



CITY OF  
Portland, Oregon

Official  
Minutes

October 14, 2020

**Date and time**

October 14, 2020 at 9:30 a.m.

Council adjourned at 1:03 p.m.

**Officers in attendance**

Keelan McClymont, Clerk of the Council; Linly Rees, Chief Deputy City Attorney

**Consent Agenda**

On a Y-4 roll call, the Consent Agenda was adopted.

**MARY HULL CABALLERO**  
Auditor of the City of Portland

*Keelan McClymont*

By Keelan McClymont  
Clerk of the Council

**PORTLAND CITY COUNCIL AGENDA  
City Hall - 1221 SW Fourth Avenue  
WEDNESDAY, 9:30 AM, OCTOBER 14, 2020**

**Disposition:**

THOSE PRESENT BY VIDEO AND TELECONFERENCE WERE: Mayor Wheeler, Presiding; Commissioners Eudaly, Hardesty and Ryan, 4. Commissioner Fritz arrived at 12:00 p.m., 5. Mayor Wheeler and Commissioner Eudaly left at 12:25 p.m., and Commissioner Fritz presided, 3.

Please note, City Hall is closed to the public due to the COVID-19 Pandemic.

Under Portland City Code and state law, the City Council is holding this meeting electronically. All members of council are attending remotely by video and teleconference, and the City has made several avenues available for the public to listen to the audio broadcast of this meeting.

The meeting is available to the public on the City's YouTube Channel, eGov PDX, [www.portlandoregon.gov/video](http://www.portlandoregon.gov/video) and Channel 30. The public can also provide written testimony to Council by emailing the Council Clerk at [cctestimony@portlandoregon.gov](mailto:cctestimony@portlandoregon.gov).

The Council is taking these steps as a result of the COVID-19 pandemic and the need to limit in-person contact and promote social distancing. The pandemic is an emergency that threatens the public health, safety and welfare which requires us to meet remotely by electronic communications. Thank you all for your patience, flexibility and understanding as we manage through this difficult situation to do the City's business.

**Provide Public Testimony:** City Council will hear public testimony on resolutions and ordinances (first readings only). Testimony is not taken on communications, reports, second readings, proclamations or presentations in accordance with Code 3.02.040 F. and G. Public testimony will be heard by electronic communication (internet connection or telephone). Please identify the agenda item(s) you want to testify on, and then visit the Council Clerk's agenda webpage to register, [www.portlandoregon.gov/auditor/councilagenda](http://www.portlandoregon.gov/auditor/councilagenda). Provide your name, agenda item number(s), zip code, phone number and email address. Individuals have three minutes to testify unless otherwise stated at the meeting.

**The deadline to sign up for the October 14, 2020 Council meeting is Tuesday, October 13, 2020 at 4:00 p.m.**

Email the Council Clerk at [cctestimony@portlandoregon.gov](mailto:cctestimony@portlandoregon.gov) with any questions.

**COMMUNICATIONS**

<p><b>807</b> Request of Matt Smith to address Council regarding the practice of Portland Police sharing mugshots and personal information of protesters accused of non-violent crimes (Communication)</p>	<p><b>PLACED ON FILE</b></p>
<p><b>808</b> Request of Susan Cotter to address Council regarding Portland City Council communications plan (Communication)</p>	<p><b>PLACED ON FILE</b></p>
<p><b>809</b> Request of Elijah Cetas to address Council regarding proposed drone testing facility in St Johns on N Bradford St (Communication)</p>	<p><b>PLACED ON FILE</b></p>
<p><b>810</b> Request of Barbara Quinn to address Council regarding proposed drone testing facility in St Johns (Communication)</p>	<p><b>PLACED ON FILE</b></p>

**TIMES CERTAIN**

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<p><b>811</b> <b>TIME CERTAIN: 9:45 AM</b> – Accept 2019 E-Scooter Findings Report and authorize next steps regarding a solicitation from shared micromobility providers to operate in a permanent program (Resolution introduced by Commissioner Eudaly) 1 hour requested (Y-4)</p>	<p><b>37511</b></p>
<p><b>CONSENT AGENDA – NO DISCUSSION</b></p> <p><b>Mayor Ted Wheeler</b></p>	
<p><b>812</b> Reappoint Vernie Santos to the Plumbing Code Board of Appeal for a term to expire September 19, 2023 (Report) (Y-4)</p>	<p><b>CONFIRMED</b></p>
<p><b>Office of Management &amp; Finance</b></p>	
<p><b>*813</b> Pay settlement of Leigh Crain bodily injury lawsuit in the sum of \$28,750 involving the Portland Bureau of Transportation (Ordinance) (Y-4)</p>	<p><b>190164</b></p>
<p><b>Commissioner Chloe Eudaly</b></p>	
<p><b>Bureau of Transportation</b></p>	
<p><b>*814</b> Authorize application to Better Bike Share Partnership Living Labs Grant to develop and implement a Prescribe a Bike program in partnership with Multnomah County Racial and Ethnic Approaches to Community Health program in the amount of \$200,000 (Ordinance) (Y-4)</p>	<p><b>190165</b></p>
<p><b>Commissioner Amanda Fritz</b></p>	
<p><b>Bureau of Environmental Services</b></p>	
<p><b>815</b> Authorize an Access Permit with PacifiCorp for the NE 33rd Drive Pump Station Upgrade, Project No. E10910 (Ordinance)</p>	<p><b>PASSED TO SECOND READING OCTOBER 21, 2020 AT 9:30 AM</b></p>
<p><b>REGULAR AGENDA</b></p>	
<p><b>Mayor Ted Wheeler</b></p>	
<p><b>Office of Management &amp; Finance</b></p>	
<p><b>816</b> Update Loss Control and Prevention Code to streamline coordination and implementation of citywide loss prevention activities and remove the Loss Control and Prevention Advisory Committee (Ordinance; replace Code Chapter 3.54) 20 minutes requested for items 816-817</p>	<p><b>PASSED TO SECOND READING OCTOBER 21, 2020 AT 9:30 AM</b></p>
<p><b>817</b> Amend Administrative Policy, Loss Prevention Policy, to streamline bureau Loss Prevention Plan procedures and implementation (Ordinance; amend Administrative Policy 11.01)</p>	<p><b>PASSED TO SECOND READING OCTOBER 21, 2020 AT 9:30 AM</b></p>
<p><b>Commissioner Amanda Fritz</b></p>	

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<b>Bureau of Environmental Services</b>	
<b>818</b> Authorize Price Agreement for Pump Station Improvements for professional engineering design services for a total not-to-exceed amount of \$15 million (Ordinance) 10 minutes requested	<b>PASSED TO SECOND READING OCTOBER 21, 2020 AT 9:30 AM</b>
<b>819</b> Update Drainage and Water Quality Code provisions to facilitate the implementation of the Stormwater Management Manual and the Source Control Manual (Second Reading Agenda 805; replace Code Chapter 17.38)  (Y-5)	<b>190166</b>
<b>City Auditor Mary Hull Caballero</b>	
<b>820</b> Direct City Attorney to represent the City in litigation involving campaign finance regulations (Resolution ) 15 minutes requested  (N-3 Ryan, Hardesty, Fritz; Eudaly and Wheeler recused themselves)	<b>FAILED TO PASS</b>
<b><u>2:00 PM WEDNESDAY/THURSDAY OCTOBER 14-15, 2020</u></b>	
<b>DUE TO LACK OF AGENDA THERE WERE NO WEDNESDAY OR THURSDAY 2:00 PM MEETINGS</b>	

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Closed caption file of Portland city council meeting

This file was produced through the closed captioning process for the televised city council broadcast and should not be considered a verbatim transcript. The official vote counts for Council action are provided in the Official Minutes.

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

**October 14, 2020 9:30 a.m.**

**Wheeler:** Everybody, it's wednesday, october 14, 2020. This is a morning meeting of the portland city council. Keelan, can you please call the roll?

**Clerk:** Good morning. [roll call]

**Wheeler:** Here. And is commissioner fritz excused today, keelan? I don't remember.

**Clerk:** Yes, that's correct.

**Wheeler:** Okay. Interesting. Legal counsel, i'm going to have you figure something out and we'll get to the agenda in -- i'm going to have to recuse myself from an item late in the agenda . In fact, it's the last agenda item. Ordinarily, i would turn it over to the council president. Linly, who will i turn it over to instead?

**Linly Rees:** It is my understanding that commissioner fritz would is intending to attend beginning at 10: 45 through noon. Keelan, can you confirm that please?

**Clerk:** That is correct. She'll be here from 10: 45 to noon.

**Wheeler:** Okay. Just for my edification and everybody else's, how would we do it if the council president isn't present? Does it go back to the prior -- what is the ordinary procedure?

**Rees:** I will look that up. I think you are correct. But i would have to look it up.

**Wheeler:** One of those curiosities. All right. Please note city hall is closed due to the covid-19 pandemic, under portland city code and state law. The city council is holding this meeting electronically. All members of the council are attending remotely by video and teleconference. And the city has made several avenues available for the public to listen to the audio broadcast of this meeting. The meeting is available on the city's youtube channel, egov pdx, [www.portlandoregon.gov/video](http://www.portlandoregon.gov/video) and channel 30. The public can also provide written testimony to council by emailing the county clerk at [cc\\_testimony@portlandoregon.gov](mailto:cc_testimony@portlandoregon.gov). The council is taking these steps, of course, as a result of the covid-19 pandemic. And the need to limit in-person contact and physical distancing. The pandemic is an emergency that threatens the public safety and

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welfare which requires us to meet remotely by electronic communications. Thank you all, again, for your patient, flexibility and understanding as we manage through this difficult situation to do the city's business. With that, we'll turn it over to linly for the rules of order and decorum.

**Rees:** To participate in council meetings, you may sign up in advance with the council clerk's office for communications to briefly speak on any subject. You may also sign up for public testimony on resolutions or the first meetings of ordinances. A published council agenda at [portland.oregon.gov/auditor](http://portland.oregon.gov/auditor) contains information about how and when you may sign up for testimony while council is holding electronic meetings. Your testimony should address the matter being considered at the time. 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 your time is up, the presiding officer will ask you to conclude. Disruptive conduct such as shouting, refusing to conclude your testimony when your time is up, or interrupting other's 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 placed on hold or ejected from the remainder of the electronic meeting. Please be aware that all council meetings are recorded. Thank you.

**Wheeler:** Thank you. First up is communications. Linly, 807, please. I'm sorry, linly. Keelan, 807, please.

**Clerk:** Okay. 807. Request of matt smith to address council regarding the practice of portland police sharing mugshots and personal information of protesters accused of nonviolent crimes. I don't know if matt is signed on this morning. I don't see him yet.

**Wheeler:** Okay. If he pops up, i actually want to hear what he has to say. 808.

**Clerk:** 808. Request of susan cotter to address council regarding portland city council communications plan.

**Wheeler:** Good morning, susan.

**Susan Cotter:** Good morning, can you...

**Wheeler:** We did for a second. It sounds like you remuted. Can you check your mute please?

**Clerk:** Susan wanted to show slides. So i have promoted her to a panelist. She should be able to unmute shortly.

**Wheeler:** Susan, are you there? We still can't hear you.

**Cotter:** Yeah. There we go. Can you hear me now? Yeah.

**Wheeler:** Great. Good morning.

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**Cotter:** Good morning. Now i'm going to see, can you see the screen?

**Wheeler:** Yep, we sure can.

**Cotter:** Okay. Thank you, mayor wheeler and commissioners eudaly, hardesty and ryan, for this opportunity to speak to you. My name is susan cotter. I use she/her pronouns. I live in north portland and am an unaffiliated community member. I once spoke to council about the difficulty i had in trying to assess the state of police oversight in asking you to show you work. Then another occasion asking council to find compassion and protect our community member's against p.p.b.'s use of force. I was going to discuss the need for a city communication plan but commissioner hardesty's great work on rethink portland and the western states training has prompted me to change my topic for this morning to share my take on community safety. This is what we have said is public safety in a democracy. I'm having a hard time moving my screen there. Hang on. There we go. But we're nearly unanimous the system isn't working. And we now know if all goes right, we're on track for police reform in 18 to 24 months. To which i say, yikes. Our western states training taught us we need community members prepared to respond to unsafe behaviors no matter the source. Maybe it looks more like a combination of under control law enforcement and community prepared to effectively participate in the safety of everyone. The city is uniquely qualified to formalize a network of community responses to safety while ensuring adherence to community equity standards. I think we have hit a critical mass of people fed up with the white male antidemocratic system that works for fewer and fewer. It gives us an opportunity to channel immediate responses, collectively manage and improve guidelines, and build common cause and competency for all portlanders around safety. I ask council to develop a network to encompass all safety support systems to help the community take control, take back control of our safety. Fund this effort today. Thanks for your consideration. Black lives matter. With no justice, there is no peace.

**Wheeler:** Thank you. I appreciate that thoughtful, that's a thoughtful presentation. I appreciate it. And there is a lot of good stuff there. Thanks for bringing that, susan.

**Cotter:** Thank you.

**Wheeler:** Next up, is 809 please?

**Hardesty:** Mr. Mayor?

**Wheeler:** I'm sorry, commissioner hardesty.

**Hardesty:** Thank you, mayor. I guess you didn't see my little blue hand.

**Wheeler:** Sorry, i missed it.

**Hardesty:** It's all good.

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**Wheeler:** I like your new lamp, by the way, it's awesome.

**Hardesty:** Thank you, it's an old lamp. I just turned my computer a different way. I got tired of the view in zoom.

**Wheeler:** It's a nice upgrade. It looks good.

**Hardesty:** Thank you. Susan, i would love to have your presentation and have a chance to talk to you about your words this morning. It was a very efficient and thorough presentation. Good job. People don't normally get it that good in the three minutes they have. And you had time to spare. So if you would be kind enough to share your power point and reach out to my office so that so that we can schedule some time to talk. Because it sounds like there is a lot of us moving in the same direction. And you framed it beautifully. Thank you so much for being here.

**Cotter:** Thank you for all your support. I mean, i think you're right, portland is amazing. Well thought out. Well strategized. And i really appreciate your effort.

**Hardesty:** Thank you. Back at your susan. Have a great day.

**Cotter:** Thank you. You too.

**Wheeler:** Thank you susan. 809. Let's go back to mr. Smith. Hi. Matt. Keelan, is he unmuted?

**Clerk:** Matt, are you able to unmute? There we go. It looks like he's unmuted.

**Wheeler:** Matt, can you -- for whatever reason, we're not hearing him. Is he on a computer or phone?

**Clerk:** Looks like he's on a computer.

**Hardesty:** Check the volume.

**Clerk:** He's also on the phone.

**Wheeler:** Maybe on the phone line.

**Clerk:** Matt, are you able to unmute now?

**Matt Smith:** Hi, can you hear me now?

**Wheeler:** Yep, there you go. We've got you.

**Smith:** Thank you for your time today. I just wanted to talk about the practice of publicizing photographs of people that are being booked as a result of arrests in portland, at the county detention center. There have been a lot of arrests lately around the protests. And just observing this process, you know, it seems a little incoherent with respect to not only the presumption of inosense but the efforts we're making to address implicit bias and policing and promote racial justice. The fundamental dissonance i have with it, i suppose, when people are arrested it's an allegation of other crimes being committed and the at that stage everyone gets their picture in the paper. And so there is the amplification of the arrest process. Let's take everyone's picture



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and promote it on social media and the website. Beyond that we know there is implicit bias in policing, black protesters are twice as likely to get arrested as white protesters. People are more likely to get pulled over than white people. And the publicizing of the photographs tends to reinforce racial stereotypes. We're putting an amplifier on the criminal justice system everyone admits is flawed. It seems to be something that is going to perpetuate racial stereotypes rather than to help to focus on the output of the criminal justice system, which hopefully, things are more just on the back side than the front side of it. I know that san francisco back in june, i think, primarily because of implicit bias, decided to no longer publish photographs for bookings unless the crimes were pretty serious, in terms of violent crimes. Certainly, not for interfering with a peace officer, in multnomah county, the district attorney isn't bringing charges in the first place. So i just wanted to bring that to the council's attention. And ask the question: Are we -- is this practice aligned with these efforts we have going on right now? And is it fundamentally, is it aligned with the principle of presumption of innocence. I don't see photographs when charges are dropped. I just wanted to bring that to the council's attention. Point towards the fact it is not exactly lined with -- aligned with racial justice initiatives. And ask that we consider the practice.

