



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **14TH DAY OF MAY, 2003** AT 9:30 A.M.

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

Commissioner Leonard arrived at 9:36 a.m.

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

Item No. 442 was pulled for discussion and on a 5-Y roll call, the balance of the Consent Agenda was adopted.

<b>COMMUNICATIONS</b>		<b>Disposition:</b>
<b>429</b>	Request of Todd J. Kurylowicz to address Council regarding Portland Peace Encampment (Communication)	<b>PLACED ON FILE</b>
<b>430</b>	Request of Glenn F. Warren to address Council regarding Portland Peace Encampment (Communication)	<b>PLACED ON FILE</b>
<b>431</b>	Request of Joseph Kallunki to address Council regarding public rights (Communication)	<b>PLACED ON FILE</b>
<b>432</b>	Request of Andrew Seaton to address Council regarding the future of the Portland Peace Encampment (Communication)	<b>PLACED ON FILE</b>
<b>433</b>	Request of Russ Nelson to address Council regarding Portland Peace Encampment (Communication)	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>		
<b>434</b>	<b>TIME CERTAIN: 9:30 AM</b> – Open Reservoir Replacement Project Public Advisory Committee presentation (Presentation introduced by Mayor Katz and Commissioner Saltzman)  (Y-5)	<b>PLACED ON FILE</b>

**MAY 14, 2003**

<b>CONSENT AGENDA – NO DISCUSSION</b>		
<b>435</b>	Accept bid of James W. Fowler Company for the Columbia Blvd. Wastewater Treatment Plant effluent pump station improvements for \$8,929,560 (Purchasing Report - Bid No. 101915)  (Y-5)	<b>ACCEPTED PREPARE CONTRACT</b>
<b>Mayor Vera Katz</b>		
<b>436</b>	Authorize City Attorney to appeal a preliminary injunction entered in Edward Gathright v. City of Portland, etc., et al. (Resolution)  (Y-5)	<b>36137</b>
<b>*437</b>	Amend contract with Mercury Associates, Inc. for additional vehicle management consulting services (Ordinance; amend Contract No. 34697)  (Y-5)	<b>177452</b>
<b>*438</b>	Authorize an exchange of property with Legacy Emanuel Hospital (Ordinance)  (Y-5)	<b>177453</b>
<b>*439</b>	Authorize acquisition of vehicles for use by City bureaus (Ordinance)  (Y-5)	<b>177454</b>
<b>*440</b>	Create a new Non-represented classification of Parking Collection Technician and establish a compensation rate for this classification (Ordinance)  (Y-5)	<b>177455</b>
<b>*441</b>	Create a new Non-represented classification of Supervising Facilities Construction Project Specialist and establish a compensation rate for this classification (Ordinance)  (Y-5)	<b>177456</b>
<b>*442</b>	Authorize a premium share holiday for DCTU, Non-Represented, COPPEA, Recreation and PFFA for FY 2003-04 and eliminate the CityPremium, buyup plan, from the benefit plan options effective June 30, 2003 (Ordinance)  (Y-5)	<b>177466</b>
<b>*443</b>	Amend the Intergovernmental Agreement with the Oregon Department of Transportation to increase maximum annual compensation to the City (Ordinance; amend Contract No. 50711)  (Y-5)	<b>177457</b>
<b>*444</b>	Amend agreement with HNTB Corporation for technical support for transportation capital improvement projects (Ordinance; amend Contract No. 32453)  (Y-5)	<b>177458</b>

**MAY 14, 2003**

<p><b>*445</b> Apply for a \$250,000 grant from Oregon State Parks Local Government Grant Program to acquire a site in Southwest Portland known as the Holly Farm for use as a neighborhood park (Ordinance)  (Y-5)</p>	<p align="center"><b>177459</b></p>
<p><b>446</b> Amend contract with Carollo Engineers, P.C. for Sullivan, Stark and Holladay Basins Predesign, Project No. 6073 (Ordinance; amend Contract No. 32170)</p>	<p align="center"><b>PASSED TO SECOND READING MAY 21, 2003 AT 9:30 AM</b></p>
<p><b>*447</b> Authorize an Intergovernmental Agreement with Multnomah County Sheriff's Office to share images of and personal information about individuals booked into correctional facilities (Ordinance)  (Y-5)</p>	<p align="center"><b>177460</b></p>
<p><b>*448</b> Authorize a Settlement, Release and Hold Harmless Agreement in settlement of a disputed account balance for Water Bureau Account No. 160659, Wilcox Building, 506 SW Sixth Avenue (Ordinance)  (Y-5)</p>	<p align="center"><b>177461</b></p>
<p><b>*449</b> Increase value of contract with WRISC, Inc. to provide insurance consultative and risk management support services for the Owner Controlled Insurance Program (Ordinance; amend Contract No. 33687)  (Y-5)</p>	<p align="center"><b>177462</b></p>
<p><b>*450</b> Authorize application to the Department of Housing and Urban Development for a grant in the amount of up to \$700,000 for Portland YouthBuilders (Ordinance)  (Y-5)</p>	<p align="center"><b>177463</b></p>
<p><b>451</b> Amend contract with CADRE, Inc. for an additional \$76,400 to provide professional services and extend the contract for two years (Second Reading Agenda 418; amend PO No. 1023945)  (Y-5)</p>	<p align="center"><b>177464</b></p>
<p align="center"><b>City Auditor Gary Blackmer</b></p>	
<p><b>*452</b> Amend contract with KPMG LLP for financial audit and other professional services for FY 2001-2002 and provide for payment (Ordinance; amend Contract No. 34307)  (Y-5)</p>	<p align="center"><b>177465</b></p>

