement, a 12-foot dedication will be required, curb located 16 feet from the center lane, an eight-foot swale and six-foot sidewalk". I agree with Mr. Krueger, we can't do that. Next, the applicant requests relief from the frontage requirements and an alternative review, and in July, 2018, the committee responds, "The committee is supportive of reducing the standard sidewalk requirements to a minimum of a six-foot wide paved shoulder for the length of the property." The applicant comes back a second time requesting relief from frontage requirements and in December, 2018, the committee responds, "The committee is not able to support the applicant's request to eliminate the six-foot wide paved shoulder. PBOT has already reduced our standard sidewalk improvements along this frontage. Broadway is a neighborhood collector and city walkway, and the required shoulder widening would provide a minimum of stable surface for pedestrian circulation." But finally, in a third review in 2019, the city relieves the applicant of the frontage improvements and in their place recommends a mitigation which would have no effect on pedestrian or cyclist safety and only requires improvements "where feasible". The applicant will also be required to provide gravel shoulder improvements to the south side of Broadway where feasible, given the existing constraints of driveways, mechanical equipment and guardrail locations. Constraints which make the shoulder as narrow as three feet in places. This is the first slide. Okay, that is what three feet of shoulder looks like and this is towards, getting towards the ends of their west, west end frontage. You'll see that the shoulder is already partially paved. So the danger to the pedestrian is not from the surface that they are walking on. I don't care if it's dirt or asphalt. The danger comes from the cars whizzing by and these are constraints. We have a guardrail. We have a utility cabinet with telephone pole. At the bottom you'll see an old cement plug from a guardrail from the '60s and on the left, this is actually a good picture of one of the wider shoulders. This is about five feet right here and you'll see that the asphalt pulls over halfway. The proposed mitigation that's being presented to you today is to pull that asphalt further to the right so it's covering more of the gravel. That is the improvement that they are proposing for 20 luxury townhouse units. Okay, it's not an improvement. It's, it's just spending money. And then I want you to notice up in the top corner there's a little e-scooter parked in back of that car. We have people commuted by e-scooter up Broadway now. Thank you very much in improving this project. The hearings officer sets a precedent of not requiring frontage improvements or effectively mitigating for them. This is the standard which can be applied anywhere in the city. I'll turn my remaining time over to our council, Mr. Daniel Kearns.

Daniel Kearns, Reeve Kearns PC: Thank you. Good afternoon, Mayor, commissioners. My name is Daniel Kearns. I'm a land use lawyer. I represent the Southwest Hills Residential League in this case and I submitted a memo twice so the one that has some of my points is, says "corrected" on the beginning of it. But let me begin with, as you saw staff's presentation, this was a very complicated project with e-zoning and it evolved over many years and it's a huge credit to the developer and to staff that it boils down to this one issue today. There were, believe me, a thousand points of light going through this whole process. But the issue that this presents to you today is a very common one with infill

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projects that come in on the city's existing infrastructure system, street system, that has inadequacies and you have adopted recently and over a long period of time, a large number of these bicycle-pedestrian safety policies. It is a huge priority for you, you have said so, and your citizens have devoted thousands of hours volunteering on the planning and sustainability commission and various other advisory boards to help you promulgate these policies. And what we're asking for you to do today is enforce them. You have codified these policies, in this case in your code, in this development -- [inaudible] is the code, and the standard I quoted in the appeal notice, it's 33.641.020, the transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area, then you have a list of factors to consider. It concludes with safety for all modes. And I think that really characterizes your policies that you've adopted and the next section of the code provides for mitigation to impose mitigation so that a development can achieve these standards. And this isn't the first time you faced this kind of a case. You did not too long ago in Macadam Ridge, where you interpreted that code provision to say all the relevant approval criteria must be met. There's nothing in the language of the section I quoted or the purpose statement that allows for making an on-balance finding that, or that failure of one or more of the evaluation factors is not a basis for denial. They all have to be met and in that case if you recall it was access to a Trimet stop across the street and the developer said, you know, the improvements required to make this safe are disproportional to the impact of this project, couldn't -- staff and the council and the applicant couldn't come to agreement on a range of mitigating conditions, so you denied it. It didn't meet that approval standard so you denied it. And so the present case, the hearings officer found similar to you that it's not safe. The hearings officer finds, this is his language, that the transportation system, except for Southwest Broadway Drive is capable and does currently provide safe pedestrian-bicycle access. The hearings officer agrees that the section of Broadway Drive adjacent to the site is nearly impassable, at least not safely, by pedestrians and bicycles. So there's the basis for the mitigation or a denial which is what you need. The applicant has suggested a couple cases that control here. The first one is Brown versus City of Medford. And these, that plus the city, uh, Hill versus City of Portland are both nexus cases, not disproportionality. So in the Medford case, the court said, "The issue is whether the exaction substantially advances the same interests as the land use authorities asserted would allow them to deny the permit altogether." For -- the hearings officer skipped over that part when he found it wasn't safe and approved it without the mitigation that would be required to make it safe. And so we're asking that there be mitigation to make it safe. The Hill case that you lost, in that case, you found that it was safe for all modes so it doesn't really, that's why you lost it. In this one, in this particular instance, we're not asking for the full smorgasbord of right of way improvements. And that's what the hearings officer analyzed. He said full standard improvements are disproportionate. That's a 12-foot shoulder, a giant retaining wall. What we have suggested is much cheaper, six feet of shoulder, a much shorter retaining wall and some kind of barrier to make it safe --

Wheeler: I'm sorry. Could I interrupt for one moment. So you're at the ten minutes but here's what we do in the interests of fairness. I don't really want to cut you off. How much more time do you think you need to finish your remarks?

Kearns: 30 seconds.

Wheeler: Okay. We'll let you finish and then we'll add that same amount to the principal opponents time, just --

Kearns: Thank you.

Wheeler: In the interest of fairness. You may continue.

Kearns: I just -- kind of to respond to Commissioner Hardesty's question. What would LUBA do with this? It depends what you do with it. So you could affirm the hearings officer,

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approve this project, when it's documented not safe for bikes and pedestrians, contrary to your policies. You could require full street improvements. That would be I think disproportionate. Or require the narrower standards that we've suggested, the applicant, the only evidence in record about the cost is \$700,000. That's less than the purchase price of one of these units, one of these houses, and the, like for example, the street into the project, they have to provide streets into their project anyway. That's, that doesn't really count. They have to provide water to their own houses. So, the narrower standard is definitely in the rough proportionality range and would pass muster under Dolan. But more importantly, under Nolan your final option is to deny the project.

Fish: Let me ask you something, Counsel. Does it make any difference to your argument that the development is not strictly speaking adjacent to Southwest Broadway or that it, vehicle usage impact on Southwest Broadway is negligible?

Kearns: Vehicles aren't the issue. These aren't vehicle trip generation and Mr. Kreuger talked about how engineers calculate this. These are pedestrians and bicycles and you don't have any model for calculating impact based on bicycles and pedestrians. That's the issue here. It's not a car traffic safety issue. But in terms of contribution to trips to this, to here, I think the applicant's engineer estimated that 1.7% of the trips on Broadway would be attributable to this project. That's small. Three to 5% of the site trips would be by walking. It's small but it's there. The applicant says well, there's virtually no pedestrian traffic on Broadway now. That's because it's too dangerous but they are building a pedestrian path from the top that would drain this development as well as the neighborhood down to Broadway Drive. That's a big issue and even the hearings officer said the pedestrian path changes how this project impacts Broadway Drive and its safety deficiencies. It contributes pedestrian trips to Broadway Drive. Even, and the hearings officer said I don't understand why anyone would want to cross Broadway Drive. Maybe that's because he tried. It's a very dangerous street to cross, but your policies say make it safe. Make developers improve their own frontages. He does about. This project does about this road.

Wheeler: Commissioner Fritz.

Fritz: So if I'm hearing you correctly, your preferred outcome is not that we deny the application. The preferred outcome is to change the conditions of approval to apply to provide more pedestrian-bike safety on Broadway Drive.

Kearns: Yes. We worked hard to come up with a smaller standard that would work.

Fritz: And –

Kearns: It won't fix the entire Broadway Drive. Mr. Kreuger told you how terrible it is. This is just one piece --

Fritz: I'm further hearing that you're not asking for full street improvements with the 12-foot --

Kearns: We think that would be a bit much at this point in time.

Fritz: Is there a concern with the pedestrian path other than how it interacts with Broadway Drive?

Kearns: Well, it is going to be a big conduit if it ever becomes somewhat safe.

Fritz: Was there any elements of your appeal that is focused on the pedestrian path itself?

Caballero: Can I say something? May I –

Kearns: Sure, go ahead.

Caballero: I just want to interject that the pedestrian path that is crossing the property is a mitigation or in lieu of a connectivity requirement. It is not the frontage requirement. So we haven't really addressed it at all. It's confusing because it is a pedestrian amenity but it's done instead of a road which would be too difficult to build from Davenport down to Broadway, so no, we don't address –

Fritz: That's not the focus of your appeal. Okay that's –

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Kearns: It's a good thing.

Fritz: And it has a public easement on it. That's my understanding. Is that correct?

Kearns: Yes.

Fritz: Thank you.

Kearns: It'll be public right of way.

Wheeler: Commissioner Hardesty, the Commissioner Eudaly.

Hardesty: Thank you. So, I think you are accurate when you say that we passed a law that has this vision of where we're moving as far as every part of the city having access to sidewalks and bike paths, et cetera, et cetera. I think what I'm struggling with is this is 20 units that are not on Broadway, that the developer is being required to put another road in in order for folks to be able to access the property. And it sounds like, it sound like the neighborhood association wants them to actually do above and beyond because of poor planning in the past that actually didn't create sidewalks and bike paths and et cetera, et cetera, right? So southwest and east Portland have the same problem, right? Not a lot of lights, not a lot of sidewalks, not a lot of bike paths, et cetera, et cetera. And so you're asking us to say, okay, because now we have this new policy this one developer with 20 properties should actually fix the whole area. Well, a big piece of the area. Not the whole area.

Kearns: The whole area was described by Mr. Krueger and it's just this segment. The city as you know all quarters of the city have deficiencies. The way you start to build out to fix, to fill in the gaps, is you make developers improve their own properties, their own frontages. We're not asking for off-site improvements, although one mitigation that would probably help a lot is the intersection of Hoffman and Broadway because right now a lot of people walk there and it's sort of a death trap. But that's how cities and you in particular, you make developers, property by property, build out their frontages. A lot of times developers say, hey, that's a sidewalk to nowhere. Well, it is today but we have plans and we are requiring systematically that developers build out, build out, build out, and eventually you get where you need to be but you've got to start. Otherwise its general fund. That's the entire city's fund for paying for those improvements. When you have a chance, you make developers improve their own properties so it is not above and beyond. It's very basic, it's very simple, it's very standard.

Wheeler: Commissioner Eudaly.

Eudaly: Thank you, mayor. I think you've mostly answered my questions. I'm finding the maps we have somewhat inadequate because my, one of my questions was, and that's not your fault, if this would create any kind of contiguous walkway and it sounds like no.

Caballero: We'll be presenting a map with the public testimony. Actually –

Eudaly: Great.

Caballero: South and downhill -- I'm sorry, north and downhill of this, in the past it's been the policy that new development has been required to build cement sidewalks and we have many, I think five or six sidewalks to nowhere that are actually kind of connected, connected enough that people are walking, that we do have in sight a connected continuous path all the way from this frontage to downtown Portland. It's, we can see it.

Eudaly: I feel like I should disclose that we took the same transportation and traffic bus together and we're both painfully aware of how bad decisions made decades ago impact us to this very day and then you add the unique terrain in the southwest hills and it's very challenging, but I appreciate this. I'm just trying to, as transportation commissioner, my ears perked up when you talked about increased pedestrian activity on this road. And I want to know that people will be safe and the potential impact of the pedestrian pathway you're talking about so, thank you.

Wheeler: I'm curious if there's been any outreach to the principal opponents of the appeal with the proposal you just asked us to consider.

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Kearns: The developer you mean?

Wheeler: Yes.

Kearns: Yes, in fact they did kind of a cost estimate and that's in the record. They said \$700,000. They anticipated very tall walls the entire length of it which isn't the case if it was only six feet, six feet of shoulder. So that's what they came back with, with a no.

Wheeler: Okay. Thank you. Commissioner Fritz.

Fritz: As long as it's safe, walkable, bikeable you would be amenable to some kind of an alternative treatment like a boardwalk?

Kearns: Would what?

Fritz: Would you be amenable to an alternative surface rather than paving such as a boardwalk?

Caballero: If it's bikeable and walkable.

Fritz: Yeah.

Kearns: Yeah. It's the uphill slope and you'll, people will testify and you'll have pictures of actually how it works. But it's the uphill slope, so bikes are not going very fast, that's part of the problem, but, so if something other than a paved surface is fine if you're not zipping down. The downhill slope, gravel would be a dangerous thing for bicycles.

Fritz: Thank you.

Wheeler: Very good. Thank you.

Kearns: Thank you.

Wheeler: Next up are supporters of the appeal. Three minutes each. How many do we have signed up?

Moore-Love: I think we have about 19.

Wheeler: Okay, and again, my earlier admonition rings true. It's quality, not quantity. So if you hear people saying what you want to hear you can raise your hand or come to the mic and say it's already been heard. Good afternoon.

Fish: Karla, could you please call up the first three?

Moore-Love: Yeah, the first three are John Neumann, Charlie van Rossen and Nancy Seton.

Wheeler: Good afternoon.

John Neumann: Good afternoon. Good to see you again, Mayor Wheeler, commissioners. Thanks for this opportunity. My name is John Neumann and I'm the vice president of the Southwest Hills Residential League. I would like to introduce our coordinated –

Hardesty: Residential league? Is that what you said?

Neumann: Yes, Southwest Hills Residential League.

Hardesty: And is that different than the a neighborhood association?

Neumann: We are the designated neighborhood association.

Hardesty: Thank you.