**Clerk:** That's three minutes.

**Smith:** Thank you.

**Wheeler:** Thank you, mr. Smith. Perfectly timed. Commissioner hardesty.

**Hardesty:** Thank you, mayor. Thank you, mr. Smith. I share your concern about presumptive guilt when people are arrested at protests. And hope that you will provide us your -- was your testimony in writing?

**Hardesty:** Or just talking off the cuff? Mr. Smith, are you muted again?

**Wheeler:** Keelan is he on?

**Smith:** I'm unmuted. Sorry. That was off the cuff. But i can certainly put together thoughts and submitted written testimony on this topic.

**Hardesty:** I would appreciate if you would do that. I share your concern. We should just like we don't publish police officer's names when they are accused of bad acts, we certainly should not put that information on a city owned website. The mayor and i had many conversations about the communication stall of the police bureau's p.i.o. Officers. And i think that you are providing us with valuable information that will inform how we move forward. So thank you very much. And yes, send us an email so i can follow-up.

**Smith:** Okay. Thank you.

**Wheeler:** Thank you. Thank you, for the testimony. I think you raised entirely valid point. One

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cautionary note, it will come from the press saying they have a right to the information. There is often a healthy dynamic tension between the police bureau's provision of information and the needs and the expectations of the free press in terms of publishing information. But i think it's entirely valid conversation and one we absolutely should have. And it's one we should have both internally, as well as with p.p.b. I think there has to be an open dialogue with members of the local media to get their perspectives and thoughts on this as well. Your basic point i think is a really good one. Which is the presumption of innocence, talking about what are effectively lower level, what is effective lower-level criminal activity.

**Hardesty:** Mayor? Thank you, mayor. I think that the point that was being made and maybe mr. Smith, i didn't hear your point correctly. I didn't hear anything about it media's right to do whatever the media has an obligation to do. I think what mr. Smith is talking about is how we use city media tools to put information out in the street when we don't have all the facts at the time, we put it out.

**Wheeler:** No dispute about that whatsoever. I'm saying when we have information internally, we collected, the media often asks for that information. And they often have a precedent for getting that information. I'm saying it's a broader conversation than merely the question of which information we collect. And put out there. There is a larger dynamic tension between p.p.b. And the press where they are regularly asking and say they have a legal right to additional information we may or may not be prepared to share. It's another dynamic we have to be aware of as a city council.

**Hardesty:** I'm looking forward to the conversation, mayor. I think the media has the right to ask for information. We also have an obligation not to be criminalizing people because they have been arrested.

**Wheeler:** No disagreement. And we're unfortunately getting into the conversation. We agreed --

**Hardesty:** That we're not going to have.

**Wheeler:** Let's continue with this council session and but that in the parking lot, along with the other 150 issues.

**Smith:** This is matt. If i could make a final point. What i try to put my finger on is the photograph itself, not the arrest record. There is no problem publishing someone's name where they live. I don't think they should say, they are black. Like the photograph is perpetuated racial stereotype and allowing the targeting harassment by their face. Which is a different ball game than the arrest record.

**Wheeler:** That is a legitimate and important point.

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**Hardesty:** I think we need to bring mr. Smith into the conversation too.

**Wheeler:** Thank you, sir. We'll move on, 809.

**Clerk:** Request of elijah to arrest council -- address council proposed drone facility in north brad forward street bradford street.

**Elijah Cetas:** Good morning, commissioners. Elijah seats. A grouper just climate. And braided river campaign. Coalition of residents to advance climate resilient working waterfront in the portland harbor. A position to propose development by skyward, a drone manufacture and verizon wireless. Along the river and adjacent to cathedral. Congested areas are not suitable due to potential safety issues. This is untrue that the site is empty. Recklessly endanger wildlife and community members. Drone technology is not future neutral. The implications for surveillance, militarization, needs to be considered by this can you know. As the council considered and rejected facial recognition technology this year. On its website, and in public statements, skyward celebrates pushing past regulations and laws gurn are governing the industry. Thermal heat visualization, drones that eliminate human elements and one day three on their own throughout our nation's airspace. Residents were not made aware until shortly before the public comment period. But despite this numerous comments were submitted. Cathedral park wrote a letter in opposition. I want to remind you north portlands are disproportionately affected by injustices. Higher rates of asthma and infant mortality. One of the most toxic places in the nation. They live in a blast zone of oil trains and tank farms, as well as the liquefaction zone, cataclysmic if the earthquake hit. I want to urge you that to oppose this project. The working class neighborhood of saint johns is not the place for a drone testing site. And i urge you oppose this property, which is the property owner. And direct bureaus to deny permits starting with open permit application to widen and develop the bradford street road. Thank you.

**Wheeler:** Thank you. Appreciate your testimony. Good insight. Thank you. Next individual is 810 please.

**Clerk:** Request of barbara quinn to address council regarding proposed drone testing facilities in saint johns.

**Wheeler:** Commissioner hardesty, do you have a hand raised? Or is it old?

**Hardesty:** It's old.

**Wheeler:** Good morning, barbara.

**Barbara Quinn:** Good morning, thank you, thank you for letting me testify. I'm testifying about exactly the same issue that elijah just mentioned. I'm it's in reference to land use review, l.u.20-142770g.w. The proposal for a drone test site on the risk front north of cathedral park. What i

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would like to add to it the testimony, i agree with everything he said. The test flight is north on the river for an unknown distance. They didn't define the boundaries. And verizon will not fly over public spaces but ignores the fact the river is fact a public space. -- i agree elijah the community has been burdened with too many things. We don't need the fear of overhead surveillance or the possibility the test drones could go down. They have a boat that will retrieve the done -- drones. That means a possibility they could go down in the river, i think. That doesn't sound like a safe situation. The other problem is is it promote for a public agency such as the port of portland to compel us to house, to host this business when the largest market for these drones has always been government, military and law enforcement around the world. We're not comfortable with the type of business it is. And unfortunately our previous laws are not -- used responsibly. For those reasons until privacy law can catch up with technology, this proposal should be off the table and not imposed with no meaningful process or input. I agree with elijah, this should be not supported by the council. And should be refused. And that is true of the port of portland as well. This is not a good fit for our community.

**Wheeler:** Thank you, barbara. Commissioner eudaly?

**Eudaly:** Thank you, mayor. I wanted to thank the last two testifiers. This issue, i don't -- i vaguely recollect. Submit written information or direct us to recollect dictionary or direct us to a website where we could learn more. I mean, i can -- [chicken crowing]

**Quinn:** Sorry about that. [chuckling].

**Eudaly:** Flash back do growing up on a farm. [chuckling]

**Wheeler:** That was awesome. -- for the.

**Eudaly:** For the road widening, anyone i can learn more information about this proposal. Or the -- and all the listeners today.

**Quinn:** I can send written testimony.

**Eudaly:** Okay. Thank you.

**Wheeler:** Commissioner hardesty.

**Hardesty:** Thank you, mayor. I was curious, you said that where is this being decided? Did you say the port was moving this forward? And does that mean it then comes to the city council? I'm not sure what the governmental process is as this process moves forward. Do you know?

**Quinn :** Well my understanding is it's a land use review. The public comment period is over. The project, according to development services, it's on hold at the moment. And the port is going to say yes or no to the lease, they are leasing it out. Yeah. I don't know exactly what kind of input the council has there. But it's the city of portland is reviewing the request.

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**Hardesty:** Permitting --

**Wheeler:** If i could jump in, i'm going to guess, an educated guess, the land use piece is in the bureau of planning and sustainability. The permit piece is in the bureau of development services. And it sounds like just by virtue of the road work, p.b.o.t. Is involved as well. It may largely be administrative at the bureau level. So --

**Hardesty:** I'll check with the bureau of sustainability. And i suspect commissioner eudaly will check with her bureaus.

**Wheeler:**

**Hardesty:** And then dan. It sounds like we're going to have individual conversations soon about it. How this all comes together. And what -- thank you so much.

**Quinn:** I would just -- i would like to add that i unlike elijah, i appreciate the city council passed an ordinance about facial recognition. That's very forward thinking and commendable.

**Hardesty:** Thank you very much. Every once in a while we can look into the future and there is something that is really innovative. Collectively unanimously. Thank you so much.

**Quinn:** Okay.

**Wheeler:** Thank you. Keelan does that complete communications for today?

**Clerk:** Yes. That completes.

**Wheeler:** Any items pulled off of the consent calendar?

**Clerk:** No requests.

**Wheeler:** Please call the roll. [roll call vote]

**Eudaly:** Thank you, mayor. Just lost my screen. One moment.

**Wheeler:** When i will we're at it, commissioners eudaly and hardesty, your hands are raised if you could lower them.

**Eudaly:** Sorry. Colleagues, today we have a presentation from p. Dot about e scooters. Since 2018 they have been operating on portland streets in a pilot. Sorry. I'm just reading this for the first time. And it's not -- okay. I took action to prevent unauthorized deployment. And had p.b.o.t. Create rules and regulations for the new technologies. Today is an opportunity for city council to see data and information about the two e scooter pilots and turn about what the pilots taught us as p.b.o.t. Moves forward with creating a e scooter program. These lessons are summarized in the 2018 and 2019 finding reports, including data-driven recommendations. I look forward from hearing from p.b.o.t., how in my direction, p.b.o.t. Instituted a first in the nation requirement for e scooter companies to analyze climates impacts. That requirement is helping cities and industry understand the potential for e scooters to get people out of cars and pursue cleaner options that

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combat the climate crisis. How safe infrastructure investments, funded through fixing our streets, have impacted e scooter ridership. The topics and others are covered in the 2019 e-scooter finding report. Council will have the opportunity to review the report, findings and discuss recommendations as p.b.o.t. Moves forward in the process to integrate scooters into the portland's transportation system. I invite p.b.o.t. To share the report and staff recommendations. We have catherine here, i think.

**Catherine Ciarlo:** Yes. Thank you so much.

**Eudaly:** Hello.

**Ciarlo:** Commissioner eudaly, thank you, mayor wheeler and council. We appreciate you having us here today to talk about e-scooters. No one knows better than you, we heard this is a tough time for the city. So we're glad to bring something to you that we actually see as a bright spot. As commissioner eudaly said, we're going to share results from p.b.o.t.'s most recent e-scooter pilot. And talk about how those results show the potential to help support economic recovery. Help provide equitable access for bipock portlanders and the potential to support our city climate goals. This is actually the first time we formally brought this e-scooter program to you. We've been operating pilots since 2018. But we want to be clear that we see today's discussion not as an end point but as the beginning of the conversation. And we'll emphasis that several times throughout the course of the presentation today. We'll share the pilot findings. As we talk about recommendations for what comes next, your questions, your comments will help shape those next steps. And so will the questions and comments we get from stakeholders, from the broader community both today and in the coming weeks. With that, i'm going to turn it over to jacob sherman.

**Jacob Sherman:** Great, thanks, catherine. Good morning, mayor wheeler, commissioners. Thanks for the opportunity to be here. I work on new mobility and emerging technology at the portland bureau of transportation. Which means working on issues like uber and lift and car and bike share and scooters, managing that program for the last year. I would like to take a quick opportunity to have love johnson introduce herself as she'll be presenting with me.

**Love Jonson:** Hi, everyone. My name is love johnson. In active transportation and safety, working closely with jacob and catherine on the program. I really appreciate your time.

**Ciarlo:** That you can jacob. I'm catherine, and i manage the active transportation and safety division. Thanks.

**Sherman:** Thanks. So we would like to provide a little bit of background was e-scooters in portland. Starting with kind of the question, why e-scooters. As catherine mentioned, p.b.o.t.

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Prevented the unauthorized of deployment of them in 2018. Members of council have had experience with those issues in the past. And we decided that we were not going to let technology occur for technology's sake alone. But determine how e-scooters can advance city goals, around congestion, climate, safety, equitable access. In 2018, we launched a 120-day long pilot, involved three companies. At the end of the pilot, we prepared kind of an extensive report, we can make available for you and appended to the resolution. Finding that the majority of portlanders views the e-scooters positively. Portlanders were primary using them for transportation purposes. There were challenges with e-scooters. Some remain today. And we're going to talk about strategies to address those challenges around sidewalk riding and improper parking and challenges around equitable access. And given those findings our recommendation at the end of the 2018 pilot was we conduct a second pilot in order to collect more data and test new solutions. In 2019, we launched a second pilot. To again, test some of the potential solutions to those challenges. The graphic on the rights is an excerpt from the excerpt. In order to make sure people were parking scooters properly. We introduced seated scooters into the system. From some questions and concerns we heard from people with different ability levels. Wanting safer models. And then as catherine had said, instituting a first in the nation requirement to assess kind of the climate benefits if any for e-scooters. A competitive process and a lot of change kind of in the market. We had six companies operating, we're down to four mainly because of market forces. And some of those market forces continue. And the sense and impacts of covid on the e-scooter industry, as well as racial justice demonstrations that have been occurring have had an impact on the scooter business in our city. I want to just provide a little bit of some of the high-level kind of riding statistics. So you can see that in the 2018 and 2019 calendar years, a total of 1.7 million trips. In the 2020 calendar year, about 425 more than 425,000 rides. You can see the fleet has kind of varied, from two to about roughly 3,000 scooters. People ride kind of all over the city. We've seen. The average trip distance in 2019 was just over a mile long. Interestingly enough, the trip characteristic change during the pandemic. And trips are now longer. To ride it boots ridership. That is an example of a project in northeast portland, where between the first pilot and second pilot, we had a major capital improvement project. In order to create safe infrastructure. With scooters, resulted in 125% increase in ridership in one year. We think scooters are a proxy for cycling. We would anticipate a positive impact there as well. The data is pretty clearly shown us w. And this is in the report some of the strategies around the app rules help move riders of waterfront park and to the safe infrastructure we've created. Going to shift years a little bit. And share with you some of the information about the changing

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perceptions of e constituters in portland. And it's really interesting hearing comments about drones. And this is a topic we are also interested in. And i think it's important to say that the future and change often sparks resistance. Some is ostified. Because we need to ask questions how the technologies help advance community identified goals. We're thinking a lot about this. This is the space where i work from drone delivery to autonomous vehicles to sidewalk delivery robots. These are real in other cities that are exploring some of these. And initial response to innovation is often fear and resistance, sometimes justifiably so. This has been happening for a long time. I think it's important to point out that when automobiles first came over 100 years ago, there were similar sentiments, our role as the bureau of transportation and the government is to manage some of that disruption and change. And manage it towards our goals, fortunately, i think we have a lot of experience here. We've dealt with this. Commissioner fritz in particular has dealt with some of these issues around uber and lyft. This was why we prevented the rogue deployments and launch of scooters in the city and created pilots to examine whether i & how they meet our goals. The two pilots have shown both support and concerns for e scooters. The majority of complaints focused on issues around sidewalk riding and improper parking. --

**Hardesty:** Excuse me, for a second, jacob, i see phillip wolf, can you

**Hardesty:** Ask you let us know when that's working?

**Clerk:** We're troubleshooting now to see if we can get those captions back up. Okay. Looks like we're good to go.

**Hardesty:** Are we good to go? Excellent. Thank you.

**Wheeler:** Thanks, keelan.

**Sherman:** Thank you. As i was saying, the majority of complaints we received at the bureau have been focused on two issues around improper parking and sidewalk riding. We did an analysis of some of the complaints. We found 42% of the complaints we received were submitted by three individuals. And over time we've seen complaints have decreased as riders have learned the rules of the road. And the community has adapted to some of that change. I do think it's important to point out there are more complaints downtown than other parts of the city. Probably because the vast majority of scooter trips occur downtown. And a large number of scooters are down there. The images here, we have a image of a scooter blocking a.d.a. Ramp and excerpt from the scoot smart video. We partnered with disability rights oregon, and the company line in order to produce and share. I went to share where we are as an agency and moving the pilot programs. We published the findings record in september. We've done stakeholder engagement throughout both pilots and launched into a new phase of that



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engagement, talking about that more later. The plan is through the stakeholder engagement process, solicit feedback from council and community to develop and publish kind of a solicitation, r.f.p. Or r.f.q. That we put on the streets. We see which companies respond. Negotiate the contracts and ideally launch a new paragraph in 2020. And engaging with council and your staff on some of the details of that. I'm going to turn it over to love johnson, who will talk us through the finding from the 2019 scooter finding report.