<b>REGULAR AGENDA</b>		
<b>Mayor Vera Katz</b>		
<p><b>453</b> Consider vacating a portion of N. Montana Avenue between N. Lombard and N. Buffalo Streets, at the request of Fred Meyer, Inc. (Hearing; Report; VAC-10009)</p> <p><b>Motion to adopt the report and prepare an Ordinance:</b> Moved by Commissioner Saltzman and seconded by Commissioner Francesconi.</p> <p>(Y-5)</p>	<p><b>APPROVED CITY ENGINEER PREPARE ORDINANCE</b></p>	
<p><b>454</b> Authorize Amicus Intervention in City of Nyssa v. Dufloth in the Oregon Supreme Court (Resolution)</p> <p>(Y-4; N-1, Saltzman)</p>	<p><b>36138</b></p>	
<p><b>*455</b> Accept a \$75,000 grant from the U.S. Department of Justice, Office of Community Oriented Policing Services for the Creating a Culture of Integrity Initiative project (Ordinance)</p> <p>(Y-5)</p>	<p><b>177467</b></p>	
<p><b>*456</b> Amend revocable permit to allow U.S. West Communications, Inc. to install, maintain and operate public telephones on City streets (Ordinance; amend Ordinance No. 174341)</p> <p>(Y-5)</p>	<p><b>177468</b></p>	
<p><b>457</b> Grant ten-year property tax exemption to Brewery Block Investors LLC for new multiple-unit housing on the full block bounded by NW 12th, 13th, Couch and Davis Streets (Second Reading Agenda 424)</p> <p>(Y-5)</p>	<p><b>177469</b> AS AMENDED</p>	

At 11:38 a.m., Council recessed.

**MAY 14, 2003**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 14TH DAY OF MAY, 2003 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Leonard, Presiding; Commissioners Francesconi, Saltzman and Sten, 4.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Frank Hudson, Deputy City Attorney; and there was no Sergeant at Arms.

---

<p><b>458</b>    <b>TIME CERTAIN: 2:00 PM</b> – Appeal of Pleasant Valley Neighborhood Association against Hearings Officer’s decision to approve the application of Tom Miller Builder, Inc., Harris McMonagle Engineers and The Jordan Family Ltd Partnership for an 18-lot Planned Unit Development Subdivision with adjustments and environmental review at the northeast corner of SE Deardorff Road and Clatsop Street (Hearing; LU 02-127496 SU PU EN AD)</p> <p><b>Motion to deny the appeal:</b> Moved by Commissioner Saltzman and seconded by Commissioner Francesconi.</p> <p>(Y-4)</p>	<p><b>Disposition:</b></p> <p><b>APPEAL DENIED</b></p>
---	--

---

At 2:45 p.m., Council recessed.

GARY BLACKMER  
Auditor of the City of Portland

By Karla Moore-Love  
Clerk of the Council

MAY 15, 2003

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 15TH DAY OF MAY, 2003 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Leonard, Saltzman and Sten, 4.

Commissioner Leonard arrived at 2:05 p.m.

OFFICERS IN ATTENDANCE: Susan Parsons, Acting Clerk of the Council; Linly Rees, Deputy City Attorney; and Officer Curtis Chinn, Sergeant at Arms.

<p><b>459 TIME CERTAIN: 2:00PM</b> – Tentatively deny appeal of Center Neighborhood Association against Hearings Officer’s decision with conditions to approve the application of Providence Portland Medical Center for a conditional use master plan with adjustments to expand development at 4805 NE Glisan Street (Hearing; Previous Agenda 203; LU 02-120615 CU MS AD)</p> <p><b>Motion to tentatively approve the Hearings Officer’s decision for a Conditional Use Master Plan with the Good Neighbor Agreement dated May 8, 2003:</b> Moved by Commissioner Saltzman and seconded by Commissioner Sten.</p> <p>(Y-4)</p>	<p><b>Disposition:</b></p> <p><b>TENTATIVELY APPROVE THE HEARING OFFICER’S DECISION WITH MODIFICATIONS; PREPARE FINDINGS FOR MAY 22, 2003 AT 2:00 PM</b></p>
---	--

At 2:20 p.m., Council adjourned.

GARY BLACKMER  
Auditor of the City of Portland

By Susan Parsons  
Acting Clerk of the Council

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

MAY 14, 2003

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

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

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

**MAY 14, 2003 9:30**

**Katz:** Good morning, everybody. The council will come to order. [ roll call ]

**Katz:** All right, everybody, let's start with communications. 429.

**Katz:** You have three minutes.

**Item 429.**

**Todd J. Kurylowicz:** First off i'd like to say hello. Thanks for having us. We appreciate the next 15 minutes we have to address you with our views and concerns for the past 56 days we've been neighbors and we've only had the opportunity to speak with a couple of you. Thanks, jim Francesconi, for stopping by briefly. For the rest of the people on the council, vera, this is the first time we have a chance to say hello. We certainly hope this encounter breaks the ice for further communication. We believe dialogue is the only way in which peace happens. At this point i'd like to read our mission statement which is being revised. We are the Portland peace encampment working in solidarity with a coalition of camps with the goal to educate and create dialogue in an effort to change u.s. Foreign policy and end american military aggression. We seek to accomplish this through nonviolent means. We'll maintain a vigil until the united states has ratified and behaved in accordance with the united nations declaration of human rights. The world is heading in a crash course set for disaster if we allow our government to utilize the power -- policy of preemptive strikes what many consider to be the most holy hand on the planet. The anti-american sentiment will only grow. War is not the answer. Violence begets violence and this is obvious with the reason car bombings which killed 20 people in saudi arabia, including seven americans. Let us not meet this act of violence with more violence. Negotiation and diplomacy must be the measure in which the u.s. Administration deals with future conflict. Please join us now in a moment of silence. A moment for all the lives lost for all the lives lost in iraq, for all the innocent iraqi men, women and children, for all the culture lost in the bombing and looting of the museums in baghdad. For all the voices silenced in the -- and for all the families that lost loved ones. Let us pray, meditate or consider for a moment what may lie ahead if we don't find peaceful nonviolent solutions to the problems we find plagued with biological and nuclear weapons. Einstein asked, what will world war 3 be fought with -- I don't know, but world war 4 will be fought with sticks and stones. Please, let us join together and stop the killing and create a peaceful environment for the future inhabitants of this planet. In the name of peace, love, and truth, let us spend the rest of my three minute in silence. Thank you.