Neumann: I would like to introduce our coordinated testimony by showing a couple of maps that will help orient you to the neighborhood and I think bring up some of the issues Commissioner Eudaly and Commissioner Hardesty are talking about. What we have here is a map that shows the southern part of the city. We have downtown and then the Portland Heights Southwest Hills neighborhood. Broadway Drive that we're talking about is in red and it's the eastern artery out of our neighborhood. Vista to the north is in blue and that's a route to 23rd and Burnside. It also provides access down to Goose Hollow and the Max. Vista does have a continuous sidewalk along the eastern edge of it. Lower Montgomery is in orange, and it's a vehicular route downtown. There's no pedestrian access along here. There is a passable shoulder for part of the way, but around it you can't, there's no, it becomes inaccessible. Patton is our western route out of the city. There's no pedestrian usage on Patton. It's quite dangerous to walk on. All of these streets

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that you see highlighted see a lot of cut-through traffic during commuting hours. This is people trying to get around the tunnel basically, so they come through the neighborhood and try to get downtown to the east side or I-5, 405. I would like to add that we have very poor bus service in the Southwest Hills. Commissioner Fritz discovered this when she was trying to come to one of our neighborhood association meetings. We have a computer bus, the 51, it runs along vista, the blue line here, and it only runs in the morning and weekends. Sorry, mornings and evenings. There is no mid-day service and there's no weekend service. So none of us here today from the neighborhood were able to take the bus. We would have had to leave the home at 9:00 a.m. in the morning. Also notice these streets all terminate in different areas of downtown but that Broadway Drive offers the most direct access to the transit mall and to PSU and into downtown. If we zoom to the next map this will provide you some more context along Broadway Drive and as you can see the blue portions are existing sidewalks, cement. As Lisa said, these are pieces of prop -- of sidewalks that have been required by PBOT for previous developers. The blue area is right of way of on-street parking that is pass -- sort of passable for pedestrians. The blue area is the development and the dotted line represents the frontage along Broadway where this pedestrian passage would go, and you can see how it basically begins to create a contiguous passageway along the southern area of Broadway Drive. The last thing I want to say is that, well I'm out of time, so I'm good. Thank you.

Hardesty: Well if you have one sentence or two --

Neumann: I just want to say that Vista has a contiguous sidewalk and it's used continuously throughout the day. We see students going down to school. We see, we have one restaurant in the neighborhood but we see employees walking up to the restaurant. When there's timbers games, people are walking to the game and on the weekends we see people from all over the city with backpacks on, hiking up to Council Crest, so, yeah.

Wheeler: Thank you. Good afternoon.

Charlie Van Rossen, Southwest Hills Residential League: Thank you, mayor, and city commissioners. My name is Charlie Van Rossen. I am the equity and inclusion chair for Southwest Hills Residential League. Portland Department of Transportation produced an equity matrix map that ranks areas of Portland that helps guide PBOT in achieving city-wide racial equity goals and strategies. The equity matrix is based on census tract data on race, income and English proficiency. The bureau's goal is to make areas that measure high on the equity matrix a priority for achieving greater mobility for those residents, including safer walking and biking areas, and greater access to public transportation. Broadway Drive adjacent to the Tangent project is one of the most unsafe and mobility deficient areas in all of Portland. I know because I drive this road almost every day to and from work. Shoulders are nonexistent. Curves block drivers' views as they turn and suddenly confront bicyclists, and vehicles far exceed the speed limit, particularly on this section of the road. Because PBOT's equity matrix map is based on large census tracts, the map averages way smaller pockets of equity priority groups in the Southwest Hills. The effect is to obscure areas like lower Southwest Broadway Drive. PBOT produced the draft southwest in motion plan which shows a more granular analysis of Portland Southwest Hills focusing on renters and those with disabilities. It captures nuances like Southwest Broadway Drive which shows as higher priority for addressing equitable mobility. This section of road has a high concentration of multiunit housing that serves the Portland State campus. Many residents walk to downtown and PSU. Adding more multiunit properties will increase foot traffic and increase risks and dangers to walkers and bicyclists. Not addressing the issue of road improvement for nonvehicular transportation will increase the likelihood of an accident and endanger residents. As I indicated I drive this section almost daily. I used to bike up Broadway Drive from downtown when I was in my 20s and 30s when I was less risk averse, but I will not do it now. I still bike to work

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sometimes during the summer but use the safer route up Montgomery Drive. My commute is 2.7 miles, using Broadway Drive and is 3.4 if I use Montgomery. No public transportation goes down or up Broadway. My commute via bus would be 38 minutes as I traverse downtown and then take the only bus that goes up Southwest Vista to the Southwest Hills. The people who live and will be living along this section of Broadway do not have the comfort of any public transportation unless either walk up to Vista or Downtown to connect. Addressing the issue of mobility along this section of Broadway Drive now is the right thing to do and the safest for all Portlanders.

Wheeler: Thank you and I just have to acknowledge that's a really hard bike ride. Good for you. [laughter] That's not an easy one.

Van Rossen: That's when I was [inaudible]

Wheeler: Good afternoon.

Nancy Seton: Hello, Mr. Mayor, commissioners. My name is Nancy Seton. I'm the past president of SWHRL and current land use chair. Today I will present the data from a traffic speed study which the city conducted for three days between May 19th and 22nd of this year.

*****: Use the mic –

Seton: Yes ma'am. [laughter]

Wheeler: Hi, Nancy, and the mic can move. It slides around so if it's easier just to pull it, there you go.

Seton: That's okay. She's doing the slides. The study is relevant to this hearing because vehicle speed affects pedestrian and bicyclist safety, and should inform the design of frontage improvements. The city recorded car speed at two points, marked a and b on the map. Point a is just uphill from the intersection of Southwest Hoffman and Southwest Broadway Drive. The site of a two-car crash last week that required two tow trucks. Point b is about 500 feet downhill from the beginning of the proposed tension village frontage, and is a good indicator of how quickly cars pass that site. At point b, you can see that 92% of eastbound downhill drivers exceed the speed limit of 25 miles per hour; 27% of them exceeded by ten miles an hour or 35 miles per hour. Ten miles per hour can be the difference between life and death for a pedestrian as PBOT's Vision Zero program reports. According to Vision Zero, 80% of pedestrians struck by a car traveling at 40 miles per hour will be severely injured or killed. Note that uphill fewer drivers, only 13%, exceed the limit by ten miles per hour. This is a strong argument for putting pedestrians and cyclists facilities along the uphill westbound lane. Furthermore, a car traveling uphill can stop more quickly than one downhill and obviously cyclists going uphill travel more slowly and need extra space. Consistent with those facts, the draft southwest in motion plan recommends that on constrained streets with only enough width for a sidewalk on one side like Southwest Broadway Drive, the improved shoulder be placed next to the uphill traffic lane. That's from the draft southwest in motion plan page 26. Those are strong reasons to support the uphill north shoulder frontage of the proposed development as the safest location for an improved shoulder. Thank you.

Hardesty: Thank you.

Wheeler: Thank you. Next three, please, Karla.

Moore-Love: The next three are Mickie Goodridge, Robert Duvoisin and Roger Brown.

Wheeler: Good afternoon.

Mickie Goodridge: Good afternoon, Mr. Mayor, city council members. My name is Mickie Goodridge, I'm a retired lieutenant colonel from the United States Air Force and I'm a hospital administrator and a current service disabled veteran-owned, small business owner, and I live on Broadway Drive. And I just wanted to let you know that I live 0.4 miles from downtown Portland which should be a great gateway to the downtown area for myself, my family and the hundreds of residents in our Southwest Hills neighborhood. The

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reality is my wife and my daughter and I moved into Broadway Drive in 2017. My daughter attends Portland State University. She has an autism spectrum disorder 23-year-old, and has significant challenges, especially with physical activity. So walking down the hill and walking back up the hill is challenging enough, but for the first year of her tenure at Portland State University she and my wife diligently tried day and night and in the rain and in the elements that we deal with every day to walk up and down to Portland State University so that she can go to class. My daughter requires one of us to take her most places but she definitely requires our attention to detail walking up and down Portland, I mean Broadway Drive to Portland State. So I just wanted to let you know that on the afternoon of May 23rd, my wife and my daughter were walking down to go to Portland State and my wife slipped and fell on the gravel and really hurt herself. My daughter really was terrified of the cars that were coming down that day as well. She told me in her words that she will never walk that street again because she was nearly hit by several cars and they were speeding down and it really terrified her and so I'm here to tell you today that my family is 0.4 miles away from Portland State and downtown but we don't even feel safe enough to walk down the street so twice a day I've got to drive her down and go down the hill with her and bring her back safely. It's just an impact that affects my little family. And I just have to tell you in my 25 years of Air Force service, I have never seen a more unsafe street in my life. This is a really difficult, difficult area for us because we, we just try to make use of the pedestrian pathways and we're physically unable to. So we just would love your attention to help families like mine, very prototypical of those in the Portland area that try to do the right thing, use less car traffic, and anyhow, I appreciate your attention today.

Wheeler: Thank you for your testimony, and thank you for your service. I appreciate it. Good afternoon.

Robert Duvoisin: Good afternoon, Mr. Mayor, city commissioners. My name is Robert Duvoisin. I live near the top of Southwest Broadway Drive for almost two decades. Eleven years ago I started commuting to work on an electric bike. I think I might be one of the first persons on the hill to do that.

Wheeler: I was going to say, 11 years ago, yes.

Duvoisin: Yes, it's a Chinese bike. They used it before we did.

*****: [inaudible]

Duvoisin: Today I see a lot of people on e-bikes especially in the west hills because it makes them accessible to more people for obvious reasons. I'm in my 60s now and I ride everyday rain or shine up Markham Hill, not Broadway Drive. I wouldn't dare. Broadway Drive's too dangerous. But that's not something I would be doing without help of a motor. So I think if you want to think about the future of the climate and making our effort I think increasing use of e-bikes is important and for that we need to provide them the space to ride safely. Including on roads which perhaps a decade ago were off limits to most, you know to people who aren't athletic. As you were saying, it's pretty hard on Southwest Broadway Drive. So going downhill we can usually take the lane and travel about the speed of cars. But uphill is a different matter. So I think that we need at least three-foot, three feet to the right of the fog line so that I feel comfortable that the cars are a little further away from me when I'm going uphill. I think it's in the plan of doing that for Markham Hill Drive where I'll be. I'm looking forward to that. It doesn't need to be a dedicated lane. It just needs to be a little bit of space that we can share with pedestrians. My motor isn't very strong and I don't go much faster than pedestrians going uphill. And so Portland 2035 comprehensive plan gives walking and biking top priority over other transportation modes. Priority over cars and public transit. I'm not sure I agree with that necessarily. I think public transport is very important but I urge you to respect this

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prioritization and require the frontage improvements to pedestrians and cyclists along the uphill north shoulder so that we can feel a bit safer. Thank you.

Wheeler: Thank you. Appreciate it.

Roger Brown: Honorable mayor, commissioners. My name is Roger Brown. I am a resident of the Southwest Hills neighborhood, and a recent addition to this SWHRL board just less than a year now. I would like to premise my comments in the fact I have been a long time bicycle commuter, over 20 years and I live only one block off of Broadway Drive and yet I do not take Broadway into or out of town because of safety concerns. I believe the frontage improvements for this Tangent Village development should be on the north side of Broadway. In my opinion, the proposed mitigation to avoid displacement is not adequate. For narrow streets where improvements can only be added to one side of the road industry standard is to add a shared shoulder to the, adjacent to the uphill lane and in this case that would be the north side of Broadway. I feel the proposed mitigation of minor improvements to the south side while they would not improve cycling safety at all and would not really significantly improve pedestrian safety. So on a different note, I wanted to relay information that the friends of Markham Nature Park have discussed regarding a proposed Tangent Village – and it's just because I'm a board member, longtime board member of that organization. The proposed development is to include that trail that was mentioned that connects Tangent Street to Broadway, which in turn would come to a point very near where Markham Park abuts Broadway Drive. Because of this, the friends group sees a very exciting opportunity for connecting a whole new neighborhood with direct walking access to the park where none really exists today. With construction of a short spur trail it would be possible to connect into the existing trail network into the park. We're not suggesting that the Tangent Village project take this on but the friends group is really willing to assist in this effort, so. And what is doubly exciting about this possible connection into the park is that it is, this is a part of the neighborhood as mentioned earlier that has some of the highest density and highest equity scores with a number of apartment buildings where residents could easily walk to the frontage improvements. As this is a demographic that's not typically well served for access to natural areas, we see great potential here. However, while we are excited by this prospect it would only be supported if it were a safe connecting walkway along Broadway. So in conclusion I urge council not to let the opportunity slip away to more significantly improve pedestrian and cycling safety and connectivity on Southwest Broadway Drive and potentially allow for neighborhood access to nearby natural area in particular for a demographic that is not generally well served in that respect. Thank you.

Wheeler: Thank you.

Eudaly: What was the name of the park? I'm sorry.

Brown: I'm sorry?

Eudaly: Which park was it?

Brown: Markham nature park.

Eudaly: Got it. Okay. Thank you.

Moore-Love: The next three are Don Baack, Chris Kopka, and Craig Koon.

Wheeler: Welcome.

Don Baack: Mayor Wheeler, commissioners, howdy. Good to be here. I'm from Hillsdale and my name is Don Baack. I'm coming from this with a little perspective of I spent the whole morning out there walking up and down the street. Basically it's a terribly dangerous street to walk, but there are only segments that are most dangerous. And so I'm really proposing and I'm going to start off with what I think should be done is, and I've got to put my glasses on, I'm afraid. The, redesign the street is not something that a city council ought to be doing at a meeting like this. Due to a number of concerns and problems that existed on this arterial for many years, and I've been party to several discussions about we

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need sidewalks in there in the past, I recommend that we refer this street portion of the proposal to PBOT, the developer and informed community members to seek a solution that will result in a safer, more usable street and require an answer in 30 days. So I ask you to set aside 30 days, give them some time to work this through because I think there's some not great solutions but there are some solutions that are affordable and could be done if we got good thinking on it, and it would be going beyond the scope of this frontage and it means taking some of the money that's set into the swim project, there's a tier II project in swim, it's budgeted for 500,000 mil -- \$500,000 to a million dollars, and get a plan that says we're going to do this in two or three years, and get a continuous thing from the end of the property that's being proposed of in front of you, all the way downtown and that means doing things like -- I think, well here, that means doing things like narrowing the travel lanes. Right now we've got 11-foot travel lanes. Make them nine feet. That's going to be make the cars slow down particularly if you put lines along the side. The speed of traffic is what's killing people as well as crossings. Now, if we don't have it put on the ease [inaudible] the directions there on the south side of the street, that means crossing the street at least twice. It means we need a signal particularly at Hoffman because you know, as we heard earlier, there's accidents happening there all the time. It's a terrible street to come onto Broadway Drive. You can't see to the left and there's a blinking yellow light that doesn't slow anyone down. We need a full signal or we need a, basically a pedestrian operated signal. But that isn't going to help the cars. A full signal is really needed at Hoffman and we need probably another warning signal like a HAWK or a rapid flashing beacon at the other crossing. Those two crossings are important if you're going to use that other side the street. You can't expect people to cross the street without protection in this environment where we've got four to thousand cars, 4 to 5,000 cars a day and a speed is 33 miles an hour or something like that, particularly on a downhill. So that's my recommendation. There's some other stuff in my testimony but the essence of it is, give it back to PBOT but make sure they understand they got to work with the community, with the developer and come up with a plan in 30 days where you ask the developer to give him full, you know, give him the full treatment. You know, whatever it is. Sidewalk, bike lanes and everything. That's impossible I think in their purview but it's still -- it's important that we do it. Thank you.