**Jonson:** Thanks, jacob. We published recently a report opa 2019 pilot. I'm going to walk through three buckets of findings that we are -- have on the slide today. First, points around safety. Throughout the 2018 and 2019 pilots, we work with multnomah county health department to track injuries that came through the emergency rooms that are related to e-scooters. We found basically injury rates are consist with other cities. We've had no deaths in portland. And the majority of the injuries from riders falling. Not colliding with anyone else or any objectives. Sort of falling on their own. We see that helmet use is low. Portlanders, people who live here are more likely to have helmets than visitors are. We've seen an evolution over the two pilots that user behavior is generally improving as people learn the rules of the road. And as people sort of get used to having scooters on the streets. Part of that is to sort of novelty wearing off and due to changes p.b.o.t. Made throughout the pilots in response to what we've heard. Companies are required to provide information about the rules of the road about portland in apps that they use before they ride. E bot started doing citations of our own. P.b.o.t. Was not doing traffic stops or stopping people but issuing penalties.

**Hardesty:** Excuse me. Can i interrupt. I need to ask the question. Commissioner fritz isn't here yet. When you say, helmet use remains low, what does that mean. What is the percentage of people who use helmets and those who don't?

**Jonson:** I think, so we have done user surveys of e-scooter riders, three times. 2019 pilot, 20% of people usually or always wear helmets. The rest of them are sometimes or don't wear helmets. That's kind of where we're at now.

**Hardesty:** I'm sorries i missed the last part. Where are we now?

**Jonson:** The latest survey show 20% of people are wearing helmets always or most of the time.

**Hardesty:** Do you have data broken down by demographic, age groups?

**Jonson:** We do. Yeah, we could definitely break that down.

**Hardesty:** I'm curious. If commissioner fritz was here, she would ask about the helmets. I felt it important to put the percentages. It sounds like you are speaking through a tunnel.

**Wheeler:** Can i ask a follow-up question of commissioner hardesty's question? You may not be

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able to answer the question right now. It's one that concerns me. We know that helmet use is low. Just as it is in other cities. We know that's very dangerous. If we approve this program knowing that helmet use is low and knowing it's dangerous, who takes on the implicit liability? Is it the scooter provider? Or does the city of portland and taxpayers take on that liability? Whose concern is this?

**Ciarlo:** Mayor, i'll take a first stab at that answer. And then jacob will probably fill in as well. We have worked closely with the city attorneys to date throughout our permit program, we have been clear with the permittees, the city is not accepting liability. And we require a significant insurance policy for those companies to cover that liability. It's still honestly, being worked out. Worked through the systems nationwide and throughout different cities. We will continue obviously to work really closely with our city attorney. To date, they have not felt like the city is taking on that liability. One of the things we're interested in and we'll talk about this more as we move through the presentation, is actually shifting the program structure to a place where we have a less broad regulatory field and closer regulatory relationship with a smaller number of accompanys -- companies. Which hopefully will help us partner to address challenges including the helmet challenge.

**Wheeler:** I understand there is probably no perfect solution here. The city will of course get sued anyway if someone runs into a bike rack and go flying and not wearing a helmet. The city will of course be sued. I want to make sure we're not accepting undue liability for other people's personal behavior and personal decisions. And i would of course also assume when somebody logs in to one of the scooter user's apps, the app makes it crystal clear. They are supposed to wear a helmet, b, of appropriate age. And c, by using the app, they are accepting all personal liability. Are these are true?

**Ciarlo:** Yes, these are all true.

**Wheeler:** Thank you. Appreciate it.

**Ciarlo:** Thank you.

**Sherman:** Thanks, mayor wheeler. Move us on.

**Wheeler:** One another question, sorry. Since i'm on a roll. And then i'll stop. I don't want to lose my train of thought. Let's say a minor child decides to use one of these scooters. And we know that happens. Because we've all seen it, right? And so they log on using the app. And they themselves say, sure, they are old enough to use the scooter. But they are not. But they are not of an age of consent where they actually can sign the document and have it legally upheld. Whose liability is that?

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**Sherman:** That's a great question.

**Ciarlo:** Well, i was just going to say, i would want, i think to confer with city attorneys before speculating on that. Jacob, maybe you have, based on your experience, you've seen how the plays out in other places.

**Sherman:** Maybe i'll agree with catherine on, we should talk with counsel about that particular issue. I'll address the first part of that. About miner using the services. I think we do have some kind of tradeoffs we can consider in terms of some companies requiring users to submit photo documentation of their driver's license as they register into the app. And must be of a certain age in order to use those services. There is an opportunity there. Of course, there becomes a tradeoff on the other side, in terms of people who are undocumented, who might not be able to provide that. Those are considerations we would be happy to continue to discuss with you and council staff as thinking about how we move beyond these pilots. And then, of course, we can speak with counsel around the particular issue of liability.

**Wheeler:** I don't want to gum it up because you have a good presentation and i'll let you run with it. I want to underscore, we're not the only city confronting it. It's a systemwide issue broadly discussed for several years. I would like to know what the current except for liability for the city of portland and taxpayers.

**Ciarlo:** Thank you, mayor. We'll bring it back and confer with the city attorney's office and get back to council on that.

**Wheeler:** Thanks, i projects it. Appreciate it. Thank you.

**Sherman:** Go ahead, love.

**Jonson:** Hopefully my sound is better. If not, let me know. Some of the safety concerned we've heard are from people with disabilities and people walking who are concerned about scooters parked improperly on the sidewalk. These photos show ways to manage it. This is a lock to system. Some have words to dockless street loading model we have in portland now to a system where they require scooters to be equipped with a cabal lock. Washington d.c. And chicago have seen success with this and call it the key to the program. On the right shows a parking route, dedicated space on the street or sidewalk for e-scooter parking. Think about tradeoffs in terms of how we use the right-of-way, use parking space for cars or using space where sidewalk tables can go. But those are two of the things we're thinking about. Now, we'll talk about findings related to equity, you can see on the right here results from the citywide representative poll we did in 2018 that showed that people of color and people living on low incomes view the scooters positively. As i mentioned we've done three surveys of e-scooter riders. In 2018, 2019, and winter

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2020, so earlier this year. And looking at how responses from bipop portlanders differed from white portlanders. Bipop are more likely to ride e-scooters because they don't have a car. 23 versus 13%. And also, bipop portlanders said they would be more likely to ride scooters if more were available closer to transit. On the other hand, there are lots of barriers for folks riding e-scooters we think will take thoughtful management to overcome. On the right we can see e-scooters are not the cheapest way to travel. They are currently cost more than a lot of other modes. Some other barriers we've heard through focus groups we've done with black, east portlanders and portlanders have disabilities around cost, road safety. So having a place to ride separated from cars, infrastructure. Travel needs, maybe people are traveling with families. And these don't work for that. Concerns around race based harassment, profiling, violence in the right-of-way as highlighted this summer. Are e-scooters available near where i live or need to go? As jacob showed, the minimum requirements in east portland were a good start to increasing ridership there but not sufficient to make them work for everyone. In the future we think that both p.b.o.t. And companies need deeper partnerships with community-based organizations out there serving the folks in the communities. Think about ways to reduce the cost of e-scooters and expand access, geographically and otherwise. Thinking about safety in infrastructure, bike infrastructure and beyond infrastructure. How do we address personal and safety questions that are black and brown facing?

**Hardesty:** Love, i have a question. Why is it so much more expensive to ride a scooter than a bike?

**Jonson:** Good question. Yeah, so between 2018 and 2019, we saw the prices go up across e-scooter companies. In 2018, it was about 15 cents a minute. In 2019 27 or 28 cents a minute. If we were to move forward with a longer-term model and we had sort of a procurement process where we picked vendors, we would have ability to negotiate with them on a pricing structure. And jacob and kathy, if you want to fill in on that.

**Ciarlo:** Thank you, love. I might add one thing. Which is, this isn't the answer i think you wanted, commissioner. The e-bikes are somewhat more expensive. I don't have an exact figure per trip. This figure was calculated before e-bikes, you had see it be a little higher now. We've talked about that with council before. That was one of the tradeoffs to get wider coverage. And get the e-bike benefit. What we've done in the context of bike town is really try to beef up our subsidies for particularly vulnerable communities through bike town for all. As love said, the recommended model that we would like to talk about here would move us toward that type of relationship where we maybe able to do that -- have that type of program more easily with a

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provider.

**Hardesty:** I think we understand the higher the cost, the less likely bipop communities will benefit from this mode of transportation.

**Ciarlo:** Right.

**Jonson:** I'll note -- go ahead Jacob.

**Sherman:** I was going to note the same thing, you were. Commissioner Hardesty, earlier in the pandemic, we partnered with one scooter company to actually waive some of the fees p.b.o.t. Has to unlock an about for the company they decided to discount rides 50%. When that happened, we saw explosive growth, 136% increase, despite the fact a lot of people were staying home. I think that this focus on price is one of the we're interested in and what remains of the pilot so we can moving into kind of a more informed space as we're thinking about negotiating on these topics with companies in the future.

**Ciarlo:** One last thing. We do have a low-income option. We, I would say, I have been marginally successful in signing people up for that option. That is one of the improvements we would like to see made as we move forward.

**Hardesty:** What is low-income as far as scooter companies are concerned?

**Ciarlo:** Oh, I don't want to speculate too much. Jacob, I'm going to turn it over to you.

**Sherman:** I was going to hand it to you.

**Jonson:** I'll take that. Right now scooter companies are required to offer a low-income plan. And they are pretty similar across-the-board in terms of eligibility. Basically, if you are eligible for or enrolled in SNAP, E.D.T., affordable housing, things like that, we have a page on our website where that's kind of laid out for each company. The sign-ups that companies have gotten are generally pretty low. As you might expect, they are not necessarily incentivized to publicize a cheaper rate. But we have found a pretty good example of sort of deeper partnerships in a p.b.o.t. Program, transportation for residents of affordable housing. We worked with residents and affordable housing to get them signed up for the low-income plans. That's where the majority of the plans came from, the sign-ups came from. That's something we want to see more in the future. And the companies are required to offer ways for people to pay in cash. And ways for people to access scooters without having to -- to have a smart phone. Those are things we tested out this year and continue to expand it.

**Wheeler:** I see Commissioner Eudaly wanted to get on the conversation.

**Hardesty:** My last point. I want to make sure we don't sign any contract we cannot articulate bipop communities will be able to benefit and understanding many bipop communities that

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have -- i'm going to wait the the captioning to come back on.

**Hardesty:** No worries. I think when we're getting ready to intentionally put a system in place, we must make sure bipop communities -- not hope somewhere down the line they are the beneficiaries of the new contract. Thank you.

**Hardesty:** This is exciting work. At the same time, the higher the price, the more we cost people out of being able to participate. Which is exactly opposite of our goal. Thank you.

**Ciarlo:** Thank you, commissioner.

**Wheeler:** Thanks, commissioner hardesty. Commissioner eudaly.

**Eudaly:** I want to mention, love, there is a lot of static on the line. And it's difficult to understand what you are saying. I don't know if you have another option for speaker, microphone or phone. I want to say i am really prude of the work we did on the -- proud of the work we did on the second pilot. First of all, we the data sharing is a big deal. Like we've been smart about negotiating with these companies from the beginning. In the second pilot, because portland is such a desirable market, we were really able to push these companies on equity issues in multiple ways. The seated scooters to expand the people's ability to use scooters. I believe we have -- the more they met the equity and the east portland deployment. It more they met our equity requirements -- well, the more likely they were to able participate at all. Also, i think they got bonuses as far as being able to deploy more scooters. There is absolutely room for improvement. But i would say that we are probably light years ahead of most cities. In the work that we're doing. So i love all the feedback. Definitely want to make them as accessible as possible. But just really wanted to highlight the fact we're very cognizant of the issues. I think the team has been creative and effective in advancing the equity concerns. Thank you.

**Sherman:** Thanks, commissioner eudaly. I want to move onto other innovation we've been focused on as a city in the second pilot. I think through some of the research we've done, we've seen some e-scooters are replacing car trips, both personal vehicle, as well as private for hire, including uber and lyft. Some scooter trips replace low carbon modes, such as walking, riding or taking a bus. Through the user surveys, we've seen trips are shifting from kind of recreation from some recreation to much more transportation, and given portland's first in the nation requirement for life cycle analysis that came out of your specific request, we think scooters provide a net positive climate benefit, especially because of the trip replacement of uber and lyft trips in particular, which have a really high emissions profile.

**Eudaly:** Jacob, if i can jump in to elaborate on the life cycle analysis. We know that engage in green washing and try to sell products with a claim that it's -- they are nor sustainable or green --

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more -- i'm skeptical of all of the companies. Where these scooters are made, who makes them, what they are made out of, how long they will last. Whether the parts are recyclable, all factor in to whether it is legitimately a greener agency. Certainly, we know it's not greener than biking or walking. I'm really excited to see the results of the life cycle analysis. And push the industry to do better. We know the first first rollout of scooters seemed like flimsy toys that were not going to have long lives and there is the challenge of built-in obsolescence. Companies are making deliberately making their products old products out of date. So now we're seeing more rugged, i guess, i would say scooters are going to have longer lives. It's really exciting. I had no idea this would be have an impact on the national level. Thanks for making sure that happened.