**Katz:** Thank you. Ok. Thank you. 430.

**Item 430.**

**Glenn F. Warren:** My name is glen warren, i'm with the peace encampment. I'd like to talk a little bit about -- this isn't my favorable way of communicating, because there's no feedback, i've made this statement before. We live in a democracy, so it would be nice if we could have some feedback, talk like human beings, not just this kind of format. Anyway, i'd like to talk about in the event of war, this is not just a normal war, this is a war that the bush administration has basically waged on the entire world. His opening statements were pretty epic. Basically i'm paraphrasing, but he said, we all remember you're with me or you're against me. So basically that puts it pretty clear, if you're

**MAY 14, 2003**

for peace, george bush is against you. So -- another thing he said, as -- which is very alarming, that this war has no end. And that's -- he's acting upon these threats that he's making. And he's making it very clear that he means business. So the legitimacy of us being here and the obligation that's we have, and if anything, the first amendment was set up to address a situation of this seriousness, and the fact that people that come by the peace encampment are under the impression that the war is over is reason enough just in that that we need to maintain a constant presence and awareness and education on the facts. Whereas the media is constantly undermining these things. So I would like to do is invite all of you over there. We've had many members of the community stop by. Even those who disagree with our position of antiviolence and war, thank us for being there and thank us for the democratic process, and exchange of information. We've had a lot of good feedback, even from people who don't agree with our stance, but we get to share information and in a peaceful manner. And that's so important. Because that's another thing that's seriously lacking in government across the world. And right here in our little city right here. There's many more things to say, but i'm running out of time. Thank you very much.

**Katz:** 431.

**Item 431.**

**Joseph Kallunki:** Hi. I think you've -- I thank you for allowing me to speak in front of you today. The basic reason for assembling outside and taking the time to speak to you today is that other forums have -- of demonstration and gatherings, things like that, have often been misinterpreted, and continually seem to perpetuate conflict. So in a lot of ways, I don't particularly wish to address you as a council, though you hold that authoritative position. I would much rather address you as people. So i'm taking this opportunity as people to ask that some of the abilities we have and the power that you will use to lessen the amount of local conflict that is being addressed. There has been police harassment and intervention that has occurred down there that far supersedes what would be called lawful or just, and there doesn't seem to be much ramifications for that. On a very personal level, they don't seem to enjoy what they're doing. They don't seem to appreciate what they have to enforce. But it's their job. And i've talked to many of them personally, as I hope to talk to many of you later personally, about minimalizing the amount of dualistic nature that exists in society today, because I believe much larger than what we're facing on a very effective and cause oriented level is an underlining philosophy that has driven this society thus far to the point of position that we now recognize today, which would be having hierarchical reform, refinement of personal character, the inability for individuals to prosper in the due way it was intended when this nation was founded. In regards to all of that, I feel the best way to implicate peace is to live peace, to exist for peace, to do that 24 hours a day, to eat for peace, to sleep for peace. Because peace is just a word. And I think it's something we all long to experience. So these are really my points for being out there, and the reason I realize that the war is a federal thing, but it is also a local thing. And that is the reason i've chose to address this to you, to the public viewing this, to the few points of media that are here today, because I think we are in dire need to reassess each of ourselves on an individual level and really ask where our lives are taking us. Because, like evolution -- is my time up? Sorry.

**Katz:** Why don't you finish your sentence.

**Kallunki:** Thank you. Like evolution, I don't believe any type of erratic change can occur through a mass, but on an individual level.

**Katz:** Thank you.

**Kallunki:** Thank you.

**Katz:** 432.

**Item 432.**

**\*\*\*\*\*:** Good morning.



**MAY 14, 2003**

**Katz:** Good morning.

**Andrew Seaton:** I'd like to thank you all for allowing me to come and speak today also. I originally became involved with the peace camp as sort of an occasional supporter, and as an artist. And I sort of became the designated bureaucrat across the street, and was working with members of this council and other organizations within the city government, and it became a very sort of Kafkaesque experience for me. We were told not to bother filing for permits because they would be denied. We tried moving from in front of city hall to down in front of the federal courthouse and we were told don't even bother applying for the permit. I originally was involved as -- to express my opposition to the war as a budhist, although a slightly hairy one perhaps, but I continued and became much more active when I saw the effect of the rules and the laws and the ordinances and how they're being enforced, ordinances of the city council. It has come down to the point that the police are saying that nothing can touch the ground across the street, which makes it very hard to hold a reasonable protest. Including the events of last saturday, which on the advice of council I won't go into. But I would like to -- we did get a copy of the instructions as -- obstructions of nuisance law, commonly referred to as the sit-lie ordinance. Nowhere in here does it say nothing can touch the ground, though it does say that members shall not enforce this ordinance against persons that are formed to participate or observe an event. I do think that seems to include us across the street. The way it's been enforced with our property being seized, and we were told by commander sizer of the central precinct that it's going to be held until we leave, does seem to violate several of the amendments of the bill of rights, including the congress will make no law respecting the abridgement of freedom of speech or press or the right of people to assemble and petition the government for redress or grievances. The right of people shall be secure in their persons, houses, papers and effects against unreasonable searches and seizures. Amendment 5 says, nor shall any person be deprived of life, liberty, or property without due process of law. Or in the 14th amendment, it says -- again says, no state shall make or enforce a law which shall bridge the privileges or immunity of the citizens of the unions or deprive any person of life, liberty, or property without the due process of law.