Wheeler: Thank you, Don. Good afternoon.

Christopher Kopka: Good afternoon. My name is Christopher Kopka, resident of the neighborhood. Good afternoon, mayor and council. I think the conversation began with Kurt Krueger presents you with an interesting dilemma, but I want to talk about what I think the council's major priority is. So the council has an absolute obligation to protect the safety of its citizens. And I don't think you, with all the qualifications and conditions that the traffic engineer people have talked about, we don't have a safe solution. So I'm pretty disturbed that we're actually having to have this conversation about what do we do to protect the safety of our citizens when we're trying to get them to walk. That's the city's objective in this city. This proposal does not result in safe proposal that any reasonable family should use or allow their children or spouse to walk. And so I'm curious about why we're having this conversation about you considering drastically reducing the adopted city standards for on-site improvements. This sidewalk, if it's put on the north side of the street adjoining the property, it is an on-site improvement. There doesn't need to be a nexus. It's about the property in question. So I hope you'll take that into consideration. I want to talk about, just, I want to just restate some of the conditions we're facing and I hope you understand because Broadway Drive is a steep slope street. It think it averages more than 6% if I understand correctly. I think you've heard the applicant speak to the past about well maybe they can use Hoffman as an alternative. Hoffman has portions of it that are 23% grade. It's just not a practical solution. The proposed walkway is unusually narrow, it's

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sometimes three feet wide, it's going to be on one side of the street so that means pedestrians coming from opposite directions have to pass each other in three feet. There is no protection. There's no barrier, there's no curb. There's no anything that stops the cars from veering on to the pedestrian pathway. I actually have to take a little bit of exception about narrowing the lanes because this is more than cars. This is a major truck route up to the hills for people doing landscaping, for getting deliveries so we have to accommodate trucks. It's a very windy road. So you need the width we have I think to get trucks up there. If it were just cars I might agree with you, but I think for handling trucks as well, you can't make the road narrower and make it any safer. The proposal puts the pedestrians on the downhill side of the traffic lane. It's a higher speed. It's been documented by the city. So why are we setting ourselves up for failure? So, and again, just please think about this in terms of your own life and your own family and having to make a decision about how, what we present in front of them and what their daily patterns would be. This doesn't meet that test that the city should be using.

Wheeler: Thank you. Thank you both.

Fish: Karla, who are the next three?

Moore-Love: Oh, well, I've got one more –

Craig Koon, Southwest Hills Residential League: One more for me. I got – there was no extra chair for my, my person.

Moore-Love: We have Ed, actually, Ed Strojakovic could come up probably.

Wheeler: Good afternoon.

Koon: Good afternoon, council. My name is Craig Koon. I'm both a SWHRL board member and an immediate neighbor on Davenport to this project. At the early assistance hearing for this project in February, 2017, the applicant offered to improve the frontage of Southwest Broadway Drive, cost not to exceed \$5,000. It was noted at the time that frontage improvements are not a gift, but required under code. And documents submitted in May of '19 to the hearing officer, they stated in order to fulfill a current PBOT obligation, in this case, the six-foot wide asphalt shoulder, they would need to construct a monolithic, 742-foot wall, 12 feet high or more, 12 feet thick or more, at a cost of 695,000 estimated dollars. They declared this impractical and unproportional. I would like to present evidence showing that this massive wall is not necessary. Alternatives to the scenario exist and are practical and that they enable the developer to construct this positive benefit from their development in the larger community. A continuous wall first off is not necessary. I took a contractor measuring wheel from the west point of the property end, every ten feet along Broadway Drive. I made a mark at the fog line. At that mark I measured with a tape measure straight to the cliff face wall. As you can see, that red line is the six foot mark. A good half of that frontage is further than six feet away from the fog line. They do not need a continuous wall. They need at best 350 odd feet of wall and to cut back some 350 odd feet of rock. By their estimate which was \$936 a linear foot, that would make the wall \$327,000. Clearly a savings. Not only that they may not need a wall. PBOT and ODOT, throughout this area, use other methods of protecting traffic. They use wire mesh, cable netting, debris fences, shotcrete or any other methods short of a concrete wall which is more savings. These are often half the cost of the \$47 per square foot they mention as the cost of their wall. There is an environment zone to be created and a 50-foot wide buffer. The green lines indicate the areas of the left and the second from right are places where, yes, there does need a wall to be cut. As you can see the deepest area is where the environmental zone is. It does not need a wall at all. It doesn't need to be approached. The six-foot wide shoulder would run through what is the proposed buffer zone because that ends at the fog line. Again, it's six feet further to the cliff wall. Not only that, the environmental feature is 12 to 15 feet above the road surface and it's 50 feet further, so at least 30 feet in elevation

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and distance between the proposed shoulder and the environmental feature. There's no need to disturb it all and clearly the road does not.

Fritz: What is a fog line, please?

Koon: The fog line is the white line to the right side of the road that indicates you're about to drive off the road in the fog. If I could say real quick, I walk the street almost every week. It's how I got here today. If I walked the preferred alternative of Hoffman that the developer proposes, I am in the roadway 80% of my trip. If they do this improvement, I am out of the roadway 80% of my trip. Please make this area safer for me and my dog and all the other residents. Thank you.

Wheeler: Thank you.

Ed Strojakovic: Good afternoon, mayor, city council. I'm Ed Strojakovic and I live near the intersection of Southwest Davenport and Broadway, so Davenport is about another half mile up the hill from where this frontage is and I chose this place about three years ago really for two reasons, one of which is obvious, it's a peaceful neighborhood. The other of which is I'm car free. So I'm proud to say I don't have a car and this was a good alternative between getting up to the hills and getting to work. My office is near here so I walk every day to work. We won't talk about bus service but it gets me to Council Crest as well. But one of the things I'm concerned with by living at that intersection of Davenport and Broadway is I believe this is the access method trucks are intended to use to get to this construction site. On those two -- on the intersection from both directions, there are "no truck turn" signs so what I'm seeing there on a regular basis is trucks ignoring that sign and turning onto Davenport from Broadway and getting stuck. So I see on a continual basis a truck is getting stuck there. I don't know how a truck, construction equipment would get up that hill and turn there. There's no sign from Davenport to Broadway to turn for trucks. I think it was just assumed the trucks would never go there. In fact, my moving truck got stuck there. There's one of the things that they did even though I told them to not go, but my garbage truck has to back down from 16th to get to my place because they cannot come up there from Broadway. In my time there, I've not once seen police or fire be able to use that intersection. So they're continually having to come from alternative ways to get there. And I don't think this road was created for truck traffic and I suspect it will be a year, perhaps more for trucks to continue to use this road. When a delivery truck comes down my road, my house is shaking so I can't imagine dealing with this for a year, perhaps three years, and my parking garage or my garage door has dents in it from trucks turning because they can't make that turn so they U-turn into my house to get out. But secondly, as I mentioned, I'm a pedestrian and I do that because I don't own a car, which means I rely on walking and taking a bus. Without getting to the poor bus service, I do a lot of walking and to walk there I often have to cross paths. I once tried to walk Broadway. I gave up because I'm continually having to switch sides of the road and clearly that's not a safe place to switch roads and cars obviously speeding up and down the hill. So I believe this is a bad decision to allow that area to be built without taking advantage of an area that I think would be great to have access to me to be able to walk down that road as well as other people and be able to access Council Crest and other places. So, I thank you for your time.

Wheeler: Thank you. That's a very provocative photo.

Strojakovic: That wasn't my moving truck but it was a similar experience and of course when that happens, Broadway is closed as is Davenport for a half hour.

Wheeler: You got to feel for the guy --

Strojakovic: I do, I do, but I hear it every day. I hear it from my house. It's kind of a, it's a typical thing, so.

Wheeler: Yeah, thank you for your testimony.

Strojakovic: All right, thank you.

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Wheeler: Appreciate it. Next three, please, Karla.

Moore-Love: The next three are Laura Torgerson, Sally (Sarah) Bachman, and Eric Stecker.

Wheeler: Good afternoon.

Laura Torgerson: Good afternoon, mayor. Good afternoon, commissioners. My name is Laura Torgerson and I have lived on Tangent Street with my family for 16 years and in the Southwest Hills for 23 years. I'm a former New York State volunteer fire fighter and an EMT 3, a current doctor, and a member of Portland's emergency medical response organization, Serve Oregon. This proposed planned development at the end of Tangent Street, which is a long, narrow, dead end streets, would place a large number of closely spaced structures in a heavily landscaped environment on a steep wooded slope in a wildfire hazard zone. When I moved into the area, none of us were thinking wildfires, however in the last ten years, we have seen a dramatic increase in devastating fires as pointed out in recently, recently in local and national news outlets. I am fully aware that response time means everything. It means saving a life, saving a structure, and potentially saving an entire neighborhood. The two biggest factors in successful fire suppression are response time and water pressure. I must remind the council that there was a fatal fire on Hoffman Street because the fire truck could not access the site and to that day, that empty lot remains a grim reminder to us all. As was stated in the 2010 fire department city audit and two of our commissioners may be familiar with this report, emergency response times are not met in our area. In the report it is clearly stated that after five minutes of fire inside of a home, flashover point is frequently reached. Because we live in a wooded area, fire will travel quickly, especially in drier seasons and drier times due to climate change are upon us. Also as stated in the report every minute of delay for response to a cardiovascular emergency results in a 7 to 10% decrease in survivability. A five-minute delay of ambulance results in a 35 to 50% decrease in survivability. According to the AMA, brain death results in four to six minutes. Without the construction, without the delays from construction traffic, we already experience significant delays on our narrow streets. When firefighters arrive in this planned development they will find that the applicant's hydrant has insufficient flow to fight a wildfire. Under fire code appendix B105.2, one in two family dwellings, even with sprinklered buildings and fire resistant construction, should have a minimum flow of 875 gallons per minute, however the applicant's required hydrant will only have 600. While sprinklered buildings and fire resistant construction allow the buildings occupants to escape safety, they will do little to suppress fires originating outside of the home or in the surrounding area, a deck, equipment sparks in a yard, or smoldering bark mulch. While the proposed expression of code may provide adequate safety for residents of the development, it does nothing to protect the surrounding community and rather endangers it. During construction hours we ask that the applicant be required to station fire and medical units in positions likely to diminish delays and we also ask that council ensures our safety by enforcing the minimum hydrant flow in the wildfire hydrants.

Wheeler: Thank you. Good afternoon.

Sarah Bachman: My name is Sarah Bachman. Thank you, mayor and commissioners, for the opportunity to address you. I'm the team leader for the neighborhood emergency team for the Southwest Hills Residential League. I'm not speaking in that capacity exactly. I'm speaking in my personal capacity, but you should know what my background is to my comments. The net is a group of volunteers trained who have been trained to be citizen responders to supplement the first responders such as firefighters in case of emergencies. Examples of a possible emergency where citizens responders are called out are a great quake, urban wildland fire. Short of such huge events, we are called out frequently to be – for more ordinary wind, rain and ice storms, for example, to guard people from driving over downed electrical lines. So we are deployed all the time. Speaking as a volunteer citizen

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responder, in my view, the safety issues in this neighborhood are already severe and the proposed plan, if no mitigation is required, will compound the safety problems of the neighborhood. I have three points. First, the roads in that neighborhood and I'm talking about not just Broadway Drive, but also Davenport, Hoffman and the other neighbor -- the other roads that Tanager Village would be accessed by, are steep and winding, they cause existing safety risks especially in bad weather. Those risks should be mitigated in two ways, during construction adequate traffic control must be strictly monitored by the city, and after construction is complete sufficient water flow will be needed in the fire hydrant for fighting fires as Dr. Torgerson has mentioned. Second, again speaking to the narrow and steep roads, should Davenport be blocked due to construction traffic or an accident involving construction vehicles, the lower approach road Hoffman as you've heard is really an unacceptable access road. Third, following on from my previous points, the council cannot do much in the short term to fix the road issues obviously, but it can address the problems that inadequate water flow will cause in the event of a wildfire. The council can and should require the developer to provide adequate flow under the fire code as mentioned by Dr. Torgerson. Finally in my view the proposed plan will compound the safety problems of the neighborhood which already are severe. So thank you for the opportunity to address you.

Wheeler: Thank you. Commissioner Eudaly.

Eudaly: I have a clarifying question. Does the hydrant flow fall within the scope of this appeal? Thus far we have been just focused on the frontage improvements.

Hardesty: This new information is I guess being accepted for this, right.

King: It's a de novo hearing so new evidence can be placed into the record --

Eudaly: Okay.

King: And issues can be raised, new issues can be raised.

Eudaly: Thank you.

Wheeler: Did you have a question?

Hardesty: Thank you, Mayor, yes I did. I just wanted to just put a couple of things on the record. As the fire commissioner, I am also very concerned about response time to 9-1-1 calls, but I also want to put it in context. We have a significant increase in 9-1-1 calls that have nothing to do with fire or crime or anything like that. We have a lot of calls to 9-1-1 that are all about people that people would rather not see, our houseless population. I can tell you that I don't know how those fire engines make it to many corners of the city of Portland but they do. They are professional. They are well trained. They do an excellent job. What I know about water flow is that when there's a fire we are able to tap in water flow from other locations so that we can have more water at a higher pressure to wherever the fire is. Today fire, 80% of the calls that they respond to have absolutely nothing to do with fire. They are a medical first responder system and I can tell you I have been to the firehouses up in the Southwest Hill and you've got some of the best public employees working in the Southwest Hills because it scared me when I was up there and realized, oh, my gosh, all these trees, if something catches on fire all heck breaks loose, right? So I, so as the fire commissioner, I want you to know I pay close attention. I'm always monitoring what's happening all over the city as it relates to fire. But I will, I cannot say fire response is a good reason for me to either approve or disapprove right? Because what I know is actually what the data tells me about what firefighters respond to in all the calls that they get, so I appreciate your testimony. I appreciate you. I think both of you are volunteer firefighters.

Torgerson: I was in the past, yes.

Hardesty: You were? I love you both

Bachman: I'm just a volunteer responder.

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Hardesty: I love you both because a, we absolutely need first responders, volunteers, community net are, in my opinion, some of the most unsung heroes and she-roes in our community because you're volunteering to go into places where bad things are happening to help people be resilient, right? So thank you very much for what you do and thank you – and by the way, you know we're looking for more firefighters if you want to do that again, right? [laughter] Look me up. Thank you both.

Bachman: Thank you very much.

Hardesty: Thank you.

Wheeler: Very good. Thank you both.