**Sherman:** I would like to thank my colleagues. We worked really closely with on this. It's been a team effort on p.b.o.t. We're happy to share findings later. As we move forward to think about how we can maximize benefits and mitigate the downside sides. Want to shift to the future and how we're thinking about a future program that helps us maximize the city goals. As we kind of discussed here, the world is changed. And you know that. You are dealing with it every day. The micromobility, shared scooters, bikes and other light electric vehicles has significantly changed. Venture capital flowed freely in 2018. It's incredibly limited now. Companies are literally going out of business because they can't fund raise. The companies were focused on growth and burning through money and now focused on profitability. Companies are closing and leaving markets. Two companies -- companies left our market because of profitability issues. The ongoing impacts of covid and uncertainty around that. Just means we're in an entirely different place. I know you understand from the city perspective. I'm talking about it from the itty-bitty scooter perspective. We need to itty-bitty. We need to assess skills and capabilities. Particularly within the larger city budget environment. The challenges we face engaging nearly half a dozen companies and relationship management and compliance and enforcement, all of those things is really hard. Comparing and contrasting against the benefits of a different model, the model we have through our bike share, contract with bike town. And so all of this has really taken us as an agency to recommend a new approach and what we're here to share is kind of based on these findings. We are recommending as staff we pursue longer term contracts with some of the companies, that we limit the amount of companies from as few as one, potentially an exclusive, um to maybe three different companies and that as Katherine had kind of mentioned with a much deeper focus on partnerships and community benefit. We think that this new management approach will allow us to better use city resources, allow staff to focus on things that matter, like innovation, safety, and equity. It will also provide benefits to the companies

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that are awarded these contracts. It'll give them stability and certainty to be able to invest in our community and it'll allow them to better focus on those community benefits and delivering

**Hardesty:** Excuse me, Jacob. The captioning is off again. Is that a problem we can permanently fix?

**Clerk:** Thank you, Commissioner. Let me see if we can troubleshoot.

**Sherman:** I can always slow down a little bit.

**Hardesty:** we need to stop until the captioning is back on. I think. Okay.

**Clerk:** looks like the captioning is back. Thank you.

**Sherman:** so as i was saying, we believe that -- an olympic number of longer term contracts will set the company better than positioned in order to help us provide community benefit and meet our goals. So this is kind of our recommendation as we're almost at the end of the presentation and we're happy to talk more about this. I want to shift ever so slightly unless there's a question. We saw two screens turn on about the community engagement work that we're doing around these recommendations. So as i mentioned, we've been doing community engage the work throughout the -- almost the past two years that we had scooters on the streets and we just turned into a new phase of that work in order to engage stake holders around these investigations and management strategies. Walk through requirements, like goshe -- negotiating on price. We've been talking to bureau advisory committees. We have focused sessions with stake holders that represent seniors and elders that represent with disabilities and that is by -- that is as well as other stake holders in the city. A number of these are scheduled. We wrap up this phase of public input and engagement before thanksgiving. We continue the conversation with council offices. We have a questionnaire available online and that's boon distributed through channels about what we're exploring. Katherine. This is over to you for the next step. We want a slightly different frame.

**Ciarlo:** we're not clear if it is rfp or rfi or rfq. Part of the reason we're looking to see what feels appropriate for the kind of input that we get. In -- in -- in any case it will have input for the



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solicitation and the criteria by which we'll evaluate responses to that solicitation. We want both to set up clear requirements and to leave some creativity for respondents. To share their strategies with us. We will share that with your staff and get input on it and then of course we will be back in front of you to have any contracts approved and -- and -- and commissioner Hardesty, thank you for your clear direction there. We'll make sure that we're in touch closely, with you even before we bring those contracts. We're looking at early 2021, it is just how quickly we move through this. I want to thank them for the fabulous work and bringing in different viewpoints. For this work and ask you to ask questions and give input.

**Eudaly:** any questions?

**Hardesty:** and yes, i have a couple of questions.

**Hardesty:** that was an interesting presentation. I'm going to ask about helmets. The last time we were doing a pilot we asked if there were ways to make the helmets attached to the scooter for -- or there were opportunities to create kind of a -- a disposable helmet. Has there been new developments in connecting helmets to scooters?

**Ciarlo:** jacob, do you want to answer that?

**Sherman:** sure. Thanks, katherine. Commissioner Hardesty, i have not seen a lot of progress in the industry on this issue. There are in other cities there's -- there's -- there's shared mopeds. I can speak there in the shared moped and the larger vehicle, they actually included on the back a container that -- that the shared helmet goes in and it has a hair net that a person can put on -- or they have a box of hair nets in there that a person could put on. There's a solution there. That's different than a scooter which is smaller than a moped. I think this is one of those areas that -- that you know, we can -- we can -- an industry is here and we're share their testimony with us later. I think this is one of those places where -- at the direction of our leadership you know, we can make strong signals to the industry about what we're going to expect as we're thinking about the future of these devices in our cities.

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**Hardesty:** we're never going to get over that 20 percent if we don't require some innovation around how do we make sure that -- that -- that people can ride basically transportation options safely. So i would strongly encourage some innovation before you come back with a contract because i think -- i think -- i think we can continue to be a -- a -- a national model but we have to demand safety for our residents rather than waiting for the industry to accommodate people riding safely. So excellent work. I look forward to continues the conversation. It is thought provoking and innovative. One last thing i want to say to jacob. There was two that people probably didn't like the automobile because they thought it replaced a horse way back when. I do think that we have to balance innovative technology with safety and privacy and the other issues that we balance -- that we have to balance when we're making decisions and policies. So - - so nobody here is afraid of innovation, but everybody here is concerned about safety and making sure that -- that our communities, all of our communities can prosper. Again, thanks for the presentation.

**Sherman:** thank you for that comment, commissioner hardesty. It is one of these relevant things to think about as we talk about the other issues like drones. Very relevant.

**Wheeler:** thank you. Commissioner ryan.

**Ryan:** yes. Thank you.

**Wheeler:** commissioner before -- could we -- could we go off the presentation so we could see who is speaking. Appreciate it. Thank you. Thank you commissioner ryan.

**Ryan:** thank you. That was a great presentation and very thorough. I think -- i thought you were smart to start off with how this was implementing across the country and it is messy and we're in a testing mode right now, it should always be improvement in testing mode but especially at the beginning. I also think that the access and equity, of course connected and front and center of that is safety really rose up as our main concern. I can see you're working on that. Two things were -- were -- that i heard all of my comments from my colleagues and they've been great. I'll

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try to add a bit. I think a lot of portlanders are just confused about when it comes to safety what is the other citations, traffic citations, i saw pbot does those. I don't know what the citation would be. It seems there's a compliance accountability mechanism that is in the system for safety and i was -- i really wasn't hearing any concrete system for that. So i must have missed something and i look forward to being educated right now.

**Ciarlo:** why don't you speak to that and then we can add a little bit about profiling concerns if we need to.

**Sherman:** sure.

**Ryan:** sure.

**Sherman:** so in the first pilot, 2018, we had no kind of compliance and enforcement. We did a lot of education. One thing we learned was to try to test new strategies around compliance specifically. So partnering with -- with our colleagues over in the pbot regulatory division, we had -- we had regulatory specialists doing compliance work primarily around improper parking. And so you might have noticed that the scooters now have a -- a large five or six digit number on the front of the scooters, kind of like a rental car. If you go over a toll bridge and don't pay the toll, the car company gets back to you at the end of the day and you're going to have to pay for that. We instituted a similar system where a regulatory specialist could find a scooter improperly parked and log the gps coordinates in time and we could send those as a bill to the company for them to pay us with the expectation that they would pass that on to the user. So we issued nearly a thousand penalties and warnings, the vast majority of them for -- for -- for -- for improper parking. Some of that is also because pbot doesn't have authority to do traffic stops. Right on the sidewalk is a moving violation and we no regulatory authority to be able to engage in that space. And that -- as katherine indicated, there's concerns about bias and how we choose some of that enforcement. In -- ticketing for a scooter that is left there with no user around, so we don't know who left it there is slightly different than actually doing a traffic stop. That would

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be my answer. We think this is a place that we need to continue to work and we're looking forward to talking to our partners in regulatory about how we keep doing this and moving forward. We also think, though, that solutions like this locking two mechanism that other cities, san francisco, dc and chicago have done might help us not need to focus as much on compliance because we'll be required to be locked up in the first place.

**Ryan:** i noticed your engagement sessions are opportunity to delve deeper into this. I wanted to ask when it comes to elderly seniors, what does that engagement look like. Who are your partners in that area?

**Sherman:** can we test your microphone and see how well it is working because it has been a little more on point.

**Jonson:** we can. Let me know if this is better. We're putting together a couple of focus groups and made ourselves available in other ways. Right now we're putting together one focus group and a disability rights advocacy group and work -- sorry, and older adults and partners are looking specifically for those. We're working with staff to build sustainability who works on -- on the [indiscernible] and issues like that. Let's see. Offhand, let's see what i can think of for some other partners.

**Sherman:** i try to see if i could pull this up. We have reached out to aarp and human rights and the mayor's office and just kind of scanning, independent living resources, metropolitan family services and then a number of kind of disability groups. If you have recommendations commissioner ryan, we would be interested in hearing them, some of the sessions are coming up in a few weeks and there's still opportunity to invite other stake holders to engage.

**Ryan:** could you send us that list and we could respond. I appreciate that. Thank you.

**Wheeler:** thank you.

**Wheeler:** commissioner eudaly.

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**Eudaly:** thank you, i want to thank the team for a great conversation and thank council for -- for -  
- for engaging. This has been really helpful. I wanted to -- to just note a couple of things, a few  
things real quick. One is safety and compliance with rules and particular scooters not posing an  
obstacle for people with disabilities. That's a top priority. I'm pleased to see the progress on this. I  
do think that we could compel the companies to have a stricter education component that you  
have to go through in order to unlock the app and use the scooters. I also think we need to do  
more public education and outreach and that includes -- was around helmets. They're not  
entirely consistent. I think there's still confusion. Helmets for bicycle riders i believe including e-  
bikes are not required for 16 and over. Do i have that right? But helmets are required for e  
scooters which you know, evacs are faster and people ride them larger distances. Our state laws  
are inconsistent and contributing to the confusion around whether or not helmets are required.  
Helmets are required for e-scooters by law for everyone. Let's see. I also want to note, jacob  
mentioned that we have no regulatory authority for moving violations. That's not pbot passing  
the buck, that's state law. We have no authority. We cannot enforce a moving violation until --  
until or unless state laws change and i believe we're -- we also require a change in the  
constitution, not to say it is not possible but it is certainly not something that we can -- that we  
can achieve on the city level alone. The mayor asked questions about insurance. And i'm not, i  
don't think we went into all of the details i have here. So i'm going to share the details i have.  
Pbot will work with the transportation officials and present national practices around insurance  
requirements. Moving forward we'll be working closely with the city attorney's office to insure  
the city is protected and protecting both riders and pedestrians and consider the right balance  
between insurance requirements and hurdles to small businesses and organizations. I share your  
concerns, especially about use. Using the scooters improperly whether their parents allow them  
to or not. And what liability the city may face. So that's an issue we're delving into and take very  
seriously. I think i've got -- i think that -- i think i covered everything and -- i just want to say from

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the outset i wasn't the commissioner in charge for the first pilot. I was somewhat skeptical of e-scooters. I -- they seemed fun and i kind of liked how the city turned into a playground in a way when we had the first pilot, but i didn't appreciate residents acting like five-year-olds and leaving their scooters littered all over the city. So i'm glad we made progress there. I saw a question pop up i think in the chat, yes, i used e-scooters when -- when we rolled out the second pilot i -- i -- i tried it for the first time and used scooters to just get around downtown. I enjoyed it. I like better shock absorbers. But they're fun and they're a great option, especially for that last mile and taking short trips. I will leave it this. I think unless there's further questions, we move on to public comment or if -- if staff wants to respond to anything i just said.

**Wheeler:** very good. Thank you. Thank you to the staff, travis a fantastic presentation. How many people do we have signed up for public testimony?

**Clerk:** looks like we have ten people on the line.

**Wheeler:** good, three minutes each, name for the record please.

**Clerk:** first person and william henderson.

**Wheeler:** good morning.

**William Henderson:** hello, looks like i'm on here. My name is william henderson. I'm the founder of rider port in portland and businesses for a better portland. I listened to the whole report. I agree. I'm sure you also heard plenty from scooter companies about how -- how a permanent program is going to help make it easier for them it improve and expand their services. So i just wanted to give you a different angle on it which is how a permanent program will solidify portland's role as leader and innovation center in this small growing industry. So our story actually began when i approached pbot with an idea, this is about five years ago, i was really excited about how gps and sensor data could be used to support transition to a more sustainable and equitable transportation system. I was concerned this data would be used in unjust way, without creating systems for corporate or public surveillance. Then with the sudden

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arrival of these internet connected bikes and scooters, we knew what we had to do. Pbot was an early customer and partner. Now we're a growing company with 18 full-time employees. We're working with over 70 cities around the world. You know, i think you -- you probably realized this during the presentation, but within this world of micro mobility which is industry parlance to bikes and scooters and small electric vehicles, portland is really a leader on the world stage. They're one of the first cities that require a company to pay a fee each time they use the right-of-way. It is a sort of subsidy. This is something we helped other city's with this. We are evolving from ride hailing which is the industry that preceded it. I think that's a really important thing that has impact outside of the city itself. So by making this program permanent, you will help our city meet critical sustainability goals and help insure it happens in a way that is equitable and portland lead the way worldwide on how these programs should work. How they work for cities and all of the residents. Finally, you'll help create continued opportunities for local companies like ours partnering with the city to provide these programs and make sure they're done the right way. Thank you.

**Wheeler:** thank you. Appreciate your testimony.

**Clerk:** next we have Phuong Bui.

**Wheeler:** welcome.

**Phuong Bui:** good morning. I'm a manager for spin, one of the operators participating in the pilot program. Spin is committed to riding jobs. All employees are in-house w-2 employees with living wages. By rejecting our franchise and contractor and workforce model we provide the employees with benefits and training and protections that insure quality of service. Since mid march when many other companies paused or suspended their operations across the country, spin has worked closely with pbot to fill transportation gaps. We have the largest service area and serve many neighborhoods with limit transportation options like foster and woodstock and others. With the expectations during the pandemic to socially distance each scooter offers

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sustainable mode of transportation and eases congestion and pressure for parking. We welcome the feedback on how spin can more effectively partner with the city and its agencies to build on the shared progress we made so far. We're supportive of a permanent program with a limited number of qualified operators and considerations of past compliance and equity service history. Thank you for your time and we look forward to our continued collaboration.

**Wheeler:** thank you.

**Clerk:** next up, we have derek Heino.

**Wheeler:** hi, derek.

**Derek Heino:** morning, commissioners. I lead community partners for spin in portland. Portland is my home and i'm committed to our community. Spin has worked closely with community stake holders to serve local needs. And reduce service, our team implemented a robust protocol and continued to operate in the cities and locate central trips. During this time we also offered three 30-minute unlimited rides to healthcare workers and partnered with healthcare organizations like hsu and legacy house to promote the program and distribute free helmets. This resulted in 16,000 free rides completely subsidized by spin in portland. They had numerous safety courses and last year's parkways and the safety demonstrations for psd and park mobility. We have rider safety and training for the format. Our online portal riders watch safety videos. This is synthesized to take a quiz after the videos with than an opportunity to earn free spin credit and have an option for a free helmet to they're door. This is a broad range of companies to promote the spin program and discounted rates and access to spin scooters without an account. Spin participated in the pbot wallet and is currently the only scooter in the parking program for the northwest and central east side. Through this partnership, spin is also able to provide spin access discounted rates for these that qualify for the gold transportation wallet by the residents and the -- and the income transit. Thank you for the opportunity to provide public comment today and we appreciate your leadership during this time.