**Katz:** Thank you. Your time is up.

**Seaton:** So thank you very much.

**Katz:** Thank you. 433.

**Item 433.**

**Russ Nelson:** Good morning, mayor, council members, city of Portland. First of all, i'd like to make a quick apology to officer la friends. I acted out of the moment, heat of the moment, said some things I don't really feel good about afterwards. Wherever he is --

**Katz:** Why don't you pull the mike over.

**Nelson:** My apologies to officer lafrenz of the Portland police department. Also commendations to officer jones. In the first seizure incident that occurred, he is commendable for having offered the option of a property receipt where the commanding officer would not even have a conversation. Anyway, let's move beyond that. Being that all of us here today are just regular human beings, who, as the beneficiaries of evolution, are endowed with subjective moral certain attitude and a social conscience, i'd like to take a few moments to address some points that relate to our continued presence. First of all, let us consider for a moment that bumper sticker, i'm sure you're all familiar with it, it's become quite cliché -- think globally, act locally. What does this mean? A friend answered, simply, do what you can wherever you are. And this is why for the past 55 days, or 56, as it's been previously said, since the coalition invasion, which has become an occupation began, a group of us have endured many challenges in order to act on that espoused by that bumper sticker. So here we are, thinking globally and acting locally. This is why I think it's necessary to address a few of the articles which are related to the sustainability of our action, and directly applicable to the

**MAY 14, 2003**

citizens of all u.n. member nations, from the universal declaration of human rights, as I offered the council, which was adopted by the general assembly of the united nations in 1948. Briefly, i'll do the best of -- I can to look at article 17, 18, and 19 specifically. Article 17 has two parts. The first being everyone has the right to own property, alone or in association with others, and secondly, no one shall be arbitrarily deprived of his life or property. And this -- if you think about it, I can -- it can relate to the issues of seizure we had experienced. Article 18, everyone has the right to freedom of thoughts, conscience and religion. This right includes freedom to change his religion or belief, and freedom either alone or in community with others and in public or private to manifest his religion or belief in teaching practice, worship and observance. Article 19 states, everyone has the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference, and to seek, receive, and impart information through any media and regardless of frontier. Please, i.

> you to give consideration to these articles as it relates to the choices made by the city of Portland and the -- in the context of acting on federal decisions, interacting with citizens and guests of Portland in the action and accordance with policies and procedures of the Portland police department as it relates to the public.

**Katz:** Thank you.

**Nelson:** Thank you. And have a nice day.

**Katz:** Thanks, everybody. All right. Let's jump to consent agenda. Item 442 has been requested to be pulled. I heard there may be a substitute. Any other items to be pulled off the consent agenda by anybody on the council or anybody in the audience? If not, roll call on consent agenda.

**Francesconi:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

**Katz:** Mayor votes aye. [gavel pounded] all right. Let's hear 442.

**Item 442.**

**Moore:** This is a correct title -- authorize a premium share holiday for dctu, nonrepresented, coppea, recreation, and pffa for fiscal year 2003-04, and eliminate the city premium by-up plan from the benefit plan options for the plan year beginning july 1, 2003.

**Katz:** Ok.

\*\*\*\*\*: Mayor and commissioners and --

**Katz:** The sound is a little low, would you --

**Anna Kanwit, Operations Manager, Bureau of Human Resources (BHR):** Anna Kanwit, I'm the operations manager for the bureau of human resources, and with me at the table is betty, our benefits manager, and david schaff, who is our employer relations manager. Substitute ordinance you have before you reflects three recommendations from the labor management benefits committee as a result of its meeting on april 25.

**Katz:** And so you are going to identify where it differs from the original?

**Kanwit:** Yes.

**Katz:** All right. Go ahead.

**Kanwit:** The difference with the substitute ordinance on the section 1, items 8 and 9, have been changed, and also we added sections in the direction d and e. This concerns the use of the health fund reserves.

**Katz:** I'm sorry, section 8 and section 9.

**Kanwit:** Yes. Section 9 and 10, i'm sorry. 9 and 10.

**Katz:** All right. Give us the substance of the substitute language.

**Kanwit:** Basically it's to use the health fund reserves to subsidize the difference between the caps and the rates for the new plans that most employees currently on or will be on as of july 1. That's nonrepresented dctu, and the second change is to use the reserves to subsidize 70.5% of the difference between the caps and the rates for the plans that are still in effect for members of ppa and

**MAY 14, 2003**

ppcoa for the period starting July 1, 2003, through December 31, 2003, or until ppa or ppcoa sell their contracts, whichever occurs first.

**Katz:** Ok. Why don't you describe this?

**Kanwit:** Ok. What I'll do is go through each of the recommendations, and would you like me to stop after each one so you can ask questions or finish them all?