Eric Stecker: Hi, I'm Eric Stecker. I live on Davenport abutting and just uphill from this project. I want to thank you for your time today. I appreciate you taking this issue seriously. I have a written testimony with some pictures that the council clerk has. I'm going to talk mostly about pedestrian safety on Davenport which we've not talked about. I also though, in light of this conversation want to just mention about fire. I live right uphill from this. I honestly don't know nearly as much as you do about this but this site has tons of vegetation, everything from little shrubs to old growth trees, all most. I'm right up from that and it is terrifying for me to think that this area where you can't get personnel and you can't get trucks -- I mean, I've seen the big trucks respond to emergencies. It is not easy on this street all the way down winding Davenport. To think that we wouldn't have the coded, the statutory flow rates on the hydrants is alarming to me. It's alarming to me. But again, I defer to experts, but I ask you to really take that seriously. Maybe visit the site or we could provide more pictures of what the site looks like. It's a lot of vegetation and my family is directly uphill from it. Moving on to the pedestrian safety, I grew up in Sheboygan, Wisconsin and you know, as a kid I could walk to the school bus stop when I was in first grade by myself, because we had sidewalks everywhere. Portland is a wonderful city and we're doing wonderful things for the environment, but we don't do well with sidewalks at all and it's really unfortunate. I'm not a nimby, I understand, I read the economist. I understand that nimbyism and unnecessary regulation threatens our cities and that our cities are key parts of our city and that our cities are environmentally efficient, actually, even with regulations that may not immediately seem so because of density, so that's important. But pedestrian safety is also very important in Dav – this would really hurt pedestrian safety on Davenport. My kids walk to school now. They, I wouldn't let them walk alone even to friends house up the street because there are no sidewalks where we are. There are curves, there are hills. Now they are finally able to walk to the bus stop. Other kids walk to the bus stop and to Ainsworth of course, and at 9 and 13, they can finally do it, they have to walk on neighbors' lawns. They hit hedges. I have some pictures, they hit hedges and they have to walk out from between parked cars to walk down the middle of the street in sections before they can get to the sidewalk and I can't imagine doing that with the construction traffic certainly and even the number of car trips did not seem like as many as it would be. They'll all be concentrated when my kids are going to school, at least, and it's really, really alarming. And it would really diminish the quality of our experience as a family. All the property taxes we pay and everything. I'm not even asking for sidewalks. I'm just asking for a plan, you know put – there's no connection – you know they're not -- the developer is not building a street. They're building a, I don't know what the definitions are, but they're building a driveway on their own property to the houses you know. There is no street connection to Broadway. It all comes up Davenport, which if you take a look at a map it's not great. Please also keep in mind Hoffmann is usable by trucks. I used Hoffman once in 13 years. I'll never do it again. Thank you.

Wheeler: Appreciate it.

Hardesty: Thank you.

Wheeler: Next three, please.

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Moore-Love: Are Peter Boicourt, Geraldine Rauh, and Joan Steritt.

*****: [inaudible]

Moore-Love: Steritt, okay.

Fish: Mayor, while we waiting for our next guests, just a little housekeeping matter. There are two bureau of environmental service ordinances that are on the afternoon agenda. I'm pulling them and setting them over for next week, so before you leave, we'll have Karla read them and then they'll be set over, and I also have got a 4:30 absence. So it might affect the ability to vote on emergency ordinances. So, if my colleagues could take a look to see whether there are any emergency ordinances that have to be passed today or can the emergency can be removed and just set over for a second reading.

Wheeler: Karla, how are we doing on public testimony?

Moore-Love: We have three more after them, and then we have eight on the opposed appeal.

Wheeler: Okay. So there is a chance that we will get through the land use hearing. I see no chance that we will get through any of the rest of the agenda before we lose the quorum.

Fish: For the emergency –

Wheeler: Commissioner Hardesty.

Hardesty: Mayor, is it possible for us to suspend the meeting with the agreement of folks here, do what is on emergency, which will only take maybe 10 minutes and then go back and start taking more testimony?

Wheeler: Yeah. Why don't we do this. Why don't we go for another 45 or 50 minutes. Let's see how we're doing and then prior to, you know. Commissioner Fish doesn't need to be here for the emergency ordinances. I've got another -- I think that says --

Hardesty: 3:35.

Wheeler: Three – and I've got until

Hardesty: Another hour –

Wheeler: Until 4:45 so I've got an hour and 15 minutes, so I think we're okay with the emergency ordinances. All right. Good. All right, good afternoon. Welcome. Thank you for being here.

Geraldine Rauh: Thank you, Mr. Mayor. I'm Geraldine Rauh and thank you Mr. Mayor, for coming. I will read notes because I know you have a time frame here. On 20 March, 2018, it was at about 9:30 in the morning, I was in the kitchen, all dressed, waiting for my husband to come out. When he came out, I recognized immediately he had had a stroke and you talk about your firemen. They were perfect. I called 9-1-1, they were there in minutes, and followed by another truck who came in with paramedics and all kinds of equipment. They were on the phone to the stroke section at OHSU and by the time your firemen got them up, it was within one hour, which is critical when you have this type of stroke to operate on my husband. Not only did early medical attention save his life, the success of the recovery has given his life dignity and some independence. I'm forever thankful. Now, I'm also going to mention when I heard you say we have no sidewalks – which is true. So our little children, walk to school with no sidewalks on the street. The people who but, no struc – no property. It's a disaster. And then when you mentioned using Hoffmann as an entrance, I've gone down there when I've had to back up and this past Tuesday, I had an appointment at OHSU at 8:25, leaving my house at quarter to eight. I live very – I can see OHSU. I was able to make the time, but I got down Hoffman, and there's a flashing red, which meant I can come, but out of nowhere, coming up Broadway, even though the yellow light wasn't blinking, this car comes right in. It was only through a lot of skill there wasn't an accident there. I was able to skirt my car around to get out of his way. He was jumping a light. There was no yellow light. He shouldn't have been there and that's because of red flashing light. That is a situation that cannot continue. And

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if -- fortunately, everything turned out for my husband, but to think you can use Hoffmann as an alternative to get to where you are going, it's not true.

Hardesty: Mayor, may I?

Wheeler: Commissioner hardesty.

Hardesty: I just want to thank you. My firefighters are, you may know, we have women on the fire force now a days, so it's not just men. They would be very, they would be thrilled to know that your husband --

Rauh: Please pass them on that we love them forever.

Hardesty: I certainly will.

Rauh: They saved my husband's life.

Hardesty: I will pass that along to them, and I just want you to know how much I appreciate you saying that on the public record --

Rauh: With sincerity.

Hardesty: I also want you to know that your neighborhood isn't the only neighborhood without sidewalks in the city of Portland, right? I live in east Portland, and I got to tell you, I followed some gentlemen through your neighborhood on a walking tour through the trails.

Rauh: Uh huh.

Hardesty: I couldn't keep up with them, right? They've been doing it forever, right? But I know exactly what you're talking about --

Rauh: That walkers love to go out. They, you see bicycles going up that street.

Hardesty: Yes, well, I --

Rauh: It is a walking street.

Hardesty: I don't know how they do it because I live in east Portland and I would not get on a bike yet. I don't care how many bike lanes they put in in east Portland. I'm not getting on a bike in east Portland because I don't feel safe on a bike in a neighborhood with almost no streets.

Wheeler: All right. Back to the hearing. Back to the hearing.

Hardesty: But I just want you to know, I just want you to know I hear you and I appreciate you. Thank you so much for being here.

Rauh: Thank you.

Wheeler: Thanks a lot. Appreciate it. Good afternoon.

Peter Boicourt: Hello, mayor, hello council -- commissioners, excuse me. My name is Peter Boicourt. I, me and my family have lived on Tangent Street since 1968. We have known the Ginthers and my mother and Marva Ginther were friends. If this helps at all, I went to high school with Sara Boone, so you're in great hands there.

Eudaly: Wow. [laughter]

Boicourt: Since this project's proposal the developer and the city have worked together to move forward with the 20 units. During this time, there have been many adjustments to the building codes to allow it to move forward. While many are reasonable and to be expected, others have been inequitable to the neighborhood community, especially with concerns to public safety. I've gone over several of these. The applicant has received adjustments on areas like open space, firefighting and pedestrian impacts. And one of the things to think about is that this, what we are working on, is an adjustment to an adjustment. You know, it's been one thing for us to want to make sure that we have that safe space. For me the tipping point was when this adjustment was only to help the developer, but to endanger public safety for the surrounding community, specifically on the routes in -- into the development. This is especially important for most vulnerable PSU students who often use Broadway Drive to get to school and those using Davenport to get to Ainsworth and Lincoln. The applicant's, excuse me the developer has a history of constructing and maintaining beautiful properties, it's true. For example, Wilcox. He has demonstrated the ability to make safe communities in the past. He continues his commitment by following the

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code, the rule of the code in enhancing the community. While I support dense population and affordable housing, this jeopardizes public safety, setting a dangerous precedent not only for this project but future projects as well, and we're asking you to please request -- have them follow through on the mitigation factors that were brought up by SWHRL.

Wheeler: Thank you.

Boicourt: Thank you.

Wheeler: Thank you both. Karla, sorry. Good afternoon.

Moore-Love: Sorry. The next three are Ryan Fedre and John -- I can't see, understand the last name. it starts with a K.

John Kosydar: Kosydar.

Moore-Love: Thank you. And then the last person who signed up is Mark Van Derveer.

Wheeler: Good afternoon.

Ryan Fedie: Good afternoon. Mayor, commissioners, Ryan Fedie, resident of Southwest Hawthorn Terrace, just off of Davenport and Broadway. Here representing more than me, my three young kids at home to make Portland a more a walkable, bikeable place. In lieu of the time constraints, I will try to keep this short to something new and additive. I'm in support of those who have gone before me. I just want to say that in addition to the city code policy, we also have the city comprehensive plan. I believe it is policy 9.6, which I have heard referred to as a street hier -- hierarchy, that, you know number one priority is for walkers. Second priority for bicyclists, on down the line, right, and making sure we're holding to our policies, I think if you've ever walked Southwest Broadway, if you haven't, I encourage you to get out there at some point, take your kids, take your spouses, take your best friend. Walk up and down it. I think it's easy to realize that not only is it not safe, but what it could be one of our most beautiful promenades from downtown, Portland State, the end of the Transit Mall up to Council Crest and Marquam Park. In a few weeks from now, we'll dedicate a bridge to going across Burnside to a fellow SWHRL resident, a neighbor, former neighbor on Southwest Hawthorn Terrace, Barbara Walker, you know who championed for years making Portland more walkable for Marquam Park and our parks. And I think she would want nothing more, in the few times I got to meet her which was a pleasure, to make that all of you are showing leadership in ensuring that we can make Portland a more walkable, bikeable place, more than naming a bridge after her. Thank you.

Wheeler: Thank you. Good afternoon.

Kosydar: My name is John Kosydar, I'm a ghost who lives on Tangent Street right where the private street will distend into the development, and I've lived there for 29 years. The city council has a vision of a pedestrian and bicycle friendly city and so do I. I want to zero in on the transportation impacts. The hearings officer makes a mistake when he lumps Broadway Drive, Tangent and Davenport Streets and proclaims them as a package of being, that can be traveled safely on foot and bicycle, I'm quoting him, even without sidewalks. The appeal is so well thought out and so well written, it says everything. There is not much I can add to it in three minutes except for a personal element. Now a previous traffic, city traffic engineer said that this proposed development will only add 60 cars a day to Broadway Drive. Before the hearings officer, another PBOT engineer said that this development will add 148 cars a day to Davenport and Tangent. So which is it? It is the higher one. It really is. You can do this on your kitchen table. You take 20 residences and multiply the multiple trips by car in and out of there. There's the number. So if the code is this flexible, according to the hearings officer, why even have a code? Anticipatory reality he calls it. I call it something else. The code is clear enough without manipulation and semantic gymnastics. Most importantly, how does this decision, his decision mesh with our goal of a connected pedestrian and bicycle friendly city. I would like to add one more point to this, is that this development doesn't even have sidewalks itself. It has virtual sidewalks.

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It has a different color along the edges of the street down there. That's deemed to be a sidewalk. I was raised in northeast Portland, at northeast 36th and Ainsworth and I went to kindergarten at Kennedy school. And my mother, as a 5-year-old, sent me to kindergarten without fear because there were sidewalks there, curbs there and there was the streets offered good visibility. If we could offer that 65 years ago, why can't we do it now. Thanks for paying attention.

Wheeler: Thank you. Good afternoon.

Mark Van Derveer: Hi. My name is Mark Van Derveer, I'm a resident of the southwest hills neighborhood. I've driven Broadway Drive for the last 32 years or so. I know that it is very dangerous and I think you've heard a lot of testimony here that confirms that, and the proposal we are looking at here will not make the street any more safe. I think that does conflict with both the PEDpdx plan that you folks have adopted just this year and also Vision Zero to, you know, try to eliminate vehicle/pedestrian interactions. So, I don't need to say anything more about that, but I would like to say, make a comment. The hearing officer's supposed authority on constitutionality of the proposed mitigations here, he's not a constitutional lawyer. People in BDS aren't constitutional lawyers. You can't really be swayed by what might happen if you take the right action here. You can't let you know potential obstacles stand in the way of doing the right thing. If this matter is going to be litigated, it will be litigated. And so you just need to, I think, take a breath here and do what's right for the city and for its citizens.

Wheeler: Thank you.

Van Derveer: Thank you.

Moore-Love: That is all who signed up.

Wheeler: Very good. All right. Next up is the principle opponent. Because the appellant got an extra minute, if the principle opponent would like to take 16 minutes as opposed to 15, you are certainly welcome to do so. So, Karla, if you could set it for 16.

Chris Koback: Thank you, Mayor Wheeler, commissions. My name is Chris Koback and I represent the applicant, Guenther, LLC. Guenther LLC is Ken Guenther, his daughter Lisa Phillips –

Eudaly: I'm sorry. I can't hear you.

Koback: Ken Guenther, his daughter Lisa Phillips, and her husband Ralph Phillips who are here and will speak.

Wheeler: Thank you.

Koback: With me are a couple of other opponents of the appeal. They have a lot to say –

Hardesty: Can you move a little closer?

Koback: Yeah, they have six to eight inches. I have a couple of gentlemen here that worked on this with staff and I'm hoping they get their own three minutes. Even though they are consultants. They have a lot to say and there's a lot to respond to. If they don't get their own three minutes, we'll work to squeeze it in.

Hardesty: I don't think they do. I think they're just –

Koback: They're part of me.

Hardesty: They're part of you?

Fish: But they can sign up for three minutes.

Koback: They signed up, but --

Fritz: Then don't they get three minutes?

Eudaly: Yeah.