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**Wheeler:** thank you. Appreciate your support.

**Clerk:** next up we have tim alborg.

**Wheeler:** hi, tim.

**Tim Alborg:** good morning mayor and commissioners. I'm the head of government partnerships for spin. We're one of the participants here in the city for these scooter pilot program. I want to start off by thanking pbot for the great work they've done in putting together the pilots and making sure that the companies operating in portland are held accountable on issues such as access and equity. Spin is committed to helping portland overcome the transit and economic disruptions that you all have experienced due to the covid-19 pandemic. In april and may of this year after tri-met was forced to cut service, spin stepped up and worked with pbot on a partnership and provided scooter rides if essential trips. During the partnership we saw some striking scooter riding. There was an increase in scooter trips starting and stopping near bus routes along the 44 and 19 routes. Also, when comparing the data, prior to -- prior to the stay at home order and during it like pbot mentioned earlier, we saw a 50 percent jump in overall ridership and equitable access with a jump in portland trips. Spin is the first company in portland to geofence the parks. Spin also has the ability to supplement portland's recent investment in biking infrastructure and by deploying dedicated parking and charging stations in collaboration with the city. We call these stations spin hubs. They help the environment by decreasing emissions from vans. We charge them and redeploy them. These charging stations helped to keep clear and orderly. Spin definitely supports the permanent spin program that is being proposed and definitely we think that the -- that the city should take a look at requiring a history of compliance when vetting vendors. Proven track record of response in the city, as well as hearing employees, not independent contractors. We want to make sure that the scooters are essential transportation service during the pandemic. Many thanks for your attention today. Spin looks forward it a bright transportation future here in portland.

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**Wheeler:** thank you. Appreciate it.

**Clerk:** have maurice henderson.

**Wheeler:** before we go on, i want to remind people of their obligation to state whether or not they're a lobbyist per council rules.

**Maurice Henderson:** thank you, mayor, can you hear me?

**Wheeler:** loud and clear.

**Henderson:** okay. Great, thank you. My name is maurice henderson. For the record i'm senior director of government partnerships at bird. Thanks for the opportunity to speak with you today about the current scooter pilot and prospects for the program. We operate scooter programs all of the world and we're appreciative for the opportunity to provide our services to people of portland in partnership with pbob and community organizations since the first pilot in 2018. We applaud the city for the implementation of the shared scooter pilot and supported this community and economic mobility and equity and congestion reduction and sustainable goals and appreciated commissioner's comments regarding life cycle analysis. We provide that information as well. We look forward to continuing to work with the city council and pbob and refine the regulatory environment and support of those goals through the remainder of the current environment and prospect of the institution of the permanent program. Bird looks forward to operating to cities globally and particularly at a pandemic and the heightened social challenge. I wanted to thank our community partners, street trusts, park mobility, rosewood initiatives and others and discussions around scooter and pedestrian safety over the past year plus. Also been -- been very fortunate to be able to highlight local businesses through our app and other -- other channels that we leveraged to insure that during this time of economic uncertainty that people are -- as they're using vehicles able to get around and participate in the economic fabric of the community in portland. I want to share two quick stories that give you a different perspective. One is from a -- from a long-time friend of the city, jenny glass, the former

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executive director of rosewood. Last year i had an opportunity to sit down with jenny and talk to her about scooters. She said i wasn't excited about scooters when they first came. I noticed that a number of our constituents that we serve in east portland started to show up for events for the services that we offered and other activities. It was the first time we're able to do that because they had a transportation option in a place that had largely been a transportation desert to them. She said i saw they were showing up on black and white shared scooters. Then a couple of weeks ago, i sat down with another good friend of the city, mackkyah adams, she said she saw scooter users leveraging the headlights on the scooters to amplify the sign language interpreters so participants could follow along with speakers and follow instructions in case something happened. I thought these two stories were really instructive of some ancillary benefits that come from scooters that we don't think about. I think the equity and sustainability goals being achieved in the program are things we should hope to see going forward for residents and visitors and bird looks forward to a fruitful partnership with the city.

**Wheeler:** commissioner eudaly, you have your hand raised? No. Hardesty?

**Hardesty:** thank you, mayor. Thank you maurice. It is always a pleasure to have you back at city hall. I'm putting that in quotes because we're all virtual.

**Henderson:** thank you.

**Hardesty:** maurice are you a lobbyist for your firm?

**Henderson:** i'm not registered as a lobbyist in portland. We have a lobbyist in portland.

**Hardesty:** thank you. I appreciate that. It sounded like the last three speakers were lobbyists or at least representing their firms. I want to make sure i ask that question. Thank you. And thank you, maurice.

**Clerk:** next up we jonathan Hopkins.

**Jonathan Hopkins:** thank you for allowing me to speak on issue 811. I'm jonathan hopkins. I'm at lime, i'm registered as a lobbyist per code with the city. And portland's longest serving scooter

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provider. We're here to encourage commissioners to make the best scooter program in the country a permanent fixture of the city. Portland led the country in embracing opposites before pier cities. Scooter shares another example of this leadership. Two years after portland first welcomed scooters for example, now virtually every major city in north america has them, including seattle and scooters just a month ago. We've been a policy leader to encourage safe riding and parking. In addition we had -- had seen great partnerships to do more like lime and others partnered with pbot to script and film videos to help people understand why the parking rules that pbot sets matter. The results have lowered complaints from organizations by over 50 percent. Scooters help people where other car options are few a far between. Scooter opposites make that more accessible. To increase access in east portland, lime cut their prices by 50 percent for all trips to begin in the east portland pattern area. Meanwhile, our low income program and the city pays a low lime access limit. It makes a half hour scooter trip cheaper than bus rides. Those bus rides are subsidized and scooters aren't. I talked to many scooter riders in portland, and many use their scooters because he doesn't have a car, recently had his bike stolen and recently went for door dash. He said he wouldn't be able to keep his job without them. Or there's julie who doesn't own a car and doesn't have anyone at lime. She could not walk large distances and scooters have been a lifeline getting her to her downtown job. They feels good about the carbon input and they're quite similar to a bus on a per rider basis. We heard about environmental issues and we know that pbot, from pbot data, scooters reduce car use and ownership. During the first four months of covid, six percent of global households added a car to the household mainly about concerns of transit before pbot showed that they reduced car ownership and others are considering selling. They're environmentally sustainable solution to implement. When we must use every tool available to combat climate change and improve road safety and make our system more equitable and give people options during covid, we believe it makes all the sense in the world for pbot to continue this world class program.

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**Wheeler:** that's a lot. Appreciate it.

**Clerk:** next up we have lindsey murphy.

**Wheeler:** hi, lindsey. Lindsey, are you there? She's unmuted. Keelan, she's muted.

**Clerk:** looks like she may be having trouble with her mute.

**Wheeler:** let's see -- she dropped off, wait, there she is. Lindsey, can you hear us? Do we know if she's on computer or on a phone?

**Clerk:** looks like she's on a computer. She just chatted and said that she can hear us.

**Wheeler:** she's on a computer.

**Clerk:** we're not able to hear her.

**Wheeler:** she's unmuted according to this. She said she's unmuted. Lindsey let's do this, sounds like you can hear me. We'll go to the next speaker and neighbor you could relog-in. See if that helps.

**Wheeler:** or check her volume. She said if you provide the call-in number, marcus is saying he could relay that to her.

**Clerk:** the call-in number is included on the invitation.

**Wheeler:** so she's going to sign back in. She said her volume is on high. We'll go to the next person and come back to lindsey.

**Clerk:** the next person looks like sarah sandler.

**Sara Stambaugh** hi. Thank you city council for taking the time to hear us speak today. I'm sarah stambaugh. We're suite managers for bird one of the sides that has fleet managers here in portland. It is a new program that i think bird has rolled out. We're incredibly excited and grateful for the opportunity to continue to partner with bird in the city of portland. We have worked hard to provide and maintain our fleet which is 100 scooters privately that we own so that the community can enjoy the scooters but not only that so they're not a nuisance to the city and local businesses. We dropped you have a cards and touched base with concierge noticing if

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there's a problem with scooters blocking entrances to give us a call no matter whose they are and we go get them. We take time to sanitize any bird that is touched for covid reasons. And then also the other night for instance, down on salmon street, all of the scooters including bird, lime, bolt and spin were knocked completely down on both sides the street and victor picked all of those up and put them upright. So we do that because we feel you know, one bird down, one scooter down is a scooter down for all of us. As fleet managers we don't feel we had a fair shot or opportunity to operate due to the 100-plus days of riots. We took loans out to survive like many other small businesses. We would be incredibly grateful for the chance and opportunity to operate in 2021.

**Wheeler:** thank you very much. I appreciate it. Can i confirm you're not a registered lobbyist.

**Stambaugh:** i'm not.

**Wheeler:** okay. Thank you.

**Wheeler:** let's go back and see if lindsey, if lindsey -- can you hear me?

**Lindsey Murphy** yes. Can you hear me?

**Wheeler:** excellent. Back with us.

**Murphy:** hi, portland city council, i'm lindsey murphy, a resident and small business owner based in northwest portland and i'm personally committed to the mission of access inclusion and representation and education and also transportation. I couldn't be in more support of the permanent fixture of e-scooters as a micro mobility public transportation option. They are safe. They're fun. They're environmentally friendly. And they are -- they're economical or at least they can be. So i intentionally live a low emissions lifestyle. I don't have a car. I never had a car. And personally i am scared to death of riding a bike. It might be a center of gravity thing, i don't know. And i moved to portland back in 2013 is because of the incredible public transportation system. So in 2018 when they started littering our streets with these super little devices called e-scooters, i was overjoyed to have an option other than uber and public transit which for me,

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i'm late all the time so i'm always missing the bus. Being able to hop on one is incredibly convenient and at the time economical. To talk about the environmental aspect of e-scooters, they're factually a tailpipe emission device. The environmental concerns that are around e-scooters are centered on how they're made and what they're made of. That's not dissimilar to the historic and current industry standards for motor vehicles and motor cycles and children's toys. You hop into your local grocery store everything is wrapped in plastic. Plastic, you know, materials, production, disposal, those are -- those are issues that we're working through as a local and global community. I see the answer for e-scooters like all things in the development and continued innovation and -- and in material development sourcing production, manufacturing, distribution and disposal industries. They're safe. Just to say there was a study that -- that was published back in february of this year by the international transportation forum that found that e-scooters are either as safe or safer than bicycles, motorized mopeds and motor cycles. While there's not enough data from hospitals and emergency response departments, even the provisional conclusion put e-scooter visits on par with mopeds and cyclists. And they let them note that we're previously mentioned in testimony in speakers prior about drones and the scooters themselves. Safety improved over time. I actually have a graph that i'll happily send along to whoever would be interested in seeing it that shows over time, literally a 12 month period of increased ridership, safety issues go down. Thank you.

**Wheeler:** thank you very much. Appreciate it.

**Clerk:** next we have phillip wolf. All right. Is looks like i'm going to -- to -- phillip are you able to unmute? There we go. There we go.

**Sherman:** hi, are you ready? So it looks like you're sending a chat. Mayor wheeler, phillip is deaf and has submitted written testimony that i will be reading for him while he signs.

**Wheeler:** okay. That's good. Thank you.

**Sherman:** yeah.

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**Sherman:** as you might see in the chat box, philip is saying i'm reading his testimony because we're unable to provide interpreter when he signed up for testimony yesterday. We scrambled to try to arrange one but it was difficult. Philip are you ready? Are you ready, philip? Hello, my name is philip wolfe. Let's -- ready? Hello, my name is philip wolfe and as an avid scooter user with -- with -- hello my name is philip wolfe and as an avid scooter user, i wanted to step in about this matter. When scooters first came to portland i was -- i was -- i was -- i was -- closed captioning working. I believe he was going to try to track along with my voice.

**Clerk:** it is working. The closed captioning is working.

**Sherman:** when -- when -- when scooters came to portland, i was thrilled and -- when scooters came to portland i was thrilled and tried all of the vendors and found lime to be my vendor of choice for several reasons, great lighting at night, excellent maintenance service, easy to access for services, reasonable pricing and very accessible. In 2018 i testified before people and pbob concerning this vendor. How they could improve and they map out the pilot and action and address concerns. I gave a compelling testimony which inspired many for urgency along the line to continue based on my lived experience, using lime and living in the pearl district next to downtown. I was also invited to be one of the panelists of street trust oregon active transportation summit held at the oregon zoo site. 500 people were there to hear, see panelists perspective. I believe they appreciate my story which inspired lime to do better and they certainly did. I expressed concerns about people using scooters on sidewalks which puts people at risk of harm, especially people with disabilities and yes, myself included. Later on pbob contacted me and asked me to invest in a video and collaborative effort to send a strong message how important it is for all of us to work together in following the guidelines for the sake of the public safety here in portland. That was last year. To this day, i saw a significant improvement, so i believe that lime is committed to continue this work and will do more with my suggestion that they expand with different scooter devices which would serve people with



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disabilities so that this can be more inclusive and provide more options for accessibility here in portland. There's further discussion with this effort. I'm investing in with pbot and lime. I'm proud of my contribution and encourage lime to offer more which i believe they will do in time. I'm confident that lime needed data to justify why lime is needed. With all of that said, i urge you to support the continuation of keeping lime for the city of portland. Thank you. Here is a receipt of our work. I implore you all to take two minutes to watch this video here produced by portland bureau of transportation and disability rights oregon and rooted in rights and lime and then philip gave us a link to a website that i believe the clerk shared with council this morning.

**Wheeler:** thank you.

**Wheeler:** next individual.

**Clerk:** next we have wayne reiner.

**Wheeler:** good morning, wayne.

**Wayne Reiner:** good morning. Thank you for the opportunity to speak. My name is wayne reiner and i'm not a lobbyist. I'm speaking today to offer you perspective of someone who is actively involved in the scooter business. I'm an independent business owner in partnership with bird that operates in portland city center as well as outlying neighborhoods. We -- we -- my company manages and insures -- insures scooters are available to riders in all areas, including neighborhoods east of the 205. Like sarah and victor who spoke previously earlier, i'm one of five fleet managers in the portland area that work with bird. We're all independent businesses that live and work in the portland area. My company along with the other local fleet managers have partnered with bird to assume the responsibilities of all bird scooter maintenance and management in portland. Unlike the historic relationships with contractor scooter chargers, we simply have revenue from charging and deploying scooters, we have a business partnership with bird where our income is based on revenue from ridership. This gives us the opportunity to generate enough revenue it hire w-2 employees and create jobs, us specifically, my company.

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Bird has a stake in our business and only prospers when we as local entrepreneurs do well. We meet with bird for guidance on best practices for scooter management and sanitation processes. We have a vetted interest in insuring safe ridership as practiced and working in the city center area, we often find ourselves in an educational role, educator role with riders and encouraging them to wear helmets and stay off sidewalks. In addition, we find many circumstances where we practice stewardship for other -- for other scooter company vehicles. Sarah was mentioning earlier, sarah and victor, we often find ourselves providing maintenance to -- or moving hazardously parked scooters and picking up knocked over scooters even for nonbird scooters. We have covid concerns and make sure that our scooters are properly cleaned. This is something that we take on as local business owners. In short, the presence of bird scooters in portland represents local businesses in action. It also represents the employment of people who are earning a living wage. Thank you for your attention.