**Katz:** Finish them all and then we'll come back.

**Kanwit:** First Imbc voted unanimously --

**Katz:** Why don't you identify for the public who is listening, who is not familiar with the acronyms that we use --

**Kanwit:** I'm sorry. The labor management benefits committee, which is a committee made up of 14 representatives, from our union and city management, voted unanimously to recommend eliminating the city's premium or buy-up health benefits plan. The plan rates were determined to have to go up by 58%. Rate increase was primarily due to adverse selection. We did have many more employees enrolled in that plan last year than we had anticipated, and those employees who were enrolled in the plan tended to be much higher users of the services. The new monthly premium for a family to remain on that plan would be \$515 a month. That's a yearly figure of \$6100, and exceeds the max amount of pocket for the plan, which is about \$3,000. So they determined it did not make sense to continue to offer a plan that employees wouldn't buy, and if even a few did sign up, despite the fact the premium would exceed the out of pocket expenses, we wouldn't generate enough premiums to actually sustain the costs of the plan. Second recommendation concerns a premium holiday for nonrepresented employees and represented employees by dcu, coppea, fire and recreation, a premium in the form of a pretax deduction was to go into effect July 1 of this year for the city's self insured, now the city self insured core plan. The rates were \$10, \$20, and \$30 per month respectively for the one-party, and two-part, and family rates. We did not negotiate any premium for employees enrolled in kaiser. We found with the exception of the one party rate which is slightly above the cap, about \$3.30 above the cap, the rates for the core plan are under the city's contribution. Our experience under the core plan was better than expected. We think in part because more employees went on the premium plan and also because the plan design changes are effective and employees are becoming more careful consumers. However, we did have a large increase in our kaiser rates, which brought them above the cap, and so we were in somewhat disjointed position where employees on our self insured core plan where the rates are below the cap with that one minor exception would be required to pay a premium, but employees on kaiser whose rates were above the cap would not be required to pay a premium. So the recommendation which passed unanimously was for a one-year, basically rate holiday on the premium for employees enrolled in the self-insured core plan. The negotiated premiums would still for the next year that are negotiated would go into effect July 1 of 2004. The ordinance also asks you to authorize an entry into a memorandum agreement with the unions to put that into effect because it is a mapped to bargaining and not something we could simply implement without that. The labor management benefiting committee's final recommendation did concern the use of the health fund reserves. Just so you understand the background of what occurred in that meeting, the representative from the Portland police association first moved that the reserves would be used to subsidize the difference between the caps and the rates for all employees. Including members of ppa, Portland police association, and Portland police commanding officers association, who remain on the city's select plan. The cost of that would be about \$2.5 million draw-down of the reserves. That motion did not pass. Subsequently, the representative from the Portland firefighters association made a two-part motion. The first part of that motion was to use the row serves to subsidize the difference between the caps and the rates for the core plan and for kaiser. This results in a draw-down of reserves of just over \$414,000. Nearly \$375,000 of that is attributable to kaiser.

**MAY 14, 2003**

That increase. That motion passed unanimously. A second motion -- the second part of the motion from the firefighters association was to subsidize 70.5% of the difference between the caps and the rates so the plans still in effect for the Portland police association and Portland police commanding officers association members until they settle their contracts, or January 1, 2004, whichever occurs first. That results in a reserve draw-down of approximately \$744,000, and both of those recommendations passed unanimously and it's that -- those recommendations on the reserves that are the substitute ordinance.

**Katz:** Ok. Betty? David? Are you finished?

**Kanwit:** Yes, I am finished.

**Francesconi:** The last one passed unanimously, the police voted for it?

**Kanwit:** Yes. Everyone voted for it.

**\*\*\*\*\*:** I don't have anything.

**\*\*\*\*\*:** I don't have any comments.

**Katz:** Let me just ask the question just out of curiosity, if we were to subsidize and use the reserves for 100% of -- for the police, what would the draw-down be?

**Kanwit:** The total draw-down would then be \$2.5 million. David, do you know the breakdown?

**Kanwit:** Yes.

**Katz:** In a second. And the reason for the unanimous vote? On the 70%?

**Kanwit:** Well, that wasn't really discussed in terms of what people -- let me back up. The voters did not comment on the reasons that they were voting for that 70.5%.

**Katz:** All right.

**Leonard:** How can 70% be \$744,000, and 100% be \$2.5 million?

**Kanwit:** The \$2.5 million also includes the draw-down in reserves for the -- all the employees on the other plan.

**Leonard:** That's not the question --

**Katz:** If it was -- if you raised the 70 to 100% for police, what would it be.

**Kanwit:** I think David has that.

**David Schaff, Labor Relations Manager, BHR:** The entire draw-down to cover the difference between the caps and all of the rates, including police and the police commanding officers association, would be \$2.5 million.

**Leonard:** That's not the question.

**Schaff:** If you look at just what the draw-down for the police would be, the police association, the police commanding officers association, over the course of an entire year, it would be about \$1.4 million, almost \$1.5 million. Half of that, the first six months, is that \$700,000.

**Leonard:** The half --

**Schaff:** We estimate -- I estimated to you that it would be \$744,000, I believe. That is half of what the entire draw-down would be for an entire year.

**Leonard:** That's -- at 70 or 100%?

**Schaff:** At 100%. So if we were to subsidize the police association, police commanding officers association on city select for the entire upcoming year, the subsidy necessary would be just over \$1.4 million. But the -- excuse me. It's more than that. The 70% is \$1.4 million. Half of that is the \$740,000.

**Kanwit:** It's basically about \$2 million.

**Francesconi:** You lost me.

**Leonard:** What was it? 70% for a year is \$744,000.

**Schaff:** For a year.

**Leonard:** So 100% would be --

**MAY 14, 2003**

**Schaff:** I'm sorry, I didn't answer the question very well. Let me give you the break down. For the self insured plan, if we were to subsidize all of the self-insured plans for an entire year, the number is \$1.6 million. Of that, only \$40,000 goes to the people on the core plan. So it's \$1.5 million for police and police commanding officers on the self-insured plan.