Koback: Okay, so, Mr. Kearns and staff I think both pointed out something that's really important. This is a complicated project. And it went through a complicated process. It didn't involve just Guenther, LLC. They had probably 10 consultants, structural engineers, civil engineers, environmental consultants. It involved numerous staff experts, environmental experts, BES, PBOT, and that collaborative effort went on for about two

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years and before we got to the hearings officer, together we estimated about 4,000 hours. Since then there has been another approximately 1,000 hours dealing with the current design of the improvements on the south side. Those hours and that collaboration produced a staff report that went to the hearings officer and the staff report had a unanimous recommendation of approval, and that's important because it demonstrates exactly how the process should work. It was back and forth, it was dealing with complicated issues. I'm not going to talk about a lot of the issues. I don't think they are part of the appeal and I need to just say that for the record. The appeal was limited to one issue. And I know it is de novo and we understand new evidence can come in on that issue, but by allowing new evidence on issues that weren't appealed it's essentially allowing another appeal long after the appeal period has expired, and it is a little prejudicial to the applicant because we were prepared for the appeal that was submitted.

Wheeler: Could we take a break here and get an opinion from legal counsel on that?

Eudaly: Yeah.

King: Portland zoning code nor the notice nor Oregon law limits an appeal, a local appeal to only those issues that were noticed. That's not how our code functions. And that's not how we've ever interpreted our code. So new issues could be raised today.

Wheeler: Thank you.

Koback: All right, so, the -- I'm going to still talk about the main issue and that is the transportation. I want to talk about it got there. So as the project was proposed there would be virtually no impacts on this segment of Broadway because the development is all on a parcel of property above Broadway and it's confined to this 1.3 acres, and there is no access to Broadway. It's impossible physically and with site distance issues to put a road in. So all of the traffic, pedestrian, bike, vehicular traffic, everything was to go different directions than Broadway. It would take either a wrong turn or somebody doing something out of the ordinary to use this segment of Broadway. They would, if they were going downtown, they would tend to go to Hoffmann. If they were going west, you heard testimony from your PBOT expert that they would go out Davenport. Same thing for bikes and pedestrians. There was no way to get to this segment. Now that changed because of a connectivity issue and this is a fact that there's 3,000 feet between Davenport and Hoffmann and the code, I believe, requires block length to be 500 or 600 feet. The applicant had absolutely nothing to do with creating that situation. It is really how that area developed and there was one right-of-way Prince that was there, could have been extended but the city built a water facility on it so that was no longer an option. So in the course of this dialogue, the staff came to the applicant and said we need connectivity. We have a code that requires connectivity. Under the Hill case, I don't believe that was --

Fritz: Excuse me, the clock's not running.

Koback: Oh, I guess I -- Thank you.

Fritz: But that's not your fault. Keep going.

Koback: Under the Hill case, I don't think the applicant was required to put that connection in because again, our impacts did not create that block length issue. But, but as, to evidence this ongoing cooperation in an attempt to do something that was right, my client agreed to put in a connection and it was agreed it would be a pedestrian connection because a road just wasn't feasible. That one element, that pedestrian connection is the only feature that could potentially create any real impacts because it allowed some pedestrians to get to Broadway that wouldn't have been able to get there before. So that raised the issue of what improvements are we going to put on Broadway? Now the evidence in the record and the hearings officer agreed with this is the professional traffic people opined that even with that pedestrian pathway, the pedestrian traffic coming down to Broadway would be minimal. I think the term was negligible, and on page 28 of his decision, the hearings office agreed that he had to conclude that it would be negligible.

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And so with negligible impacts and PBOT already finding that otherwise the system is capable of supporting the development, the question is what kind of improvements could we impose on private development. And this brings up this constitutional issue. In Hill and the reason I cited it is, the court – and I did that case from beginning to end. The court was very clear that if you had a requirement, that is just the beginning. You cannot just impose a requirement because you have a requirement. You still, if you are going to take something from private development, there still has to be this impact analysis. So in the course of the working through this issue, PBOT looked at the standard improvements and I think everybody agrees, those could not be done feasibly or proportionately. Then there was another segment where they looked at the six-foot path on the north side. We have heard conflicting testimony. These gentlemen will tell you, one of them is an engineer, they worked with PBOT and eventually did a site visit. This wasn't done in a back room. They went out to the site and they looked with engineering at what it would cost to do just that six-foot shoulder. That is where the number of almost \$700,000 came. So, under the law, you don't compare that impact with the cost of the development or overall benefit. You are required to compare that to the project impacts. We have this recognized fact that the project impacts on Broadway are negligible. So when you compare negligible impacts from the development with \$700,000, that is where PBOT in the latest alternative review came back and said we can't require that. That would not be proportionate. Now, we didn't get into the nexus. I agree with Mr. Kearns. The nexus issue under Hill didn't come up. It could have. Because with negligible impacts the developer could have said we don't have to do any improvements. But continuing the dialogue with PBOT, just like we did something to help on connectivity, and that pathway didn't meet code. It is still over 1500 feet block lanes. But everybody agreed we would do collectively what we could to make it better. And so that was the spirit on the south side. It wasn't, we didn't look at nexus. The applicant went with pbot out to the site, and said okay, if it is not proportionate on the north side, what can we do together? And they came up with limited improvements? We disagree that. We think they're pretty extensive improvements given the impacts. That is what the hearing officer imposed. Those improvements changed a little bit over time because after the hearings officer's decision -- the reason it was limited to gravel by the way was stormwater. I think you heard from your staff that one of the big problems in this area is if you do pavement, you've got to deal with stormwater. Stormwater in this site, it doesn't infiltrate so you have to take it somewhere. It is very expensive. After the hearings officer's decision, BES came back with an idea that there could be a special circumstance that would allow the applicant to put pavement on the south side and pay a fee instead of building stormwater. And that special circumstance allowed the scope and development to change and allowed pavement on the south side. I think everybody can agree, if there was an unlimited amount of money, there is probably the desire and the will to improve all of our streets with sidewalks. Good sidewalks, bike lanes. A lot of us in this room are walkers. A lot of us are bike commuters. We come from different parts of town and I agree with Commissioner Hardesty. I bike in from the eastside. I don't go on 33rd Avenue. I wish it had bike lanes. But I don't think it's ever going to have them because the city doesn't have the money to do it and there's no way a private developer is going to be able to fund that. So we'd all like it, but we've worked collaboratively with staff and within the confines of the law to come up with something that improves the situation and it is compliant with the constitutional law and it makes a lot of sense for a development that otherwise meets every box, every one of your experts concurred this was a proposal eventually that met not only the spirit of the code, but the technical language of the code. So that is our presentation on the improvements and we believe you know, when the appellants question the hearings officer, I think what I would like you to remember is they're really questioning and criticizing staff, too. Because the hearings officer's decision was largely an adoption of

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the recommendations from the staff that worked tirelessly with the applicant on this application and came up with this proposal. On a couple of the other issues, on Davenport, I don't think it is part of the appeal, but it's kind of the same situation. It's an existing situation. Professional traffic evidence here was that they operate safe without sidewalks, without substantial improvements and we run into the same problem. If this development with negligible impacts has to do sidewalks, it's not proportionate. It, you can't, the reality is that we're not going to have developments in some places if we continue or if we impose burdens on developers to fix existing larger problems. Our client is doing more what the opponents to the project lead you to believe. And this is an idea that could work up in that area and it works in other parts of the city. We didn't, with negligible impacts I don't think my client had to do anything on the north side. But they have agreed to the dedication of significant property on the north side and they've waived the right to remonstrate, and that waiver will be recorded against all the properties. So at least in the future, if there is money available from another fund and we know that we have the Portland in Motion project. Our client has given the city and citizens something on the north side that in the future could be very useful in developing the improvements that everybody would like to see. And that would be a way to do it that would not impose what we believe is an unconstitutional burden on just one private developer. So I've got you through the legal stuff. Unless there are questions, and I have, had extra time, so I'm going to cut it off a little short. I would like the two gentlemen seated with me, Michael Ard who is a traffic engineer, who worked with PBOT to define the impacts and work through the process, and our civil engineer, Chris DesLauriers will talk about the actual engineering because he actually did the design. And the \$700,000 is not a made up number. And so with that, I'll let, introduce my --

Wheeler: If you wouldn't mind, I commissioner Eudaly had a question first, then we can get to the other gentleman.

Koback: Perfect.

Eudaly: And these questions don't count --

Fritz: Can you please stop the clock, please.

Eudaly: Yea. These questions don't count against your time. I think one thing I hope everyone in the room can agree on is that the way that Portland has decided to require sidewalks to be built and maintained is not preferable. It is not the typical across the country for property owners to be responsible for creating and maintaining sidewalks. As the transportation commissioner, I wish that I could deliver sidewalks to the whole city, but with \$3.2 billion in deferred maintenance, I am very sorry to say that that is not going to happen. Deferred maintenance on existing assets, that is probably not going to happen in my lifetime. I need clarity on the issue of what triggers the requirement to build the sidewalk. Is it the development itself or is it the pedestrian path that's triggering the improvements on Broadway?

Koback: Well, the way the code is written, is, under title 17, any permit, it reads anyway, 17.88.020 I think it is --

Eudaly: Wow, I'm impressed.

Koback: Any development triggers standard improvements or has standard improvements.

Eudaly: All the way around property. Because we're calling it frontage.

Koback: It's a frontage.

Eudaly: It is not really frontage, it is more like backage, but um, yeah. [laughter]

Koback: Well in this case it is technically frontage on the property. We disagree that it's onsite. There is no development on that part of Broadway, on this part of -- this is an environmental tract, so we don't believe it's any part of the development side. But it is technically frontage of the property that's owned by us --

Eudaly: I understand.

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Koback: So title 17 and the 33654 sets up your guidelines for, they're just standards. These are how we want our streets to look and here's how we want our sidewalks to work and look. Those are great policies, but what our courts have said is we have to temper those requirements with the constitution. So we can require, if we weren't asking a private developer to pay money under the Coons case or dedicate property, there wouldn't be an issue, but when you get into asking a developer, a private party to pay money or give property, that's where this Nolan Dolan test comes in and you have to show that the project impacts create one, a nexus with a policy or provision that would allow the city to deny the application, so the impacts have to be such that you could say, those impacts are so great we can deny that application. If you can do that, then you can take the property or money and fix the problem. But if you get by the nexus, then you still have to get to the bigger issue. In this case, it still has to be roughly proportionate and it has to be roughly proportionate with the impacts. So if you have a development that has great impacts, you can require, and you have a nexus, you can require the developer to do more. If you have a project like this where you have negligible impacts because there's only a few pedestrians and almost no cars from the development that will go on this stretch, the improvements that you can take from somebody are very limited in our view, and I think that is what the law says.

Eudaly: So I want to just express a concern with the current plan. And that is we are creating a pedestrian path to a street that isn't safe for pedestrians. And we are accepting a south side solution that is also not ultimately safe for pedestrians. I understand everything you just said. I recognize the unique terrain and various challenges of building this kind of infrastructure in southwest Portland. I'm very concerned that we'd in any way be encouraging use of that street that is actually not safe. And I don't expect you to respond to that. I just want to lay down that -- unless you want to.

Koback: I would like to respond that.

Eudaly: I want to lay down that concern.

Koback: I would like to respond to that.

Eudaly: Yeah.

Koback: So the safety issues that we've heard about today are existing issues. There's speed of traffic coming down, 4,000 cars. But the point that we're trying to emphasize is that impact is not coming from this development. It is not our cars creating the problem. And so the pedestrian pathway is the one part of this development that is contributing because of the hearings officer notes and I think everybody here notes that has the potential of allowing pedestrians to get there. One idea that really makes sense to me and I don't know if council can do this or not, is defer the pathway until such time the city can work on a program to make the pedestrian improvements practicable. The connectivity is just a general standard, and like I said, the block length has been that way for years and the development doesn't do anything to it, doesn't contribute to it --

Fritz: Adds, adds another 20 houses.

Koback: Pardon?

Fritz: Adds another 20 homes of people who are going to be walking to their friends who live on Broadway Drive and so if even one extra person is walking to Broadway Drive to get to the home of a friend, the you're putting that person in harm's way by not having -- and we're not asking for -- the community is not asking for a standard improvement with full sidewalks. They're asking for some kind of alternative treatments on the north side.

Koback: What I suggest is if the pedestrian pathway was deferred until a time when there were better --

Fritz: Then people who walk can't get to their friends and we would, that's another policy. That would waiving two policies that we have in city code.

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Koback: And we've, my client agreed to do it. It's not inexpensive to do it. They're doing it. They recognize that, that's a policy that the city promotes and they're doing it. They didn't resist that.

Fritz: Right so we now get to provide a safe place once they get there.

Koback: But it, it is the one issue that puts pedestrians on this place, and then you get to the question of, okay, if a few pedestrians are going to go down there, how does that limited impact justify the \$700,000 of improvements?

Fritz: Well, I think that's something that perhaps the suggestion that you go back with PBOT and the neighbors to talk about, does it have to be a \$700,000 improvement. We've got parts that go through parks that are boardwalks with anti-slip grating on them which don't cost that amount of money.

Eudaly: It is the wall, I think.

*****: [whisper] that's not the [inaudible] path costs.

Eudaly: Yeah.

Koback: The cost is associated with the hillside. So to put those improvements in, there's a basalt hillside that has to be moved and that takes a lot of time and money to move the hillside and then you have to retain the hillside.

Fritz: Did you calculate the amount of hillside to be removed as was shown on the diagram that was given of the distances?

Koback: Mr. DesLauriers and the pbot staff went out to the staff and did do that, and he's got calculations that are engineered calculations that show exactly what work has to be done.

Fish: Sir, let me ask you two questions. The first is, I have sat through a lot of these hearings over the years and people usually raise constitutional issues to preserve them on the record, but I don't remember the last time we had a hearing where the constitutional question loomed this large over the proceeding. We have been told by council if ultimately we get this wrong, Luba would essentially reverse us and send it back with instructions, which I take you agree with, in terms of procedural posture. The question I want to ask you is, it seems to me some of the arguments you are making about the limited impact of development which would effectively get your client off the hook for building out the sidewalk could be advanced by anybody subject to our sidewalk rule. I mean, I can almost, with the exception of, I mean, almost invariably, particularly where we do these sidewalks to nowhere. Just a stretch of sidewalk. It seems to me an artful lawyer, artfully crafted legal argument would make the same constitutional argument that it's disproportionate and thereby undercut our whole code that deals with sidewalks. Would you give me some comfort that the argument you are making here isn't an invitation to effectively invalidate our code.

Koback: I do not think the argument we are making today would invalidate the code. I believe it allows the reasonable application of the code within the constitutional law. For example, on the eastside there are a lot of sidewalk improvements done because it is flat and they can be done proportionately. Other neighborhoods and even on the west side that are flat that have sidewalks, infill is doing them because they can be done proportionately and it works. I think this site evidences something we don't see often but we do see on the west side mostly and that is the topography makes this improvement disproportionate. It is not to say this rule if you were to agree with us, these improvements pbot agrees are proportionate on the south side, if you agree with us I don't think you are taking away council or staff's ability to say in another case where the topography allows improvements to be made proportionately, that's somebody's going to be able to say "look what you did on Broadway". It is apples and oranges, would I be able to say there's never going to be a case where proportionality issue comes, no, I think it comes up a bit.