**Wheeler:** thank you. Appreciate it, wayne.

**Clerk:** mimi german.

**Mimi German:** hi, and thank you. I have testimony today -- i'm trying to find the -- the -- there we go. Sorry. It has been a long wait and an interesting listen today. So my testimony today -- my testimony today is -- is titled joe walsh, a man with a scooter and a message. Joe left his body yesterday. I decided there would be no better homage to my friend but to say his name here. He came to council meetings to listen and he hoped the commissioners would do the right thing he knew better. He witnessed gangs of thugs aka police murder people in the community. Yet he came to city council on his scooter. He witnessed cops hurting the most vulnerable. Joe knew that the only way to pave the way to justice for portlanders was to come here to city council, most recently on his scooter to hold each of the commissioners and the mayor and police chief accountable for the atrocities that you all unleashed upon us. Joe knew as i do and many protesters know, you give a carte blanche check and discards friends on the street. Joe came to

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make yea votes turn into no votes. He came to make you accountable and you threw him out. Time and again. Now he's gone because he told the truth. He held the mirror of justice and humanity in your faces so you could see yourself and the destruction in your cause you threw him out. Joe, even on his scooter just wanted you to listen to your own humanity, height of humanity. Not just his face, but you threw him out. This is who you are. In honor of his lifelong sack a coming down here relentlessly week after week for decades with enough oxygen in his tank to get here and home, i honor his life and outrage and commitment to understanding of you la and justice. I honor his view and perspective as it pertains to you. Joe called you out. He put you you up to the task. He gave a damn. Made a memory of joe walsh remind you to do better and learn what love looks leek and what it truly is and what you're doing -- what you're doing is not even close. Our outrage will continue in joe's name and all those that are brutalized by your cops and your failed policies and your lack of care and your insincerity. I love you joe walsh. May your name ring out in the name of justice. Thank you for your time.

**Wheeler:** thank you. Next individual, please.

**Clerk:** the last person we have is marcus mundy.

**Wheeler:** hey, marcus. Good morning.

**Marcus Mundy:** good morning mr. Mayor. Good morning council. My name is marcus monday and i'm a registered lobbyist for the ccc for city of portland. I'm director for communities of color, a 19 member organization of culturally specific nonprofit entities performing for people of color in our region and the state of oregon. Thank you for the opportunity to speak to you today on agenda item 811 related to e-scooters. I'm working to make it permanent as tool to provide more equitable emission free mobility options to the city. Additionally, we're asking that the program be expanded in size so that all corners of the city can be stirred with these options. Mobility and accessing our community without having to use a car is equity and sustainability issue. Scooters provide critical alternative for people that don't have easy access to a tri-met

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group that serves their trip type. Many don't serve the trip need of all users and scooters can help solve that. Portland's communities of color are transportation challenge and they need opposites. Scooters also help thousands get transportation at a cost cheaper than public transit. Those involved in low income programs, they tell us it gives them a convenient option that saves them money. These options may go away if scooters don't continue to be available in portland. As you know ccc supports equity minded measures such as metro 218 that benefit the communities of portland. E scooters are one such option. They're critical to close transportation gaps in the city. In fact we could use them to close more gaps. We should be insuring enough scooters are in the city to serve low income users in the city in addition to downtown and lloyd district and east portland. It could be half the price and better serve the community of portland. We hope that the council will continue this nation leading program, providing more environmentally friendly and low cost transportation options. Thanks for your time today. It is good to hear all of you today. Thanks.

**Wheeler:** thank you. As always we appreciate the many issues that you work with us on from a community perspective. Your input is invaluable and the input of your organization is invaluable. I appreciate you being here today.

**Mundy:** thank you.

**Wheeler:** next individual, please.

**Clerk:** that's all.

**Wheeler:** very good. All right colleagues any further questions before we go to the roll call? I'm in the seeing any. Keelan please call the roll. This is a resolution, i'm sorry it is a report. Need motion and second.

**Hardesty:** so moved.

**Wheeler:** i show this as a resolution.

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**Wheeler:** i should never question my good judgment. This is a resolution, please call the roll. [roll called]. Eudaly.

**Eudaly:** thank you to the pbot team and for the people that gave testimony. I've gone from being skeptical to being excited about the potential for us to do even better. In particular, my ears perked up when testifier mentioned that delivery drivers are using e-scooters. I let my staff know i'm interested in creating a discounted program for them, for e-scooters and e-bikes, perhaps working with a platform and giving them extra education and support so that they can model good -- good rider behavior. We can reduce the number of cars on the roads and save them money and support workers who are really essential to us right now but who are very precarious working in the economy. So keep your years open for that. I also want to appreciate the -- the contractors that came to testify today. I know that this is an incredibly hard time for our small business -- small businesses and local economy. I do want to emphasize that the biggest impact is coming from covid and i just want to urge people to be careful about those, their language when talking about the protests. We haven't had 100-plus days of riots, that's a narrative being advanced by fox news and the federal administration. We have had 100 days of largely peaceful protests with a small minority of protesters committing acts of violence and vandalism. There's a big difference between civil disturbance and a riot. These protests are against silencing voices. I don't want them to be dismissed. I don't want the focus to be taken away from the cause. And that being said, the council need to work with communities, continue to work with communities to support our small businesses through the multiple crises that we're dealing with. I want to thank the staff that worked hard on this report. Previous reports and the entire eastern program. I want to thank johnson and katherine, i still trip on your last name. Ciarlo.

**Ciarlo:** that was perfect.

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**Eudaly:** i got to relinquish my italian card for that. Thank you katherine for your work and presentation today. I appreciate the report's recommendation to create a -- a permanent e-scooter program and will be working with community stake holders on implementation as we change how e-scooters are managed by pbot and finally i want to stand my condolences and sympathies to the friends, family and community of joe walsh who as we know was a passionate advocate and a vocal critic of city council. We certainly didn't always agree but i know that he will be missed. Thank you mimyi for your testimony and bringing that to our attention.

**Clerk:** ryan.

**Ryan:** thank you so much for pbot for your informative presentation and the community for your testimony. This e-scooter testing implementation has come a long way in two years. It is really obvious. I'm grateful for everything that pbot has done to research the issue of e-scooters this the city and appreciative of the intention by which you approach the new contract. I'm proud that we're a leader of this inevitable mobility choice on the world stage. I firmly believe that we have to continuously work to provide as many transportation options for portlanders as possible, especially as so many are impacted by the economic downturn and the downturn in -- and coupled with the climate crisis that we're currently facing. I appreciate the remarks by the small businesses. E-scooters can and should be part of the pathway to create a more equitable transportation system in the city. I do vote yea.

**Clerk:** hardesty?

**Hardesty:** i want to once again really appreciate pbot staff. For my first week at city hall, i had lots of very informative briefings and conversations around improving transportation access to -- to people in the city of portland with a special focus on east portland which is my home. I want to -- to caution pbot, as they continue to get data, i want it aggregated because it is not possible when we say it and what communities are getting the opportunity for these diverse transportation options. I want to appreciate mimyi for being here and give my condolences to

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friend and family of joe walsh. He once called me a cocktail liberal and we made up. May he rest for the passion he brought to advocacy. I hope that if employment opportunities are being made that we're able to see bpot people and if they lead to living wage jobs, i like to see the data about how we're advancing our equity goals all the way around. Not just who gets to use the transportation option but who gets to work for the transportation option. We can't just look at equity at the back end. We have to look at it every time through this time slot. I hope the next conversation we can really aggregate that data to find out really who does benefit when these companies get -- get city contracts and whether or not we're insuring that we're not just saying that we're centering bpot communities but we're centering bpot communities. I also want to reinforce something commissioner eudaly said. It was hard to hold my tongue when i hear businesses misrepresenting 120-plus days of protests as a riot because again, one day we had a riot and we not had a riot since then. We have a lot of racial healing that we need to do as a community. And we cannot do it if people are mischaracterizing what is happening on our streets. I would encourage people to be very thoughtful about spreading misinformation. I'm happy to vote yea. I look forward to the next step.

**Wheeler:** i want to thank commissioner eudaly and the pbot team for the hard work on this and the tremendous due diligence they put into this, gathering of information, sharing of information and the community outreach in bringing back what is a solid report. I do support the -- the program. I support the frame that pbot has used in terms of accessibility, making sure that we're geographical and thoughtful about accessibility issues. I have a couple of -- one is a thought and one is a concern. First the thought, we will decide collectively as a community what the culture around scooters is going to be. And in some communities the culture is one of indifference where people dump the scooters on the sidewalk. They block ada ramps. They block the doors to businesses and households. Pretty much once they get off the scooter they see this disposable object and therefore somebody else's problem. That's one culture. The other culture

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is the one that we're trying to cultivate here which is one of courtesy and understanding that if you leave a scooter in the middle of a sidewalk there are people who may not see it. There are older folks who -- who might not note it is there. It is a trip hazard. Trip and fall hazard. It is a blockage. It is not the way it is intended to be. That's going to require outreach on our part. It is going to be about public messaging. It is going to be about encouraging the appropriate use of scooters. They're a valuable tool when used correctly and when used incorrectly, it is sidewalk junk and it is in the way and makes people really angry. Let's commit collectively as a council right here and now if we move forward on this program, we're going to work with our private sector providers to make sure that we fully inform people about the opportunities and risk and we produce a culture of safety on one hand and encourage people to use helmets and discourage underage use and common courtesy about where to leave them. That's my comment. My concern continues to inch around liability. I understand when we're talking about a really good last mile option, when we're talking about an equitable and accessible option, sometimes it feels a little stogy to talk about liability. But there's significant liability associated with the program. Number one we're providing access to it, number two we already know that compliance with -- with -- with the -- with the rules around the age of use as well as wearing helmets is poorly adhered to by the public. I want clarity from our service providers that they understand the risks, that they are taking on the vast majority, if not all of the implicit liability in these issues that we make sure that -- that the user agreements are very ironclad in terms of the user's liability with respect to using these tools should they voluntarily choose to do so. I do not believe it is appropriate for the taxpayers to take on the liability that should otherwise go to the providers of these services. So that's my concern. I know that people at pbot and our legal department understand that. I know our service providers have heard my concerns on -- in this regard and hope they continue to work with us on these issues as well. On the whole, this is a great program. It is well received. It is well managed by pbot and the city of portland.



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Commissioner eudaly, i want to congratulate you on getting it to where it is. I'm happy to vote yea. The resolution is adopted. Thank you to everybody that testified.

**Wheeler:** we move on to the regular agenda. 816. If you could read 816 and 817 together.

**Clerk:** Update loss control and prevention code to streamline coordination and implementation of citywide loss prevention activities and remove the loss control and prevention advisory committee. Amend administrative policy, loss prevention policy, to dream up streamline board loss prevention plan procedures.

**Wheeler:** the proposed amendment provides clarity and reflects organizational change and loss prevention and safety and industry best practices and regulatory requirements. This ordinance updates language. However, it does not change the existing requirement that the bureau develops a loss prevention plan in the proposed amendments do not change the existing requirements to address loss prevention. We're going to hear more from the presenter.

Good morning.

**Patrick Hughes:** good morning. Thank you. Can you see my video?

**Wheeler:** we can see you.

**Hughes:** okay. I'll give you a quick history of -- and try to explain the scenario that we're in and the reason for the changes to both the policy and the administrative rule are appropriate at this time. A key factor to consider is the city is insured for workers' compensation and to maintain that designation we basically have to follow the self-insured rules to meet loss prevention efforts. There's a key regulatory factor behind this policy that you may or may not have known about. The current policy was developed in 84, 86, 2008. It has not been up dated since 2008.

The changes we discussed and presented show that long-standing i guess, just continuation of ongoing policy that hasn't been enforced. The rule was adopted in 96 and hasn't been reviewed or updated so we have a stale document. The big situation with both the rule and the -- and the policy, there are notations of existing committees, loss prevention advisory committee, as noted

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in chapter 354. They actually have the mayor and commissioner and auditor and city attorney and director of office of fiscal administration and the personnel director, you may be aware because you haven't been on the committee that hasn't met in over ten years. A similar committee existed on the safety net under the administrator rule and policy 11.01 and that was identified as a safety net team. And that also is not met within ten years. Couple of these items in conjunction with increasing loss prevention across the city basically require that we go through the update policy and the rule. Regulatory wise, osha is viewing the city as one entity. Osha has been in the the city and created three significant inspections. They look at the city as an entity, thus the policy becomes more important to raise a citywide aspect for loss prevention. To work to get to the point where you see the policy and the rule involve working in collaboration with all bureaus. They have all have representatives with risk management, loss prevention team, including city attorney. They have three large work group meetings in the fall of 2009. We're getting close to 2021 but covid has delayed us being able to present here. All bureaus have broad buy-in and support of the documents in your possession which is very good news. Proposed changes for the policy, really the key thing on the changes becomes -- the committee that just has not been active. We probably should not have that in plaque and white, because we're -- we're failing our own policies at that point. Administrative rules, more of the meat and potatoes working document that took on of course the safety net community which i mentioned. Clarified rules and accounted for organizational changes, removed benchmarks that were imposed upon bureaus and the reason for that was they were based on injury and illness rates and if you look at it in one direction, that could deter reporting and working on solutions. Beyond that we took out a specific rule and the policies within the administrative rule is going forward creating new committee and loss prevention committee and is that will be with the loss prevention team to look at an overall city view and attack the things we see. A little bit about the direction in general. Once -- if this gets passed through, risk management provided a template

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called the loss prevention template. That will be allowed for every bureau to go through a format to quickly create their own template plan. That document thus insures that every bureau has this, which is the motion requirement. Risk management will assist with it and train on it and review it at any moment at any time. Anyone looking at osha inspection can say here is the plan. That qualification gets checked off. Each bureau can designate their current and intended loss prevention efforts. Osha identifies ten categories. They'll be able to pick and choose from that. That would be their plan of action for the year and annually, risk management would review that and update that. Those are key factors. I'm probably more in tune with -- with what is -- what initially requires what we have to do to stay within regulatory compliance as well as the safety efforts across the city. Safety i heard all morning as coming from many different directions.

**Wheeler:** patrick, before we move to the next section, let's get a question in from commissioner hardesty.

**Hardesty:** thank you, mayor, thank you, patrick. What was the work that was not done for ten years by the two advisory committees and where does that work take place now?

**Hughes:** well, uncertain of the work they did. I was not here at that time. The committees fell off for a decade. It is hard to even tell what the intention was. My guess would be to standardize discussions at city level with loss prevention and safety. I think that's been slowly replaced by -- by risk management is tracking all of the workers' compensation claims and the incidents, so i imagine they were probably discussing somewhat data like that and trying to identify hotspots within the city that needed attention for loss prevention.

**Hardesty:** i'm sorry to be asking you questions before your time and before my time, but i'm -- i'm curious as to whether there was outside participation anticipated on these committees and if so how does the community force-feed into the work of safety and risk management.

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**Hughes:** the list of members in the existing policy do not include anyone from outside of the city which may feel appropriate to some degree because loss prevention is really key directly toward employee safety.

**Hardesty:** right.

**Hughes:** so.

**Hardesty:** one last question. Are we going to get a -- a -- a -- an unrealistic perspective of safety if we are being graded as a city, as compared to bureau by bureau? You know some bureaus need computers more than others. Some bureaus have weapons that have potential to cause harm. If we're being collectively graded, what would that process look like? And what advantage and disadvantage of -- of -- of -- of doing it as a -- as a combined group.

**Hughes:** the intent of osha when focusing on the city as a whole instead of bureau by bureau, that intent is not to grade each bureau against the city. The intent that the city and its leadership are taking safety and loss prevention in the highest level and pushing that downwards. Bureau by bureau, they will have -- there's many different. You have the office setting versus pbot and all of those things will be different. The loss prevention efforts and their loss prevention plan for pbot is extremely different than say omf which is probably 90 percent office work.