**Leonard:** For a year?

**Schaff:** For an entire year.

**Leonard:** That is --

**Schaff:** I should go through the rest on kaiser as well. For kaiser, the entire draw-down for everybody is about \$650,000. Of that, \$370,000 is for the folks on the revised plans. So \$266,000 of that is for p.p.a., the police association, about \$8,000 is that is for the police commanding officers association. And the last piece of the puzzle is the dental plans. And the dental plan draw-downs would require about \$280,000, and all of that would be attributable to the police association, the police commanding officers association. So all of that comes out to about \$2.5 million for everybody, a little over \$2 million for just the police association, the police commanding officers association, the 70% of that for six months works out to about \$750,000.

**Leonard:** And the rate that you used to compute what it is that we're going to subsidize the police officer rate is at -- is it a blended rate or a rate that just reflects their experience and their bargaining unit?

**Schaff:** It's a tiered rate that relates -- that reflects only their bargaining unit.

**Leonard:** So is there some disagreement to this number from them to you? Because i've heard different numbers.

**Schaff:** Commissioner, they -- at the lmhc there were some numbers that were mentioned by both the president of the police association and the president of the fire association, which we said in that meeting, you know, we don't know what the basis for that number is. And we're not prepared to validate that number. What we are prepared to do is to use the reserves to subsidize the difference. If you can make a proposal that says either a per capita dollar figure or a percentage figure, and they came back with the 70.5%. Now, the information that i've given you is based on spreadsheets that every labor leader in the city of Portland had been given prior to that meeting. So i'm fairly confident with our numbers we don't know the basis for their numbers.

**Leonard:** Because my concern is the Portland police association has not settled their agreement.

**\*\*\*\*\*:** No.

**Leonard:** And historically my understanding has been, and there's some basis for this in the language of the contract in terms of continuing the benefits at the level they are, until a successor agreement is established, I think that's commonly referred to as an evergreen clause, i'm just having a hard time understanding why a bargaining unit would actually be put into position where they were having to pay something that they otherwise were not paying because they haven't established a successor agreement, and doesn't that put them in a distinct disadvantage in exhausting their collective bargaining rights if we are in effect levying a charge on them that the other bargaining units don't have?

**Kanwit:** If I may just for a minute, it's really two issues. One is, yes, they are entitled by virtue of basically state law that takes about maintaining status quo to remain on the same benefits plan that they're on until negotiations are completed. That's the reason why those members have stayed on the more generous city select and different dental plans, and different kaiser plan. Our collective bargaining agreements also contain language concerning what happens if the city's contribution is below the cap -- the cap is actually below the cost. And that's where the use of the reserve comes in. If, for example, there was a vote not to use the reserves at all, by virtue of contract language, the employees would be required to pick up the difference.

**MAY 14, 2003**

**Leonard:** My point being that they weren't -- they aren't required -- were they under another plan, they would have had the rate holidays of the other units. But because they're in the bargaining process, their wages haven't changed, their plan hasn't changed, a number of things haven't changed. And it just strikes me as putting a bargaining unit at a distinct disadvantage to go into collective bargaining process if one of the penalties is that they have to pay something other bargaining units aren't paying.

**Francesconi:** If I could follow up, the same thing concerns me, have we ever done this before, has the city ever done what commissioner Leonard -- what the effect of this will be?

**Kanwit:** Well, I guess let me make sure I understand your question. In terms of the city ever done it, you mean the -- the different use of the reserves?

**Francesconi:** One bargaining unit versus another.

**Kanwit:** I'll have David verify this, but I don't believe that that's happened for --

**Schaff:** Well, last year, when the Imbc, the labor management benefits committee voted to use the reserves for the first time, there was actually a no vote. There -- it was a vote of 12-2 because a number of the bargaining units objected to the fact that the firefighters and the police officers were staying on the older, more -- the richer plan, and would be drawing down the reserves, when the other employees wouldn't be contributing to a draw-down on the reserves. So -- and prior to that, the decision to use reserves had always been unanimous, and we have been drawing down on the reserves for I think -- to one degree or another, for the last four years. So the first couple of years it was unanimous, last year it was a 12-2 vote, this year it didn't pass.

**Francesconi:** What's the rationale to treat the police department? -- different.

**Schaff:** As expressed by members, the labor members of the Imbc, it was that they felt it was unfair for the police officers and the police commanding officers to continue to draw down on the reserves a year after we had implemented new plans with the other groups. That was the expressed concern, and why five of the seven bargaining units voted no.

**Francesconi:** And the city didn't vote.

**Schaff:** No. We had told the -- we had told the unions that we were prepared to vote to use the entire reserves if that was the direction that the unions wanted to go. But clearly it wasn't. We then supported the second proposal that was made to use the reserves partially for the police --

**Francesconi:** One of the things I'm concerned about, maybe it's my lack of preparation, but until this amendment, which just came, I didn't know about this. And so now -- this amendment changes it, or else this issue -- because it wasn't in the first draft. Or did I miss --

**Kanwit:** It was not in the 1st draft, commissioner. We did provide information about the Imbc's recommendations in terms of the reserves in a memorandum that went out April 25 following the vote.

**Francesconi:** I know that, but whether we're going to vote on it today is a whole different deal. Did the police union know we were going to vote on it today?