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Fish: I want to play this out a little bit. Aren't you effectively saying in whole swaths of the city where you have topography, the additional cost burden of complying to our code gives you a constitutional argument? Isn't that what we're really talking about, it's not like your clients are sophisticated actors, they went into this knowing the topography, they knew the site, they knew the code, they knew there would be additional cost. It says in the application before us, these were going to be sold as market rate condos. Market rate condos in that neighborhood go for a premium. As long as the market doesn't tank I could assume they could add on a little extra to the premium to cover the cost. Aren't we effectively, isn't this come back as sort of a disguised cost argument in areas where the topography makes, by definition, the cost greater to comply with our code and therefore aren't we opening up a Pandora's box in that area.

Koback: It is a combination of things. It is a combination of the cost, which is a result of topography and other issues.

Fish: Your clients knew when they acquired the land.

Koback: In my opinion, we are looking at there is an existing problem and everybody, even the opponents in their material, agree the development is responsible to address its impacts. It is a combination of evaluating the cost, which is largely a result of topography and other constraints against the specific project impacts. So there will be cases, no doubt where the project impacts are few and the cost is great and something has to tackle the proportionately issue.

Fish: Let me just ask one final question if I could Mayor and I apologize, I will just preview for my colleagues because there are some legal issues here that are somewhat first impression for me Commissioner Fritz, we may have spent time, but I don't remember, we've had a lot of hearing and I think this one turns uniquely on some legal issues. I'm not sure under the best of circumstances I will be able to reach a judgment today. I think I need a set over and opportunity to get some additional legal information. Let me ask you a very simple question to make sure I'm not missing something. If the two cases you cited that govern in this, that you believe govern in this and that, in effect, potentially weaken our ability to enforce our code, if those cases were not on the table, if they didn't exist, they had never been decided, is there any question that our code would require the improvements on the north side of Broadway? I'm sorry, my phone is now responding to my voice, Siri, give me a break here.

Koback: Did your phone give a good answer.

Fish: Let me just try to state it in plain English, if we weren't arguing about constitutional takings under the cases you cited, is there any ambiguity in our code about whether your client is required to do the buildout we are arguing over.

Koback: I'm going to answer that directly. There are more cases than the two. Those are two recent cases, but if you take the constitutional concept out of the equation, the code is clear that standard improvements are required, can be required as a condition of development. 17.88.020 states the city engineer can require improvements.

Fish: Let me just say I would like to see you on the stage with the other Democrats debating because you gave a direct answer to a question. I appreciate that. As we try to divine answers from some other people. Our code is clear. The constitutional question is murkier. And we have been told by Council if we get it wrong, the consequences, Luba, will admonish us and send it back. That is partly what we are trying to work out here.

Koback: I appreciate this is a case where the constitutional issue is looming larger, but it is largely because of the hearing officer's decision and staff's decision was specific on that issue. The reason they imposed this condition on the south side was because they made the decision that the constitution required.

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Fish: Sir, you would be committing malpractice if you didn't raise it. It is unusual in our hearings for the constitutional issue to be stated so boldly. It is usually thrown in the hopper, so you preserve your right. Here it is at the core of what we have to decide.

Koback: It is at the core of this case. I agree.

Hardesty: I just love lawyers when they talk to each other.

Fish: I'm no longer a lawyer. I'm a nonpracticing recovering lawyer.

Wheeler: I'm going to wait until it comes out on Netflix.

Eudaly: Lawyers talking to each other.

Wheeler: Very good would you like to turn it over.

Koback: I want to turn it over, Mr. Ard is going to testify first.

Wheeler: Welcome, thank you for being here.

Michael Ard: Good evening Mike Ard, I'm a professional transportation engineer with Ard engineering, I've been practicing for about 20 years. I was brought into this project to focus on the Broadway frontage section of the project and to look at potential solutions as well as proportionality. I want to talk about three things, the difficulty of the program, the impacts of the project and the solution. First in talking about the difficulty, the city of Portland, as I was brought into the project, was asking for a widened shoulder six feet wide along the north side of Broadway, they had given up on the full width improvements and I examined that and found that due to the presence of wetlands, steep slopes and a cliff that limits both the ability to construct the improvements and the sight lines that are necessary for safety to cross the road created major problems and it was impractical to construct that widened shoulder. In particular, the march 13, 2019, memorandum that I prepared talked about those issues in detail. What I saw when I visited the site, was there was no safe place to cross at the upper or lower end of the site was actually within the site frontage. The city of Portland asked us to identify a safe crossing location and I actually had to go offsite a little bit to the northeast downhill from the subject property to find a location where you could see far enough down the road that it was safe to make a crossing. Our proposed improvements actually included a crossing at that location. What that means is if we do the improvements, the six-foot widening on the uphill side of the road we put people into the same jeopardy that I identified that they need to cross the road at locations where safe crossing distances are not available. We did find that from a perspective of feasibility, safety and practicality and legality, there were problems associated with that six-foot wide improvement on the up hillside of the roadway. I will note the appellants here have talked specifically about the idea of having the improvements be on the uphill lane so bicyclists as they are moving uphill have that safe refuge. We are talking about a discontinuous improvement in the middle of southwest Broadway drive with no way to access that safe shoulder either before or after it. We are talking about a roadway that has very, very low volumes of uphill bicycle traffic and actually fairly high volumes of downhill bicycle traffic for precisely the reason that infrastructure is not there. It was never our intent to encourage people to put themselves in an unsafe position and for that reason we asked the city to consider alternatives. We did meet with the city as well as swirl in pretty much exactly the fashion the appellants were talking about meeting on the site and we talked through the issues, we talked through the possibilities and the solutions we came to at that time which was the best available to us was the improvements to the southside shoulder. Since then we got a reprieve on stormwater issue that allowed us to make even further improvements and go to paving, but that was the best solution we could get for safety. As far as impacts, we also looked in detail at what the project would do and there were two sets of numbers that were talked about today, one 148 trips, another one 60 trips. Both of those numbers are correct. 148 trips is the number of trips that would be actually at the site moving on to Tangent, but from there they split into three primary directions. One going downhill on Broadway, one going uphill on Broadway and one coming through the local street network

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to the north via streets like Montgomery and with that diffusion we don't put more than 60 trips onto any segment of Broadway. The impacts on Broadway are that low, but more particularly, on the site frontage, the part that we're talking about improving we would expect no new vehicular trips because you would have to be coming up the hill, past Hoffmann, continue on up to the north end and come back the long way or vice versa, come down the hill, come past the site and then backtrack. Either one adds significant distance to the travel and isn't really a reasonable route for traffic. So, we don't expect there would be a significant addition, in fact it would be a near zero addition of motorized vehicle traffic to Broadway. In terms of the impact of the path there will be a path connecting there. We expect in the future as there are improvements to Broadway that path will become more meaningful, it is less meaningful in the current context. As far as adding even one pedestrian trip, the reality is from this development, the safest and most direct paths out of the neighborhood are on Broadway. So we don't expect there is going to be a lot of trips that are using that from this development or existing development in the site vicinity, but there is one other piece of it I wanted to briefly touch on which is there has been some discussion of people that are walking on Broadway currently and if you are living further up the hill on Broadway, walking down Broadway currently, there is no great exit point at which you can move on to the local streets in a safer network and this path actually would allow people that are walking that upper segment of Broadway to connect onto the path, get off of Broadway and then move through the local street system to get further down the roadway. So there is a potential safety benefit associated with that path. It is unclear whether there would be a net increase or decrease in walking on Broadway associated with this as a result. So we've worked extensively with staff and SWHRL to try to come to the best possible solution. We heard testimony that the gravel has been problematic. We have moved to paving there. We believe that it is a substantial improvement to safety in the area. We believe that what's been proposed is proportional to the impacts of this project a swell. For that reason, we'd ask you to affirm the hearings officer's decision with our new improvement plan.

Wheeler: Commissioner Fritz.

Fritz: So now that you've been allowed to pave the south side, why can't you just move the road, move the striping on the road so that the improvements, so that the north side has, the existing paving is used with the six-foot?

Ard: We did consider that as a possibility and we discussed that with pbot staff. It still leaves us in that same position where we have unsafe crossings at the north and south side of the roadway. We are really not trying to create a network in which there are unsafe crossings.

Fish: But according to the map that was entered into the record, the north side has pretty much complete, a safe way to get all the way from here to the other side of your property, on --

Ard: Having walked that, I would strongly disagree with the assertion that there is a continuous path on the north side absent this site frontage. There are multiple locations along the roadway on both sides actually that are problematic for navigation which is why the pedestrian and bicycle volumes are so low under existing conditions.

Fritz: Thank you.

Wheeler: Commissioner hardesty? No? Commissioner Eudaly, did you have a question.

Eudaly: Oh, I'm sorry. Right as you were answering the question about about moving the lanes, staff brought me a note and I got distracted. It sounds too simple and good to be true, but I want to hear why you feel that is not an option?

Ard: We discussed that with pbot staff, and you're welcome to confer with them on this as well, but we talked about the possibility of shifting the lane lines and that was not considered to be an optimal solution. The primary reason is we would like to have the

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facilities be as continuous as possible. And right now we have the advantage that in the downhill direction, there is a usable shoulder on the south side of the roadway. The north side actually has a significant amount of parking associated with it right now that is obstructing that. There was talk about possibly being able to shift that, but we still create this situation if we have the north side be our shoulder that we get to the north end of the property and we run into issues with needing to cross again.

Eudaly: And that was one of my concerns that if this six-foot shoulder was created, it would turn into parking.

Ard: Yeah. There is certainly that possibility. The other thing that came up and I mentioned this in my March 13th letter, is that you need sight lines going around the corner on the inside so as you get toward the eastern end of the property there is a section that is a very vertical wall face and it's right next to where the Portland water bureau's access is, their driveway. And as we make those shoulder improvements there and widen out that road, we couldn't see far enough around that corner to have a safe crossing there. Again, that's why we had to locate a crossing east of our property frontage and we actually ended up putting it in the frontage of the Portland water bureau in order to identify that safe crossing location.

Eudaly: That is the spot you identified?

Ard: Yeah. The trail egress point is all the way at the eastern end of our property. We actually tried to move that trail so that it would go through the water bureau property, but they did not accept our request to locate a path on their property. All we could do is bring it in as close as possible and then provide a treatment that guides people towards the safe crossing location.

Eudaly: What is the intersection for that safe crossing?

Ard: It is not at an intersection –

Eudaly: Intersection. It's just east – okay.

Ard: The closest intersection there would be the access point to some apartments that is much farther to the east and the full street would be the Hoffman intersection that is way downhill. I did also submit into record just so you're aware, crash history associated with Hoffman that shows the most recent 10 years of data that was available for that intersection and found a low crash rate, low severity and low number of overall crashes. There wasn't anything that stood out as particularly problematic as compared to other intersections in the city of Portland there.

Eudaly: Okay. Thank you.

Wheeler: Very good.

Chris DesLauriers: My name is Chris DesLauriers. I am the civil engineer of record on the project. I work for WDY engineers, Inc.

Fritz: May I, just -- are we going to take this as the three minutes that you signed up for?

DesLauriers: Sure.

Wheeler: Why don't we do that because you only have nine seconds left as part of the presentation.

Ard: Yeah, I thought we were doing that for mine, too.

DesLauriers: So the director of civil engineering at WDY and a principle. So I'm going to read through mine. If you've got any questions when we're done, if I have any time left I might make some more comments so. The north side of Broadway follows a steep cut bank two to one, to one point five to one in steepness. It's pretty steep. Most of the cut slopes along the northside of Broadway are near vertical, or actually exposed rock walls. Early in the development process the applicant submitted their alternative design review appeals to request a more appropriate design different than standard improvements or to be relieved from the improvements all together as there was no economical feasible way to construct the full standard half street improvements as originally requested in the 2017

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early assistance. Pbot concurred that it was not feasible to construct standard improvements, reduced to the request to a six-foot wide paved asphalt shoulder on the north side of Broadway. This concept does require significant excavation of the hillside and basalt rock cliffs, requires retaining walls ten to 15 foot in height on average with some locations reaching 20 feet in height. The cost estimate that we developed for that, I just want to reiterate that these things are not exact in their nature. We are developing some reasonable conceptualizations of what could be constructed and putting numbers to them, so \$700,000 is what we came up with. I still think that is a little bit low, but didn't want to be too liberal in that assessment under the circumstances. I want to be as real as possible with what we understand might need to be constructed. In parallel the project traffic engineer determined that the traffic impact, so the proposed development on the surrounding transportation infrastructure are negligible. We've heard testimony that the hearing officer agreed with that. Improvements seemed disproportionate based on the scope and cost. The suggestion of my, WDY's, \$700,000 estimate relates to standard improvements, is not incorrect, or is incorrect. This was in relation to the six-foot wide shoulder with a retaining wall. Given the circumstances after the hearing and the decision, I did go ahead and look at what it would cost to put a 12 to 15-foot wide pedestrian corridor on the north side. We would be widening the pavement on that side by six feet to get a 16-foot-wide paved with a 12 to 15-foot corridor. Those numbers came in at \$2.1 million and that's I still think a little too liberal under the circumstances. But low. To be frank. The traffic engineer submitted an alternative design with proportionality argument including the cost estimate for the PBOT –

Fritz: Excuse me sir, It would be really helpful to me to be able to read your testimony.

DesLauriers: Okay.

Fritz: So if you could please submit it and –

DesLauriers: Sure.

Fritz: It is obvious we are going to continue the hearing, so –

DesLauriers: Okay.

Fritz: We will be sure to do that.

DesLauriers: Sure.

Fritz: Thank you.

DesLauriers: Do you want me to continue reading?

Fritz: No.

Wheeler: You are out of time but if you can give it to the clerk, then she'll – I'd actually prefer to read it, too. It's going to take me a little more time than I --

DesLauriers: I've got the cost estimates included.

Wheeler: Great. Fantastic.

DesLauriers: I just want to reiterate that these things are not exact. They are understandably conceptual, so, do you have any --

Wheeler: And colleagues, while we are listening to the testimony, I believe we have eight people signed up. Five people signed up. Why don't you call the first three names, please.

Keelan McClymont: First three names, Lisa Phillips, Ralph Phillips and Ken Guenther.

Wheeler: And just to be clear, these are the opponents of the appeal. Then the appellant, if they so choose, has five minutes for rebuttal. I would say it's nearly 100% likely that we will continue this hearing at the completion of that. I will stick around for a few more minutes so we can get through the emergency items on the afternoon agenda. We will need to pick a date and I just want to prime you for the possibility that the only open date that we have in November is the day before thanksgiving. So start thinking about that.