**Hughes:** right. But the grading -- there's not a grading bioshot. It is osha is intending to say, someone at the high level of the city is making sure that actually every bureau is being compliant with the requirements.

**Hardesty:** all right. That's very helpful. Thank you.

**Hughes:** any or questions?

**Wheeler:** i don't see anything. All right. Patrick, did you have more on your presentation?

**Hughes:** the only thing i wanted to say in the big picture and we're already there. It is not a deficiency but the update of these policies and rule will be assessed in us looking at saying risk management will be able to consult more directly and efficiency with each bureau on safety

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topics. We will slowly be moving in a positive direction to standardize the city's loss prevention techniques and efforts. We will be able to now individual through the bureaus and thus for the whole city document appropriately to oregon and osha when they come and for whatever reason that we're on track to do that.

**Wheeler:** thank you. Good presentation. I appreciate it. You excelled at zoom. Well done.

Welcome to the new world. With that colleagues any further discussion before we open up to public testimony? Couple of head shakes. Keelan do we have anyone signed up?

**Clerk:** nobody is on the line to testify.

**Wheeler:** patrick, great work. He's -- he's -- this is first reading of nonemergency ordinance. It moves to second reading. Same with -- i totally got the numbers wrong here. 86 -- 816 is the first reading of nonemergency ordinance, it moves to second reading. 817 is also nonemergency ordinance. It also moves to second reading. And we now have -- have -- have a commissioner fritz with us for quite a while. Read 818 please.

**Clerk:** authorize price agreement for pump station improvements for professional engineering design services for a total of not to exceed amount of 15 million dollars.

**Wheeler:** commissioner fritz?

**Fritz:** good afternoon, everybody. Thank you. League of oregon convention which is where i was this morning. This is a -- the environmental services uprights nearly 100 pump stations that work together with 2,000 miles of pipe to direct sewage to the columbia waste water treatment plant. Environmental services has a need to keep them working reliably in order to prevent sewage overflows and public health and the environment. This would require a request for proposals of three five-year contracts so they could deliver pump station improvement and increase their resilience and reliability. Here today for a brief presentation, a senior engineer and engineering manager both from the bureau of environmental services.

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**Paul Suto:** thank you commissioner fritz. Good morning -- good afternoon, mayor wheeler and commissioners. For the record i'm engineering manager. I noted in the introduction, we're here to request approval for a more efficient way to contract with the independent consulting firms for the critical work for the city so that we can maintain our service levels to the community. So the goal is for us to be more timely in addressing the rehab needs to better serve the community. I'll hand it off to aaron lawler and i'll be available for any questions as needed.

Thank you.

**Aaron Lawler:** thank you, commissioners, mayor, for having me today. I want to check real quick, are you just seeing my presentation slides or do you see my entire screen? Okay. Great. Thanks. What you see on the slide is what i refer to is the pump station subway map which is an overview of the pump system that the city operates. As mentioned earlier, they own and operate 100 sewage pump stations for collecting waste water and storm water. In 2019, the treatment and pumping station division teamed up with the asset systems management group to complete the pump station system plan. The purpose of the plan was to develop -- develop a data driven risk analysis process that would aid in allocating funds for the pump station improvements. Recommendations from the plan include increasing the investment rate and the rate of project delivery based on the current conditions of the pump station assets. This is to encourage further evaluation and prioritization and project deliveries of pump station improvement projects over the next five years. This will increase our ability to protect human health and safety and the environment as well as meet regulatory requirements. Hopefully this is a familiar building to you all. It is the pump station located on the waterfront near where the saturday market is. The purpose of this legislation is to authorize the creation of a price agreement for pump station improvements. With the free high scoring proposed from a competitive installation for engineering design service. Ordinances are not required for professional and expert services it was agreed it would be appropriate to request council

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approval prior to solicitation based on the total value of the price agreement. The current rfd request for proposal process typically requires a minimum of one year to complete. It applies to individual projects and under one contract. This is to qualify three consultants through one rfd and to use this on a number of different pump station improvement projects. This will be conducted in accordance with the city code and the total amount not to exceed the design services price agreement is 15 million dollars for a period of five years distribute evenly over three price agreements. Utilization of price agreements will promote efficiency and flexibility for delivery of pump station projects. This will allow us to deliver the design and construction for approximately nine to 15 pump station upgrade projects through one request for proposal. Whereas current contracting methods would require a request for proposal for each product providing additional work for staff and extending the delivery duration. Next slide here. This right here is -- is demonstration of the type of pump station upgrades we do up about this is near the morrison bridge. The left here is the original pump station and this is a nearly completed upgrade of the pump station. This -- this -- this price agreement would provide for flexibility and effectiveness to meet the needs of the aging pump stations. Prices would go for capital improvement program, equipment replacement, and seismic improvement projects and response to emergency projects similar to what we discussed. In drafting the price agreement we often identified agreements that would be great candidates for this approach had it been an option we would use this to leverage the flexibility and efficiency that this price agreement will provide. The price agreements should be funded over the five-year period through the annual appropriation. Funds are available in the sewer system operating funds for the price agreements. Work performed under these price agreements will be authorized via written orders, it will include disadvantaged and minority and women and service disabled veteran owned businesses enterprises. The aspirational participation goal for this bmw utilization is 24 percent and all

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consultants should commit to making good faith efforts toward achieving the goal. That concludes the presentation.

**Wheeler:** thank you. Commissioner Hardesty.

**Lawler:** stop sharing my screen real quick.

**Hardesty:** don't stop sharing it yet. Would you go back one slide, please. Thank you. Thank you very much for that very efficient presentation. My question about this aspirational goal of 34 percent, based on the material you submitted, there was not high utilization of subcontractors and your initial approach to -- to -- to -- to primary contractors. So now you're going to -- -- you're going to put in a contract or proposal to put in three different contracts a 34 percent utilization. What we know based on the last two audits of our procurement efforts is that we do a really good job of getting contracts into the hands of white men and not a good job at all of getting contracts into the hands of other people who are part of that alphabet soup. Why would we support this without a clear plan to make sure that this will be the most diverse contracting pool that we could expect here at the city?

**Lawler:** correct. So just a quick clarification on what you referenced, this is the first time we have -- we have had it to council for this program. I think many you're referencing the on-call construction program that -- that -- that was brought to you earlier this year. Is that what you're referring to?

**Hardesty:** i'm actually referring to the city of portland's history of having the alphabet soup and the outcome being that white men primarily benefit from those opportunities.

**Lawler:** correct. So we -- we will emphasize that the city would like to focus on consulting firms owned by people of color. That is explicit in the rfp. However, we did reach out to the procurement group to understand what options are available to us to insure that -- that their -- that there's more participation by -- by -- by people of color or businesses that are minority owned and what we were told is that -- is that providing more points or better score for -- for



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certain certification types of -- of -- and not be considered race neutral since we don't have a disparity study that supports the approach to hardened goals so we're not able to guarantee in this way through current contracting methods.

**Hardesty:** let me just say, we're never going to change the outcomes if we don't think creatively on how to make those available. That's not a good answer for me. You do three separate contracts and can't guarantee that we're going to contract a bit differently than in the past, aspirations are fine but they -- aspirations don't feed people or build businesses in our communities.

**Suto:** i appreciate that, that point. One thing i can say, the only -- based on what erik, the outreach we did on procurement, the only tool we have at this point to change anything is be more explicit to our consulting community on the value of having minority subconsultant firms. We have in the past just used standard language. We can at least make it clear that this is important to the city and the long-term success of the city and it is important to us. So that -- at this point it seems like the best we can do given the current structure in the city.

**Hardesty:** i think we to think creatively. If we continue to say this is the outcome we wants and every audit says we're not close to getting the outcomes we want, we can't keep contracting the way we always contracted. I'm really open to innovation about how do we make sure we get the goal that we want rather than just putting it as an aspiration and a contract. That has never worked for the city of portland. Right? If it works it works accidentally. I'm very concerned that we continue to say that we're centering equity and at the end of the day, we aren't. We're just doing what we have always done. Thank you.

**Wheeler:** any further questions? Public testimony, keelan?

**Clerk:** no one has signed up.

**Wheeler:** all right, this is the first reading of nonemergency ordinance. It moves to second reading. Thank you for the presentation. 819 is the second reading. Can you read that?

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**Clerk:** update drainage and water quality code provisions to facilitate the implementation of the storm water management manual and the source control manual.

**Wheeler:** colleagues, this is a second reading of a nonemergency ordinance. We already heard a presentation. There's opportunities for public testimony. Is there any further discussion? Seeing none, call the roll. [roll called].

**Fritz:** i know i'm the only one fired up about this but i think it is really good.

**Clerk:** ryan.

**Ryan:** yea.

**Clerk:** hardesty.

**Hardesty:** it is okay to be fired up commissioner fritz. Yea.

**Wheeler:** you fired me up, i vote yea. Ordinance is adopted. Last item, 820, please.

**Clerk:** direct city attorney to represent the city in litigation involving campaign finance regulations.

**Wheeler:** colleagues, thank you before we hear from the city attorney and the auditor on this item, i want to note my own personal involvement in the question. My campaign is the chip this this lawsuit discussed in the resolution. I'm city mayor directly supervising the office of the city attorney because in some ways i'm on both sides of this lawsuit and in order to -- to make appearance, a conflict of interest, i'm recusing myself from both the deliberation and the vote on this item and in fact, since it is the last item this morning, i'm going to turn the gavel over to council president commissioner fritz and going to say farewell. I'll see you soon. Commissioner fritz you're now --

**Eudaly:** mayor?

**Eudaly:** yes. I'm also going to recuse myself because i'm an active campaign in the outcome of this matter could impact me so i will be leaving.

**Wheeler:** okay. Commissioner fritz i'm turning it over to you.

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**Fritz:** thank you, colleagues. Hope the rest of your day goes well. Madam auditor?

**Hull Caballero:** good afternoon, commissioner. I'm here today to bring a legal problem to your attention that my office does not have the capacity, resources or responsibilities to resolve. In a critical court deadline is looming that leaves little time for deliberation. That's why i'm asking that you adopt the proposed resolution, directing the city attorney to continue to represent the city and litigation stemming from campaign regulations and enforced by the city elections office. Alternatively i'm asking that you alleviate the city attorney's belief that it is a legal conflict of interest for her to represent the city when the -- when the campaign for an elected official or other candidate for office sues her client for action taken by the city. This is complicated issue that would benefit from background. Let me back up a few steps in the chronology. The city charter assigned a handful of responsibilities to the auditor's office that staff carry out on behalf of the city. For example the council clerk insures that council business is scheduled and recorded appropriately. The city archivist promotes the retention of the official records and insures public access to them. The elections office is also an administrative responsibility assigned in the charter to the auditor's office. Election staff determine whether candidates and publicly initiated citizens are eligible for the ballot and coordinate with the counter parts on related election matters such as they did by putting certified election results on your meeting agenda before commissioner ryan could take his seat a few weeks ago. Over the years the city attorney's office has advised staff through procedural, constitutional questions for petition, ballot title challenges and -- and more mundane matters. It employs attorneys and litigators provide ongoing representation for the city in elections related disputes as a matter of routine. All of that changed two weeks ago when the city informed me that her office would not represent the city in a recently filed lawsuit stemming from new campaign regulations that the elections office staff enforced. Voters approved those regulations by amending city charter in 2018 to limit campaign contributions and other financing methods. Amendments on the ballot

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by the commission and the community members that drafted them assigned my office to investigate complaints and impose fines for violations. Even though voters approved the amendment, the city's position was several of them, including limits on campaign contributions and expenditures violated both the u.s. And state constitution. For that reason the council approved a final of validation action that followed behind a similar case in la loma county to have a circuit court judge rule on the constitutionality question up about the trial judge struck down some sections of the charter as unconstitutional including the contribution and expenditure limits. The la loma county case was appealed and later taken up by the oregon supreme court. In the meantime the charter amendments as approved by voters were set to go into he can't if with the city in september of 2019. The elections office started receiving complaints alleging some campaigns had accepted donations in excess of the 500 dollar limit. The office relied on legal advice to dismiss those complaints because the trial court struck down the limits and the matter was pending appeal. Less than a month prior to the election the oregon supreme court overturned a lower court's decision setting a new precedent by rule that the campaign contribution limits did not violate the state's constitution. The deputy city attorneys who litigated the matter and advised election staff and me for the 18 month court process were instrumental in helping us decide which sections the city could legally enforce and when to begin enforcing them. We began enforcing the contribution limits on may 4th about two weeks before the primary election. Since then, the elections office has received and investigated about 60 complaints against at least ten campaign committees. Fines imposed on some of them and several donors, many of whom were dismayed to learn about the charter regulations, the penalty amounts involved, and how little discretion the elections office has in imposing a ridge it formula of fines. By my count the city has so far been sued five times for decisions related to the campaign regulation. The city attorney's office has advised us and litigated on behalf of the city every step of the way until few weeks ago when one particular

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lawsuit was filed, friends of ted wheeler versus caballero. I was told in a memo that to decline to represent my office was based on an ethical rule for attorneys that prohibits representation when there's a conflict of interest between current clients. I understand that the city attorney made the uncomfortable defending the city in a lawsuit brought by the mayor's campaign committee given they oversee the city attorney's office. The mayor's campaign committee is not the city attorney's client. A private law firm represents this committee. It is the city at this late hour that is without legal representation even though the city attorney's office advised election staff up to the point of being sued up about discomfort does not conflict of interest make. If anything the city attorney's refusal to represent the city in the lawsuit where the mayor's campaign is the plaintiff is where the real problems arise. Her decision creates the appearance of favoritism of a particular candidate, introduces inconsistent representation of the city across lawsuits raising similar legal issues and costs money to hire outside counsel during a time when public dollars are desperately needed elsewhere. It makes no sense that the city declares a last-minute conflict after advising my office and other cases that resulted in litigation, including one involving the mayor's opponent, friends of sarah for portland. I'm at a loss to understand why the city attorney is will to represent the city in all other cases which involve complaints against friends of ted wheeler but not one in which friends of ted wheeler sues the city. The problem is not a one off occurrence. If any of you break the rules the charter requires me on behalf of the city to fine the campaign committee. That is my job no matter what discomfort it may involve. If the campaign committee disagrees with the fine, because welcome to dispute, the actions in court. This will allow the city to gain clarity about the campaign regulation which has been difficult to implement give enthe timing of legal decisions in the process and vague wording in the text that makes interpretations challenging. And whether a lawsuit is brought by one of your campaign committees or the committee of a candidate polling in ninth place or a contributor or a complainant upset over a decision not to investigate or impose a fine the

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expectation should be that the city attorney's office defends the city's decision, that's the city attorney's job. The resolution that is before you today makes clear that it is in the city's and the public interest to have consistent and cost effective implementation in all litigation involving the city's administration of the campaign regulation. It should also alleviate the city's concerns about a conflict of interest. Because the city must file a response to the friend of ted wheeler. Friends for ted wheeler lawsuit soon, circumstances require prompt direction from you to the city attorney. I'm happy to answer any questions.

**Fritz:** any questions?

**Hardesty:** i have a question, madam, chair woman. This is not an issue that we heard about a month ago and why did you not take action then?