**Kanwit:** Yes.

**Katz:** Yes.

**Francesconi:** On this portion?

**\*\*\*\*\*:** Yes.

**Francesconi:** What's the emergency, why is this an emergency if.

**Kanwit:** Well, the two pieces of it are particularly difficult. The premium plan and the rate holiday, because we need to get materials out for education purposes as part of open enrollment.

**Francesconi:** So is there some legal reason we can't just do what we originally were going to do on today's agenda, take care of that, and deal with this issue? Later?

**Kanwit:** And pull the substitution?

**Katz:** Can you separate the two issues, is the question.

**MAY 14, 2003**

**Kanwit:** Yes.

**Katz:** We'll get back to the answer -- did you want an answer from Betty on that?

**Francesconi:** No, because I think it's more of a legal question. I think there may be a legal issue as to whether we can actually do that.

**Katz:** We'll get that, but let me ask the question, we're in the middle now of collective bargaining.

**Schaff:** That's correct.

**Katz:** If we reverse your recommendation and provide 100% of the subsidy, where does that put us into our last offer?

**Kanwit:** It's not mentioned -- first, it's a recommendation of the labor management benefits committee, and our -- the final offer that we submitted?

**Katz:** Right.

**Kanwit:** That does not address the use of the reserves, because that's a recommendation made by the labor management benefits committee that then comes to council.

**Katz:** But what's the motivation, at least for a year, not to agree?

**\*\*\*\*\*:** Oh. Well --

**Katz:** -- to what we've put on the table?

**Kanwit:** There's very little motivation, because the -- until there's a -- until there's agreement on the plan, the members of the bargaining unit stay on the much more generous --

**Katz:** That's the reason the rest of the unions --

**\*\*\*\*\*:** Yes.

**Katz:** -- I assume did not support that.

**Schaff:** That was the stated reason.

**Katz:** All right.

**Francesconi:** So I'm going to put you on the spot here, because we hadn't -- didn't have a chance to talk about this ahead of time. What do you think the right thing to do is? How would you have voted? What's the right thing to do now, given the circumstances?

**Kanwit:** Well, the management members did vote for the 70.5% subsidy, and we actually did think that was the correct thing to do. It was a compromise position between subsidizing those unions at the full rates, provided some incentive for them to negotiate and come on to the other plans. The plans that everyone else is on, but was not such a low percentage as to be a huge penalty.

**Francesconi:** Where did this -- why 70% instead of 80% or 50%?

**Kanwit:** That was the number that Tom Chamberlain presented. They provided a percentage, initially it was a flat dollar amount, but what we told them was that that's not something that the city could work with to then establish the premiums. That would just lead to controversy how that got divided out. So we said we actually needed, as David said, a per capita rate, or a percentage amount that we could then apply, and that's when they came back with a percentage.

**Francesconi:** Another question or two regarding procedure. And that is, when this committee makes a recommendation to the council, because I remember this on the 12-2 discussion, generally the council has approved it. There's been this kind of understanding that the council doesn't supersede this committee, although in certain circumstances, the council should. So talk to me a little bit about the history of these votes, the relationship with the council, what the effect of -- would be if we supersede this.

**Schaff:** Well, the committee has existed since 1990, the council has never overturned a committee recommendation. The council has always adopted a committee recommendation. The -- we've only had I think three or four no votes cast in the course of those 13 years at the committee's -- that the committee's operated, and usually that's been a 13-1 vote or last year, a 12-2 vote. If the council were to overturn this recommendation, which it could, it would have a number of bargaining units

MAY 14, 2003

very unhappy with it, because five of those bargaining units said, we don't think we should use the full amount of the reserves to subsidize the difference. So the duct, the recreation, coppea and fire association was probably all be displeased with that, but that is contractually something that the council able to do.

**Leonard:** If we provided 100% benefits through the reserve fund, might -- that's not necessarily my thinking, my thinking is that given that we're in a collective bargaining process, and the city in my opinion should not put a bargaining unit at a distinct disadvantage because they're in a collective bargaining process by essentially causing them expenses that they otherwise would not have had, had they reached agreement earlier, that we should consider making up the difference between the 70% and 30% ourselves. And as I understand it, that difference is \$108,000 for six months.

**Schaff:** Well, commissioner, the status quo is that we have to maintain the current level of benefits that are provided in our current labor agreement. Our current labor agreements are very clear on this. The city has an obligation to pay up to x amount on -- for benefits. And if the cost of the benefits is higher than that, then the employee must pay out of pocket. That's the status quo.

**Leonard:** I understand that's your opinion. That's not how I view it. I mean, I think from what I have seen and what I have analyzed, if -- and there are different numbers, then what -- than what you're using that reflect the experience rate of the police association with the health plan. I kind of like commissioner Francesconi's recommendation to give us a week to talk about this.

**Katz:** If it's ok with the council, I think this is raising a lot of issues. I also understand in the memo that I received that there may have been a recommendation for the labor management committee to revisit this issue. Am I dreaming, or am I accurate on this?

**Kanwit:** Yes, there was. And our understanding is they -- the union members met or some of them met and decided not to revisit the issue.

**Katz:** Did they meet as a committee?

**Kanwit:** No. We -- because the committee would be the entire committee, both the management members and the labor representatives.

**Katz:** So the union members met.

**\*\*\*\*\*:** Yes.

**Katz:** Officially as a committee?

**Kanwit:** No.

**Katz:** No. Are they planning to meet officially as a committee? Or does that make any difference?

**Kanwit:** At this point, our understanding is they do not have an interest in second -- labor management benefits committee meeting to address the issue of the reserves.