Fish: Mayor, I apologize that I have to leave. I will, when we go back to regular agenda, we'll just set over 972, 973.

Wheeler: Yeah, I'll make sure we take care of that.

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Fish: Next year -- [laughter]

Hardesty: Next year. [laughter]

Fish: Next week and then if we are going to continue the hearing, I want to assure the appellant that all of us will have the opportunity to review the record before we come back, so my absence does not prejudice the proceedings.

Wheeler: And I frankly would like to have a thoughtful discussion. I'm not sure after a ten-hour council day that's necessarily the best time for us to really have a thoughtful conversation. So, we'll absorb what we can today. We'll take the written testimony, we'll likely keep the record open. That's a decision --

King: It is up to council. If we get through the testimony -- yeah.

Wheeler: We'll make that decision later, and then we'll be able to approach this with full knowledge. Good afternoon, sir.

Ken Guenther: Thank you. Thank you, mayor and council members. I'd appreciate you giving me a little slack. I'm 92 years of age and I'm going to try and speak clearly, but I'm a slower reader than average people, so I appreciate that.

Wheeler: That's fine. No worries. We'll give you some --

Guenther: Okay. I'm Ken Guenther, the family member that purchased the concerned property about 60 years ago. The calculated present value considering purchase price and taxes is about \$2.5 million. That dollar amount is far in excess of the market value. Efforts to sell the site have been unsuccessful because of site conditions and approval complexities. The purchase cost and holding time cost have been financially destructive. The only way forward to recover even some of the \$2.5 million is for us to develop the site as the proposal details. Our land use application has city staff, bureaus and hearing officer's conditional approval. These are the city organizations and staff that you rely on for professional and expert advice. We have accepted the conditions of approval, however there is one matter that warrants your consideration. This relates to the condition for street conductivity, which you heard about some. Requiring us to construct a trail from Tangent to Broadway Drive. The hearings officer questions the creation of the trail. We join in that question because when the original street plat was created in the area, a dedicated street, southwest prince, was platted. Connecting southwest Tangent and southwest Broadway Drive. Should the city earnestly want a trail from Tangent to Broadway Drive, it could be built on the prince right-of-way through to the water property, a water tank property to Broadway Drive. If you wanted it. Subsequently, the city erected a water bureau tank fronting Broadway Drive. That event truncates the southwest prince access to Broadway Drive. Thus, obviating city interest in having street conductivity. Now to require us to create a trail for conductivity purposes appears to be a disingenuous requirement. Especially since it will be located in the environmental zone which is designated to be undisturbed. So we've gone through all of this rigamarole to create a 3.7-acre environmental zone and now we're going to cut through it. Doesn't make sense. It would be an act of fairness on the part of the council to remove the trail requirement from the application. The benefits to the city of this project are significant. Increasing city housing inventory, close to location, can walk to downtown, I did it for many years. City utility fees. City construction fees. Infill, annual property taxes of about \$250,000. There have been three years of planning with city staff, bureaus and our consultants including numerous meetings with SWHRL. During our last meeting with SWHRL a board member and a general member gleefully quoted their instructions to the attorney in this case. The instructions were, "to do anything to kill the project." The appeal by SWHRL is suspect as to motive. They called to have the project rejected or to force us to construct a \$700,000 to \$2.1 million dollar sidewalk to nowhere. The obvious motive is to kill the project.

Wheeler: Okay. Thank you.

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Guenther: All of the issues of the opposing opposition emails, letters and comments today were addressed in the development of the proposal with city staff. Presented at the hearings officer hearings can and are mainly not relative to the specific issues before you.

Wheeler: Thank you, and I would ask you to wrap it up, just –

Guenther: I am.

*****: But --

Guenther: After three years of planning, about 5,000 hours [inaudible] interaction, about \$400,000 in city fees, permits and consultant fees, we have staff, concerned bureaus and hearings officer conditional approval. We are at this point. We respectfully ask for your denial of the appeal and support for the project to go forward. Thank you.

Wheeler: Thank you, sir.

Hardesty: Thank you.

Wheeler: Good afternoon.

Ralph Phillips: I think I'll go next, and I'll try to get some of your time back.

Wheeler: All right. Thank you, sir.

Phillips: I'm Ralph Phillips. I'm one of the owners of Guenther, LLC. Lisa and I are the property owners. Lisa's father Ken purchased it many years ago and we have been the participants and the property taxpayers for all these years. Personally for 20 years. As the city council evaluates this project there are a lot of good aspects that I want to point out today. First of all, we're building, we would like to build 20 townhomes. There are not luxury townhomes as some of the opponents have said. They are consistent with the neighborhood. The PUD requires that, and that is how we designed them and that is how they will be built. They'll be consistent with the quality and the style of the neighborhood. Our project provides 3.3 acres of open space. That is open to the general public and obviously to neighbors. We have added a private community park on our site within our disturbance area. Good for [inaudible] to walk, walk their dogs, do whatever, or walk around any of the three acres. We have a very small building footprint in our development. Around 10% of the project. Typical projects in Portland around 50%. So we're only disturbing that part of the -- or building a very small part of the project. From a disturbance perspective, we're leaving about 70% of the site completely untouched. 70% completely untouched. In terms of visual disturbance, only two or three neighbors will even see the property once it is constructed. The city doesn't typically worry too much about parking. Our proposal, our project will minimize any parking impacts. We have specifically designed it so that we have multiple cars for each site that will obviate the need for people to park on Tangent or be impact to other neighbors. Similarly, the traffic analysis that mike talked about shows we have plenty of capacity on Tangent Street. The project will mitigate thousands of plants and will replace over 350 trees. Our project provides a buffer around the seep and ensures that it is maintained long term. We've heard a lot about landslide risk through this entire process. What we propose relative to landslides actually increases the -- or decreases the likelihood of any landslide and actually takes all the water off of the project. I would like to say one more thing before I wrap up, and that is, we get lots of feedback on fire that we really weren't expecting from the neighbors in this go around. I think the record should show and the feedback from the commission officer is that we have approval from the fire. We have gone the extra mile. We added additional pipe to the facility and it now meets the code so it really doesn't ask for any --

Wheeler: Thank you. Appreciate it. Good afternoon.

Lisa Phillips: I'm Lisa Phillips. I'm owner of Tangent Village property and Guenther, LLC. I'm going to kind of wrap it up for all of us. You heard from ken on how we worked with the city for three years to complete this special project that we really are very proud of. I grew up on Tangent Street. I walk Davenport to Ainsworth to Lincoln high school, so we're really, really proud of what we've come up with. We've invested \$400,000 in the planning

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process. In order to obtain the approval for our design and plans by all the city bureaus and the hearings officer. Ralph summarized the benefits to the city and the neighborhood not the least of which is the minimal traffic and parking. We want to be good neighbors. We consider ourselves neighbors, not developers. We didn't just buy this land and now we want to develop it. Our civil engineer, you're going to be able to read his testimony. Mike, our traffic engineer talked about the sight distance challenges on Broadway and how the project really has minimal impact on traffic. Chris our lawyer presented one strong legal argument that there is one issue remaining in this appeal, that's the north side of Broadway Drive. Considering the cost to literally move mountains the north side improvements are not possible because of proportionality of the project or any other reasonable analysis. To sum it up, we support the city staff, which we really have appreciated working with, and the bureaus who unanimously recommended approval of this project and the hearings officer who also recommended approval. Please deny this appeal from the southwest hills residential league. Thank you.

Wheeler: Very good.

Fritz: I just have a comment and that is congratulations on designing a project which I heard minimal opposition from the neighbors and I think when we look at it, it is a really careful use of the environmental zone and nicely done. So I think if we can just get this one sticking point figured out, you should be on your way.

Wheeler: Thank you. Thanks all three. Thank you sir.

McClymont: We have two more people signed up.

Wheeler: Very good.

McClymont: Mickie Goodridge signed up on this one, as well as the appeal so I just want to make sure that he meant to sign up for both? Nope. Okay we have one more, Sara Hartell.

*****: [inaudible]. I misunderstood the signup sheet.

Wheeler: No harm no foul. Very good. So if the appellant would like, they have the opportunity for a rebuttal for up to five minutes.

Caballero: I broke my leg this summer.

Wheeler: Oh, no. I'm sorry to hear that.

Caballero: If I sit for a long time, that happens.

Wheeler: Yeah, no I'm sure.

Kearns: My hip is just slightly better than hers.

Wheeler: Keelan, they should get five.

Caballero: Okay, I'm going to try and keep it short. Commissioner Eudaly, I don't know if you remember earl Blumenauer coming to class, and he has a wonderful quote. I probably don't have it quite exactly, we all have a Ph.D. in our own neighborhood. "We are all experts in our own neighborhood", so it is really funny for me to sit out there to listen to people with much higher degrees than I ever achieved tell me how people in my neighborhood are going to be walking or biking. Broadway Drive is like a bridge and so if you imaging a bridge with gaps in it, it's very hard to calculate what the demand of that bridge is going to be because you can't really use it yet. Okay, so all of this traffic analysis tends to be – I mean the standard is to do it based on cars. The problem is it is hard to calculate what the pedestrian and bike demand is going to be the way the road is right now. But I do want to point out that our map is correct. Those are existing sidewalks. You can get google satellite and see them. People right now when you are going downtown, you do stay on that northside because there is that big segment of right-of-way in front of the apartments that is used for parked cars but people kind of move in between it. So there is the possibility, you know, basically from the water tower all the way downtown is imperfectly walkable and has many sidewalks. So I will stop there. But I'll leave you with

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representative Blumenauer's words of wisdom. "We all have a Ph.D. In our neighborhood."
Thank you.

Wheeler: Thank you.

Hardesty: Thank you.

Kearns: Thank you, mayor and commissioners. For the record, Dan Kearns, representing SWHRL. What the Phillips and Mr. Guenther said was said about how tough this project was to put together over the years is true. This is a really tough site to design. I can see why they have been pulling their hair out over all these years. And they have, the big issues that they resolved, that we like is they shrunk the footprint hugely, but they still maximize the number of units, and so still generates vehicle trips and still generates pedestrian trip and bicycle trips, and the hearings officer took that into account. He says it is not much, it's 20 units, like a 20-unit subdivision, but still it generates and it will impact Broadway Drive for that reason. So even though it is a tough site to develop that doesn't mean that the city should subsidize a developer's frontage improvements. The city does that everywhere else. You don't have large developments in other parts of the city that can oftentimes have the, put together projects and build out all the frontage improvements. But that's basically the best way to do that is have developers do it. To make those improvements. And so you're, because they couldn't resolve these problems, solve the problems of Broadway Drive, they're not even going to try to make it better. That was basically what you heard their engineers saying. Since we can't solve these problems it will end here and it will end there, and so we aren't going to do it. And even their engineer spent all their time trying to crisscross back and forth on Broadway Drive. The hearings officer couldn't understand why people would cross Broadway Drive, and quite frankly, the ultimate way this will work, years from now when these remaining gaps get filled in, you won't have to cross Broadway Drive, but you've got to start. You've got to be consistent in applying these code provisions and one of the -- if the suggestion is eliminate this pedestrian path down from the top, that is even more in the wrong direction. It was agreed to by the developer and required by the city as a replacement for a car connection, for cross connectivity. All right, we are not going to have cars do cross connectivity. We will have pedestrians do it. That was a great idea. There are a lot of people who live, you heard them, who live up there that would use this pedestrian pathway. There isn't a huge flow of traffic of pedestrians because it is so dangerous on Broadway. Your job is to make it better, even if you have to do it incrementally. Mr. Koback, the attorney, he does rely on those two cases. I'm not really sure why. Hill, for example, the big difference in your findings, you adopted in the hill case, you said the transportation system was safe for all modes and no mitigation was needed. That is why you lost the case. In this situation, the hearings officer said, you would have to be nuts to cross, to go down there. It is not safe. It is -- the transportation system is safe except for Broadway Drive. So that tells you there needs to be mitigation or it needs to be denied until the mitigation can be provided. The compromise we suggest is a heck of a lot less expensive than full blown code required improvements. I think it is cheaper than the estimate that their engineer has come up with.

Wheeler: Very good, and so let me just end on a note here. There is nothing that precludes the two sides from continuing to have discussions in the interim. I think everybody has sort of heard the conversation, you've heard our questions, and some of the things that we have hinted at as being important. So I would obviously encourage the conversation to continue. I want to second what commissioner Fritz just said. I didn't hear anybody come in and say don't do the development. It sounds like that is not the problem. The problem is the question of the mitigation and impacts on Broadway Drive and for some people Tangent and in a couple of cases the question of the trail. So those really seem to be the focus of the questions. Commissioner Fish raised some of the legal questions. He is very good at that part of the equation. And I, of course, rely on our legal counsel to advise

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us on some of those issues. So, colleagues, obviously, I think we are at the point where we will set this over. We need to pick a date. And Keelan has a couple of proposals for us.

Fritz: Should we close the public testimony, but keep the record open for comments?

Wheeler: Well, that was going to be next question, but we can certainly take that up first. I mean, why don't we pick the date first, then lets talk about what we want to do with regard to testimony.

McClymont: Sure. So the next available date we have is 9:45 time certain on November 27. Commissioner hardesty is absent that day.

Hardesty: [inaudible]

Fritz: We could actually keep the record, keep the record open because then if we do have conversations and come up with something, that everybody can live with, you can present it to us and we can put a bow on it.

Wheeler: Okay, first of all, is that date okay?

Eudaly: I had also requested an absence but apparently it hadn't been submitted yet.

Hardesty: So there needs to be at least four of us, right?

Eudaly: Three.

Hardesty: Three? Oh. I'm fine if it happens without me.

McClymont: The next available date, then would be December 4th, the following week.

Fritz: Are we all there then?

McClymont: Commissioner hardesty is absent that day.

Eudaly: I'm in.

Fritz: Yeah. It would seem wise to have the transportation commissioner here for such a focused discussion.

McClymont: There is a 9:45 time certain and 4:00 p.m. time certain.

Wheeler: Let's do the early one.

[laughter]

Hardesty: Consensus on that.

Wheeler: Let's do the early one.

Eudaly: And not schedule anything else.

Wheeler: We have no clock running, is that correct?

King: There is no, there is no clock.

Wheeler: Okay, and does that work --

Kearns: December 4th?

Wheeler: December 4 at 9:45 a.m.?

McClymont: 9:45.

Wheeler: Does that work?

Kearns: We'll make it work.

Hardesty: Heads going up and down.

Wheeler: Good. It sounds like we have a date then.

McClymont: Do we want to set aside 60 minutes for that?

Fritz: Yes.

McClymont: Yes.