**Hull Caballero:** i learned about it two weeks ago.

**Hardesty:** my understanding is the city attorney has been working with you assisting you around this issue and this issue -- this concern came about a month ago. And now you have -- you have this timeline which is why we're now here at council discussing this.

**Hull Caballero:** the city attorney's memo dated september 29th, 2020.

**Hardesty:** that's when she wrote the memo. That's true. Thank you madam chair, i think -- i think my question has not been answered but i'm okay.

**Fritz:** i notice that tracy is on the call. Tracy, did you want to say anything?

**Tracy Reeve:** sorry i was having a little difficulty unmuting and i don't know if my video is working. But so thank you commissioner fritz and council members and i apologize that my video is not working.

**Hardesty:** you're fine, tracy.

**Reeve:** good. So we did -- we have represented the auditor's office in all matters pertaining to the -- to the -- to the campaign finance reform except for one piece of litigation. We initially had conversations with the auditor about this potential for a conflict of interest months and months

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ago when an issue came up with regard to the sam adams campaign. At that time we informed her that we were concerned about -- about the ethical issues. She asked that we please take another look at it and see if we could continue representation. Our philosophy in our office is to do as much of the city's legal work in-house as we possibly can for the reason the auditor identified. We think we're the experts and it is more cost effective. However, the auditor had some time ago expressed concerns that she felt that our -- our role could give rise to conflicts of interest situations. That was one of the reasons she wanted independent legal council at the time she did the charter reforms. So i believe we met with the auditor and her legal council some months ago to discuss the conflict issues around election law matters. We then went back and took a look to see what was the absolute most representation we felt that we could ethically do and so where we have ended up drawing the line is that we think it is not appropriate for us. We think we have a conflict of interest to represent the auditor in matters involving currently -- the campaigns of currently sitting city council members. Let me explain how we came to that conclusion. That's the line where we think it permits us to take the most possible representation for the auditor's office while at the same time not violating our ethical obligations under both state law and the legal rules of ethics. So the oregon rules of professional conduct are ethical rules governing lawyers. What is at stake are our law license. If lawyers violate the ethical rules they could be subject to discipline up to and including disbarment or revoking their law license. It states that a conflict exists if there's a significant risk that representation of one client will be materially limited by our representation to another client. And here the concern is either that this could negatively impact our representation of the mayor in this particular instance or a representation of the auditor. Either way, it is a conflict. We have determined that general advice work on legal action matters does not meet that threshold of a conflict of interest. It doesn't create a significant risk that our representation will be materially limited. We believe litigation is different. It raises the level of adversity significantly. And then we really do have two

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adverse parties. Where that is a sitting council member whose campaign is involved in direct litigation with the auditor, we believe that crosses the line and creates significant risk that our representation of the current city council member could be materially limited or that our representation of the auditor could be. In particular, we're concerned that when we're actively engaged in litigation against the city council member's campaign, there's a significant risk that our relationship of trust and confidence with that council member can be materially limited. That's a conflict that we're deeply and ethically required to avoid. I would just submit and request that you please not direct us to do something that we believe would violate our ethical obligation. The auditor has asserted that we don't have a conflict of interest but we believe that we do. If you don't have confidence in your city attorney's ability to make that determination, then frankly, you probably have larger problems and should determine, rather than ordering the city attorney to do something that the city attorney believes creates an ethical conflict and at that point in time you should look at whether you have the right city attorney. Even if you direct your city attorney to do that, your city attorney still has an ethical obligation not to -- not to -- to violate that representation. We did try to respond to the auditor as soon as this was filed. It was within a few days of when it was filed. We offered names of attorneys we believe are qualified. We offered to help and not the normal practice but we offered to help fund outside counsel on this matter. I would be happy to answer any questions but that is -- that's the situation as we see it. Thank you.

**Hull Caballero:** i like to point out there's no representation of the mayor in this interest. So the conflict -- i think what -- what we're in danger of doing here is having the city attorney's office step out, the second that any of you file litigation against the city. So it leaves us in a regulatory position having to -- to at the 11th hour go find legal representation. I just -- i just can't believe this is what the city of portland going to decide is the way to proceed from here.

**Fritz:** thank you.



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**Hull Caballero:** there's [indiscernible] all over the city. Any of you could get in some sort of conflict with the city at any time in your individual capacities. That's what we're talking about here. I find it amazing that we would -- not expect the city attorney's office to represent the interest of the city in a private action against the city.

**Fritz:** i'm astonished the city attorney stated that she thinks this is illegal and unethical to do this and yet you like us to direct her to do it. Second of all, i appreciate that position and i respect your ethics. On the substance of this particular appeal is it not about whether a candidate can spend their own money on their campaign?

**Reeve:** it is. That's my understanding.

**Fritz:** that's been decided by the u.s. Supreme court. So why we would invest any city money or any city time on something which has already been decided by the united states supreme court is -- is baffling to me.

**Reeve:** we believe commissioner it is fairly straightforward and for that reason we tried to calibrate the funding that we offered to assist the auditor with -- to reflect that this matter should be able to be fairly summarily handled and i'll say quite likely if any of you individually sued the city for any reason we would recommend outside counsel and it wouldn't be appropriate for us to represent the city against any one of you individually because again we have a relationship of trust and confidence with each of you. That would be negatively impacted. We're not -- we understand -- the audit is of course correct that the campaign is not the same legal entity as the mayor. We -- we're looking at the -- for that reason the -- the conflict of interest that we're testifying is the one that effects the material limitations rather than the -- the rule, 1.7a2 is not the rule that pertains to direct -- the representation of one client would be directly adverse to another client. That's rule 1.7a1 and the auditor's point is pertinent to that and it is not pertinent to 1.7a2 which is the section of the professional rule that we're concerned with.

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**Fritz:** thank you. I noticed commissioner ryan's hand and then commissioner hardesty.

**Ryan:** commissioner fritz and also i appreciate madam auditor being here. In the impact statement you name imprecise language of your office's regulation and overlapping regulatory structures between your office and -- and open and accountable options as two major challenges when it comes to compliance with and the enforcement of campaign finance issues. Wouldn't you agree that these significant issues can only be remedied by more significant policy change than that which is being proposed at this time?

**Hull Caballero:** we do have some actions that we're preparing to take. One of them is there's a - there's an issue in the state law which if you want to know the details of that, the current and former elections officers are -- are -- are -- are -- are in the meeting and they can respond with details. And we also are -- are going to ask the charter review commission to take up some of these issues so that they can reduce the intent of the charter that was passed in charter and then create some opportunities for -- for -- for -- for justice to be made by council as we move forward. That will take a long time and we don't know if the charter commission would take that issue up.

**Fritz:** commissioner hardesty?

**Hardesty:** thank you, madam president. I was wondering if you are looking for a motion in this matter?

**Fritz:** not just yet. We have one person signed up to testify.

**Hardesty:** very good.

**Fritz:** so let's note the public testimony, please keelan.

**Clerk:** one person signed up. Janet heisman.

**Janna Tessman:** the city auditor needs to use outside council for litigation having to do with campaign finance law. Portland voters approved the ability to hire outside counsel with a huge majority. The auditor said it is too costly. I understand that -- that much has changed with the city revenue and budget since 2017. However, the enforcement of limits to personal campaign

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financing is too important of a corner to cut. It must go to outside counsel. This could go all the way to the u.s. Supreme court and please invest in the integrity of campaign finance by asking the auditor to do her job and use outside counsel, despite limitations on personal financing of a campaign and despite a total lack of federal precedent on striking on loans to finance local elections, the auditor said she's waiting for cues from the higher courts to tell us it is worth the time and money to enforce the limits on loans. This is totally backwards. Municipal and state governments are incubators and it is her job to hire systems of government and not wait for their permission. Donation from a campaign from wealth is one thing, even if it is the best of indigenous peoples but alone has more insidious im-- implications. What is not spend of the 150,000 dollars he could forgive himself for. Yet in the case he wins due to the auditor's emergency rule she wrote for herself as an incumbent ted can continue to accept campaign donations after the election has happened until the audit chooses to certify the results. Everyone else will have to follow the regular law of oregon defining an election cycle lasting from the day after the election to the next. This means that would be supporters of ted could wait to see until after he wins to decide whether or not to invest further in the campaign. Supporters of other campaigns have taken great risks in investing for the campaign so it may better reach potential voters. After the fact, there's no voters to reach or good ideas to share. Not only there's only political favor to garner. The auditor has signaled ahead of time to voters that she would write letters of warning to law breakers during that brief period she created between election day and the certification of contest results. So supporters would do more to spare than the 500 dollar contribution limit could circle back and break the law after the election to donate more, confident they will only receive a letter from the editor. It is the basic responsibility of the auditor and the basic responsibility of the auditor for a huge proportion of the portland voters and a huge percent that pass campaign finance law. I would much rather my tax dollars go to paying lawyers that will uphold the law, even if that means potentially accruing costs from being sued

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by a campaign later. I know that there's like, oh it is not actionable. It is the mayor. What kind of sore loser mayor.

**Fritz:** thank you, thank you for your testimony. Your time is done.

**Tessman:** supposedly --

**Fritz:** thank you for your testimony. Please mute janna. Thank you.

**Fritz:** commissioner ryan, was your hand up again?

**Ryan:** no, i'm sorry.

**Hull Caballero:** commissioner fritz, could i address a couple of issues before we proceed?

**Fritz:** i just have a clarifying question. Did we not in the city budget allocate 500,000 dollars to the auditor's office to be able to be used for unforeseen circumstances?

**Hull Caballero:** you -- i underspend. I want to address the city council issue first.

**Hardesty:** i have a point of order question. This is not a debate. You made your presentation. We had testimony. I think that council is ready to act. We're not debating. I believe. Is that accurate?

**Hull Caballero:** i believe i should have the opportunity to respond what is said. Long list of interpretations that are happening.

**Hardesty:** i think it is inappropriate to have this back and forward, we don't do this with any others.

**Fritz:** commissioner hardesty, i like to get a short statement. We don't usually respond to testimony when there's multiple things in it that we disagree with.

**Hull Caballero:** i'm responding to something that tracy reeve said. I'm in the responding to the public comment.

**Fritz:** well, again, we're -- it is not a back and forth. If you like to make a quick statement you may.

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**Hull Caballero:** yes, there seems to be -- to be reference from -- from -- from tracy reeve this the -- the general counsel in my office can handle these cases. There are 42 lawyers in the city attorney's office and 31 support professionals. I have one general counsel. Commissioner, i mean city attorney reeve knows full well we had years of conversation about the role of the general counsel and the office and the responsibility of the city attorney's office. Even back in 2016, we arrived at a policy about -- about how -- how outside counsel back then, i subsequently got counsel auditor's office when we would go to outside counsel and when we rely on the city attorney. Litigation was never on the table for the auditor's office to foot the bill or to handle it on the phone. It was an area of huge concern for tracy reeve that we were going to get a general counsel and sue people. I said no i want general counsel as advice attorney. That's what we have. So when these administrative functions and the auditor's office are being carried out they are in alignment with -- with the city attorney's client, the city of portland. So there has never been an expectation that the general counsel in the auditor's office would do this work. The general counsel doesn't advice on these matters. That's the sole province of the city attorney's office and we specifically in our policy where we would use outside counsel said we would not use it for litigation. I just like to correct the record or help her refresh her recollection on that. It is in writing, i could provide the documentation to you. It was from december 2016 and the way we proceeded through the charter amendments that gave my office independence and hiring of a general counsel.

**Hull Caballero:** before you vote i like to say i'm not an attorney. I will not appear in court. And i do not have the funding -- i don't have a litigation fund in my office. So i think that maybe -- maybe you all need to consider what some of your other options may be about how we're going to proceed with this.

**Fritz:** thank you for your statements. I believe we're probably ready to vote, if commissioner hardesty is still here.

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**Hardesty:** yes, i am.

**Fritz:** this is a resolution and it would require the unanimous of three of us here. Please call the roll. [roll called].

**Clerk:** commissioner ryan?

**Ryan:** thank you. Thank you so much for bringing this item before the council, madam auditor, campaign finance reform is one of the most critical issues that our democracy faces at this point in time. We have to keep working on it to make our elections more accessible for everyone. My experience the people are well served by the open and accountable elections program and the auditor's office does admirable job of implementing and carrying out the honest election regulation passed by 80 percent of the voters. Let's remember, we're in the very early implementation phase of the step practice policy for campaign finance reform. In fact this week i received a survey as someone that was recently a participant to give feedback on that program. There were assessments between the significant regulatory hurdles placed on your office and often overlapping regulations and there's a lot of work to be done. That's one reason i cannot support this. I firmly believe restructuring of our campaign finance is needed and that all parties involved must work together through every step of the policy making process to clearly identify the problems and to find the solutions. I look forward to participate it paing in that conversation and bringing my experiences from the recent campaign to the table and at this time i vote no.

**Clerk:** hardesty?

**Hardesty:** it is my understanding that the city attorney had been working with the city auditor to assist them in as many lawsuits related to the city's new campaign finance law as possible. Upon being presented with this specific case at issue here the city attorney made a representation to represent the auditor in this case would be a violation of the city attorney professional code of ethics. They suggested that the city auditor hire outside legal counsel to off set the cost of hiring counsel and the city attorney offered to give the city auditor 20,000 dollars

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from their budget. I will say the auditor has half million dollar reserve fund that could be utilized. In response to this effort to help the city auditor went behind the city attorney's back and filed this resolution. Then released the city attorney's confidential legal analysis to the press, all without discussing this issue with the city attorney. This resolution would set a dangerous precedent of the city council ordering the city attorney to do something that they view as unethical. Not only that, but the method with which this measure was brought before council is not in line with the values of collaborative governance that I and I believe all of my colleagues do as special to good policy making. Not only would this set a dangerous precedent, it would accomplish nothing. An attorney who is ordered to do something they view as a violation of their ethical standard is required to refuse to comply with that order, even if it means termination by their client. I want to be clear that I applaud our city attorney for not only striving to be as tough as possible to all branches of city government but also for being willing to stake a stand -- be willing to stand by their convictions when faced with such a hostile action by someone else in city government. Additionally, I want to say that I find the evidence in and attitude of the city auditor in this matter to be reprehensible. The auditor took an offer of financial assistance and instead decided to try to force professionals and colleagues to violate their code of ethics. Instead, I've -- instead of spending money out of her office substantial reserves. This is not how elected officials should act. I suggest the city auditor take a good hard look at how this played out and consider ways she could work in a more collaborative fashion moving forward. I vote no.

**Clerk:** Fritz.

**Fritz:** I agree with my colleagues. I'm astonished that the auditor is insisting the city attorney do something that they consider unethical. I've worked with the city attorney's office for 12 years and sometimes over the course of those years we have had disagreements between individual members of the council and the city attorney's office has been able to fulfill their -- their duties

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to each one of us as well as to the city as a whole. The ultimate responsibility of the city attorney's office is to the city as a whole and to the taxpayers. I'm frankly, as I say, dismayed the offer was made. The city has 500,000 dollar reserve fund for such expenses.

**Hull Caballero:** that's not correct. That's not correct.

**Hull Caballero:** that's not what that funding.

**Fritz:** excuse me. You don't -- this is the vote. We can have a conversation afterward if you like but -- anyway, I can't support this either and it is very unfortunate that although each of us have our roles that we all need to figure out how we can work together and for the good of the people of Portland. No.

**Fritz:** Keelan, does that conclude our agenda for the morning?

**Clerk:** yes, it does.

**Fritz:** thank you so much everybody, we're adjourned.

**At 1:03 p.m., Council adjourned.**