Wheeler: At a minimum I would say 60 minutes just be -- put it in as 60. I'm sure we can do the conversation, the discussion. So, Commissioner Fritz put a proposal on the table that I think makes sense, which was we close the oral record, but we keep the written record open.

King: Until that continued hearing?

Wheeler: Yes.

Fritz: Yeah.

King: Okay.

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Fritz: And that way if the applicants wants, they said they heard new testimony and were concerned about that, you can submit rebuttals to the new testimony in writing as well. Could I just make a comment?

Wheeler: Please.

Fritz: I really appreciate everybody being here today. The way people were focused on the applications and its merits. I apologize, I can not get to the southwest hills residential league hearing meeting tonight. I can actually get there, but then I can't get home because of the way the bus runs. So Cynthia Castro on my staff is going to come talk to you about something. I appreciate that many of you have taken time off work to be here and have just nodded your heads that you will be here at 9:30 on a weekday.

McClymont: 9:45.

Fish: 9:45, thank you. And I very much appreciate that southwest hills residential league that used to be a dues paying nonmember of the neighborhood association system and decided to follow the standards and become –

*****: Signup.

Fritz: A fully donations are accepted but not required, that you now have an equity and inclusion committee, and that the evidence brought by the chair of that committee was data driven from the city showing -- so you actually have been speaking for some of your neighbors who perhaps weren't able to be here on a weekday during the day and I very much appreciate that. Thank you.

Wheeler: All right. So, thank you all very much. This was a, I think, great testimony. Great preliminary conversation. The hearing is therefore continued to December 4th, 9:45 a.m. time certain. The oral record is closed. The written record will remain open to the time of the hearing. [gavel]

Kearns: Thank you.

Wheeler: Thank you. And I'm going to ask as people filter out if you could be relatively as quiet as possible, because I'm going to continue the council session. Could you read items number, first read 972.

Item 972

Wheeler: And if I heard commissioner Fish correctly, he wanted that moved to next week? Is that correct?

Eudaly: Yes.

McClymont: Correct.

Wheeler: Okay, so done. Please read number 973.

Item 973

Wheeler: At the request of commissioner Fish, this item has been moved to next week as well. We have two emergency items. I would ask staff to be incredibly quick with these. We have three, sorry. Commissioner Hardesty.

Hardesty: Which, where do we start it at?

Wheeler: 969, 970 and then go to 973, ah 974, sorry, correct.

Hardesty: All right.

Wheeler: Good. All right 969.

Item 969

Hardesty: Shhhh --

Wheeler: Hello, can you do it in a minute?

Kathryn Levine, Portland Bureau of Transportation: I can. I'm Kathryn Levine. I'm from the bureau of transportation. If you have any questions about this item, I would be happy to answer them. This ordinance would authorize and continue our ability to repay Trimet for use of their light rail trained operators and technicians at Portland Streetcar. Basically, they provide the well trained staff and we reimburse them each year.

Wheeler: Very good.

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Eudaly: And the five-year authorization to pay Trimet is expiring.

Levine: That's correct.

Eudaly: That just about covers it.

Wheeler: Very good. Any public testimony on this item? Any further discussion. Please call the roll.

McClymont: I'm sorry, I, I need to grab the sheets.

Wheeler: Yeah, if you could grab them all.

McClymont: Sorry.

Wheeler: Go grab them all Keelan. Thanks.

Fritz: Does anybody here want to testify?

Eudaly: Does anyone here want to testify on this item?

Hardesty: Going once, twice, sold.

Eudaly: Okay.

Hardesty: Mayor.

Wheeler: Yes.

Hardesty: You have to go to your daughter's school.

Wheeler: I know. I'm trying to get through this expeditiously.

Eudaly: We've got one more emergency item, and then –

Wheeler: We've got two.

Fritz: There's two.

Eudaly: Oh, there are? Okay.

Hardesty: Mine will be 30 seconds.

Eudaly: Okay.

Wheeler: I'm taking it nobody –

Eudaly: No one's here to testify.

Wheeler: Signed up for 969.

McClymont: No.

Eudaly: Can we call the vote?

Wheeler: Call the roll.

Eudaly: Thank you, Kathryn. I vote Aye.

Fritz: Thank you. Aye.

Hardesty: Aye. Thank you.

Wheeler: I know more work went into this than we had time to discuss, so I appreciate your forbearance. I vote Aye. The ordinance is adopted. Next item 970.

Item 970

Wheeler: What is the low down on this?

Marty Malone: Good afternoon mayor and commissioners. So this agenda item gives pbot the authorization to use eminent domain authority as well as offer just compensation for the connected cully project. And it is pretty much it, so I would be happy to answer any questions.

Wheeler: Commissioner Eudaly, did you have any thoughts on this?

Eudaly: It will create safe and seamless pedestrian connections in a neighborhood with substandard transportation infrastructure including new ADA compliant corner ramps and driveway approaches where needed throughout the project area. This is Marty Malone, right-of-way agent. Did we have any issues with this, remonstrances or whatever?

Malone: We've let all the property owners know that, the effected property owners know and we actually invited everybody to come to the council as well and I don't –

Eudaly: Very minor --

Fritz: You haven't heard any concerns?

Malone: No, no. Everybody is actually in favor of this project.

Fritz: Thank you.

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Wheeler: Do we have anybody signed up who'd like to testify?

McClymont: No one signed up, no.

Wheeler: All right. Sounds like you did your job really well. Very good. Please call the roll.

Eudaly: Aye. Thanks Marty.

Fritz: Thank you. Aye.

Hardesty: Aye. I would have a lot more questions, uh not questions, but I just wanted to put stuff on the public record. I will just say for the public record that we need sidewalks in Cully. Aye. [laughter]

Wheeler: Theme of the day. Sidewalks. Thanks Marty for your hard work on this. Thank you commissioner Eudaly, I vote Aye. The ordinance is adopted.

Malone: Thank you.

Wheeler: Could we do please item number 974.

Item 974

Wheeler: Commissioner Eudaly. Uh, Hardesty, sorry.

Hardesty: Uh, no, I'm Hardesty. Hi, nice to meet you.

Wheeler: Sorry, yeah, nice to meet you, too. [laughter]

Hardesty: Good evening –

Wheeler: [laughter] It's been one of those days.

Hardesty: As you may know, senate bill 507 passed the legislature which added an additional benefit for fire and police retirement of disability retirement and death benefit plan. Sam is here. Thank you, Sam, for being here. You have – you're a very patient man. You've been here a long, long time. We are required to pass this legislation which is why it has an emergency clause on it. And Sam would be happy to answer any questions you may have. Welcome. Bureau of Fire and Police Disability and Retirement

Sam Hutchison, Director, Bureau of Fire and Police Disability and Retirement: Sam Hutchison, bureau director of pd and r. Just real quick, the additional benefits were a presumption for posttraumatic stress and acute stress disorder claim by police and fire. FPDR is not part of the workers compensation system, but this bill specifically brought us, said we have to cover it so we have to update the charter through an ordinance to bring this into our plan which is in chapter five of the city charter. That's it.

Wheeler: Well done. Any further questions? Any public testimony on this item.

McClymont: No one signed up.

Wheeler: Please call the roll. Uh, Commissioner Hardesty, did you have a questions first?

Hardesty: Nope, no –

Wheeler: Please call the roll.

Eudaly: Thank you. This is a really important issue. Happy to vote Aye.

Fritz: I, I agree. Aye.

Hardesty: Thank you, Sam, for your patience, to be here all this long afternoon. I vote Aye.

Wheeler: Sam, the whole goal here was to make you an expert on land use. [laughter] I hope we accomplished our goal.

Eudaly: What's your decision?

Wheeler: Thanks for your hard work as always. I vote Aye. The ordinance is adopted. Colleagues, did you want to – I have to leave. Do want to do the nonemergency item or should we just carry it over?

Eudaly: We've had people waiting –

Fritz: We got staff waiting for us – let's do it.

Eudaly: Yeah, for hours.

Fritz: I get the gavel.

Wheeler: I turn, I turn the gavel over. If anything happens it's no longer my fault.

Fritz: That's right.

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Eudaly: That's not how this works.

Hardesty: You won't be blamed anyway, mayor.

Wheeler: That's all right.

Fritz: So the women are in charge. Would you please read item 971, please.

Item 971

Fritz: Commissioner Eudaly.

Eudaly: Thank you, madam president. I apologize we couldn't come up with a catchier title for this item. This resolution initiates local improvement district formation proceedings and schedules and lid formation hearing as a prerequisite to beginning survey and design of the project. This will be the second pending lid in gateway following formation of the adjacent northeast 97th avenue, phase 2 lid in April. As always, Andrew Aebi is here to give us all the details and more. Maybe not all the details, just the most important details. Welcome, Andrew.

Andrew Aebi, Portland Bureau of Transportation: Thank you, commissioner Eudaly. Andrew Aebi, local improvement district administrator. You may recall, I think we had a better part of a 45-minute discussion back in march. I didn't think I'd be too popular with council if we reran that this afternoon. This is really pretty straight forward. Keelan passed out an amendment. We received some additional petition support. And I'm just requesting that council approve the amendment to incorporate the additional petition support into the record, which brings total petition support to 71%. And then if you approve the amended resolution today, then it will come back in December and then we'll talk in a little bit more detail back in December when we come back for final approval.

Eudaly: Do I need to read this into the record in its entirety, or --

Aebi: No.

Eudaly: Okay, I have to get a motion and I --

Aebi: Correct me if I'm wrong, but you have the written, you have the written memo on the amendment.

Fritz: Do you want to move it?

Eudaly: Oh. I guess I will move my own amendment.

Hardesty: Second.

Eudaly: Thank you.

Fritz: Moved and seconded.

Hardesty: Call the roll?

McClymont: Call the roll.

Fritz: Call the roll if you like.

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

Aebi: And then lastly, we have two people signed up to testify, one of whom is Larry Jackson. I'm pleased he was able to stay with us this afternoon. I did speak with Richard Preen and he had to leave, so he will not be testifying today even though he is on the sign-up sheet.

Fritz: Would you like to tell what his concern is?

Aebi: I've been talking to him on an ongoing basis. He just had some questions about the timing of construction and all of that. We were able to get that answered, so.

Fritz: He is not asking us to delay or vote no?

Aebi: Correct, yeah.

Fritz: Thank you.

Hardesty: And Mr. Jackson has been very patient. Would you like to come up and?

Fritz: Hey, come on, I'm the president. I get to say that. [laughter]

Hardesty: Uh, I'm sorry --

Fritz: That's all right --

Hardesty: I'm sorry madam president.

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Fritz: I know. Honestly. One single item I get to be madam president.

Hardesty: Sorry, I'm just taking on Commissioner Fish's uh –

Fritz: I know really.

Larry Jackson, Nehemiah Group: [inaudible]

Fritz: Welcome, sir. Thank you very much for staying with us. Just give us your name and --

Jackson: Thank you, commissioners. My name is Larry Jackson, I'm with the Nehemiah group and we are a joint venture with the gateway project and this lid represents the street improvements that are going into that development. I'm thankful that we have gotten this far. Gateway is an exciting project. We are so happy to have the city behind us in what we've done thus far. And we are looking for the final as you mentioned in December. It is project that's long awaited. I think in the city, it's the last development this size that really incorporates what we are trying to do that is unique for the city. I think we will become a national model. It is a development for heavy minority participation and how to put the wrap around services in such a way to create a development that talks about cohesiveness and how we learn to live together in a small area. I'm excited about what we can do and what will happen in this. I'm looking forward to the city at this point to approve that lid. Thank you for your time.

Fritz: How very kind of you to wait to say nice things. That's really great.

Hardesty: Madam president?

Fritz: Yes, commissioner hardesty.

Hardesty: Thank you. Mr. Jackson, so I love the beautiful words that you used. And I know that the city of Portland tries hard to live up to that vision. How are we going to ensure that gateway really does benefit the people who currently live in gateway? And of course, I live in gateway so I want to make sure not just me, but my neighbors benefit as well.

Jackson: I appreciate your comments concerning the people in gateway. We are interfacing on a regular basis. I went to a park bureau meeting last, two weeks ago just to talk about what concerns they had about gateway, how do we incorporate all of those concerns about gateway and more importantly, I have been around this city for 55 years plus. I have been involved in city council meetings and this kind of stuff for 30 some years and I'm happy to see the city finally really living up to some of those expectations about actually DEI, diversity, inclusion, equity. I mean that's stuff we've talked about for a long time but the city doesn't really know that much about. So to see them really all of a sudden getting to the point where it becomes a reality and a necessity is the reason really why I'm here. And I appreciate your concern for the rest of the neighborhood. You live there. I'm close by. I'm on sandy boulevard, so this is particularly of interest to me. I share your concern.

Hardesty: Thank you so much for being here. I look forward to working with you and the city bureaus to make sure that this is just not a vision, but it becomes a reality.

Jackson: Absolutely.

Hardesty: Thank you.

Jackson: Thank you.

Fritz: If there's no further discussion, please call the roll.

Eudaly: Oh this isn't an ordinance.

Fritz: It is a resolution.

Eudaly: Oh, oh, sorry. Well, thank you from me as well for sitting through

Jackson: Good to see you again.

Eudaly: The entire afternoon, yeah. Very excited about this project. Thank you Abby, er, Andrew – Abby -- [laughter]

Hardesty: It's late.

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Eudaly: I'm pleased to vote Aye.

Fritz: No you call Hardesty next because I'm the –

Hardesty: Because she is the president, yeah, so, I'm just a commissioner at the moment.
[laughter]

Eudaly: All bets are off right now.

Hardesty: Thank you, both, for your patience this afternoon. I vote Aye.

Fritz: I just love having a madam president anywhere.

Hardesty: Right, right? It's nice –

Fritz: I'm glad that there are three of us that take turns having it –

Eudaly: Always fun to say.

Fritz: It really is. Thank you very much for being here.

Jackson: Thank you.

Fritz: Andrew Aebi, thank you for your work. Thank you to Keelan and Lauren and the security folks for being here all day. I'm surprised there hasn't been more positive press about this project.

Jackson: I think you are going to see some coming down the pike now, because we are so far down the conceptual part into the real --

Fritz: Good.

Jackson: And I'm excited about putting that out there.

Fritz: I think perhaps the title of the resolutions that have been coming, the forming of the local improvement districts, people don't quite get what it is.

Jackson: What's going on –

Fritz: So if any reporters are watching this while having dinner, look into this project. It has been 20 years or more in the making, and it's a great one. So I'm very happy to vote Aye.

Jackson: We are looking to involve the press a lot more now that we're at this state.

Fritz: And with that, we are adjourned. Thank you.

Hardesty: Yay.

Fritz: And I don't like gaveling.

Jackson: Thank you.

Fritz: I do like being called madam president.

At 5:06 p.m., Council adjourned.