**Katz:** So -- ok.

**Kanwit:** That was what we had offered.

**Katz:** Let me get a sense from the committee. We are in bargaining, this does color the bargaining discussion. I think it does. I may be wrong, and i'd like to hear from everybody on that. Does the committee want us to take this back, or just act on the first part and there's a legal issue that I think was raised, and then come in and a work session or in an executive session and deal with this as an issue?

**Saltzman:** The 70%? Separate that?

**Katz:** Yeah. The numbers don't match. People have different numbers, I don't know what they cover, and I don't want this to turn out to be a contentious issue. It's not necessary.

**Saltzman:** I think that would be something I would support. You said the numbers are all over the place, and it's really hard for us to sit here and make any sense out of this. I think maybe a work session is the best place to deal with the ppa.

**Katz:** What's the down side on that?



**MAY 14, 2003**

**Francesconi:** I'm not sure this is actually appropriate for an executive session.

**Katz:** That's a whole other issue. I just want to get to the issue of whether we deal with it today or not. What's the down side on this?

**Schaff:** Delay. We do have open enrollment coming up. We have to be able to know what --

**Katz:** What's your deadline?

**Betty Soloja, Benefits Manager, BHR:** This week, to get the materials out to the printer.

**Katz:** So what's wrong with acting with what we have as the original motion, and not adopting the substitute, and whether the council wants to at maybe next week, adopt the substitute? Or not.

**Soloja:** It would help if we could get the first two items.

**Katz:** Is there a legal issue ane?

**Kanwit:** Not in terms of separating them, unless there's something in terms of the council procedure.

**Katz:** No. I didn't take a vote on the substitute.

**Kanwit:** We would do -- what would help the most for the open enrollment if council votes on those first two items on the original amendment, because then betty and her staff can prepare the materials for the bulk of employees, we would still have difficulties with --

**Katz:** So --

**Kanwit:** The rate holiday and eliminating the buy-out plan.

**Katz:** So if that's the wish of the council, and my sense is that I think it is --

**Leonard:** Just as long as the rate holiday for some reason doesn't interfere with us resolving the ppa's issue.

**Schaff:** It should not.

**Francesconi:** Are there any contract violations we would be making by separating these out?

**Kanwit:** No.

**Francesconi:** Then proceeding now will make sense. A week is all i'll need to make a decision on the other.

**Katz:** I'd like to have a very brief work session or executive session. We'll need to see with the attorney whether it fits under the rubic of executive session --

**Leonard:** Are you contemplating something kind of forum where we can hear from the p.p.a. About their numbers and have our people present?

**Katz:** If we have a work session, we may want to invite the rest of the unions as well as p.p.a. And have a conversation. This has been -- we've been on this now for close to an hour. Anna?

**Kanwit:** Yes, ma'am.

**Katz:** Which of the sections that you want us to pull out? That would be an easier way.

**Kanwit:** All right. Just --

**Katz:** Or not. Or just the -- which of the sections do you want us to add is probably the answer.

**Kanwit:** Well, I think actually four -- we would just remove from the substitute ordinance sections 9 and 10, which deal with the use of the reserves, and then d and e.

**Katz:** Ok.

**Leonard:** Wouldn't we just adopt the original ordinance, then?

**Katz:** You could couldn't the original --

\*\*\*\*\*: Yes, you can adopt just the original ordinance.

**Katz:** That would be easier. All right. Now, those -- I see the union representatives here. Are you ok with us not listening to your testimony, and when we have a work session we'll give you an opportunity as well as the labor -- the rest of the labor unions -- are the rest of the labor unions here in the room?

\*\*\*\*\*: Some of them are.

**MAY 14, 2003**

**Katz:** Is that all right with you as well? Ok. All right. So -- does anybody want to testify on what's --

**Moore:** We have people that want to testify.

**Katz:** I know. Does anybody dare want to testify on any of them? Yes? Then come up.

**Susan Francois:** My name is susan, i've been a city employee for almost eight years. As a nonmanagement professional employee, I don't have the right to union representation. So i'm here, this is my only vehicle to express these issues to you. I have several concerns that I would like you to consider as you make these important decisions about the health and welfare of your employees. The first is that i'm only here today because I read the council agenda, i'm kind of a council agenda nerd and I noticed it on the agenda. There was no notification to city employees, particularly us nonunion city employees, that this decision to eliminate the buy-out plan and other things would be made today. And that has been a problem in the past, the lack of communication, so I just would like to tell you that still is a problem. My second general concern is just that these days of financial difficulties, as i'm sure you know, public employees have become the scapegoat with the uncertain nature of pers, with the probability of salary caps at some point, freezes, with the elimination of tuition reimbursement for employees several years ago, and with the decrease of our benefits to the point that they're not much better than people I know in the private sector, i'm just concerned that city employees will make the decision, or have to make the decision to leave public service. The city is a city that works because of the dedicated employees that you have, and I just ask that you think about that when you make these decisions.

**Katz:** Thank you. Anybody else?

**Moore:** That's all.

**Katz:** Anybody else? Ok. Thank you, everybody. We're going to vote on the original ordinance before --

**Moore:** No amendments were made?

**Katz:** No amendments. All right. Roll call.

**Francesconi:** Briefly, we all have to make some tough decisions. What was lost in this discussion is the tough decision to eliminate one of the more expensive plans, which had to be done. So we appreciate it on everybody's behalf. And by the way, that last city employee, that took guts to come up here and testify. On this issue we discussed, I understood the police point of view before today, just because we met yesterday. I actually did not understand the rest of the bargaining unit's point of view, but now I do. So I would just -- it's encouraged the groups if they can to at least talk to one another before next week when i'll be prepared to make a tough decision. It's just not in the best interests that we fight among ourselves, given all the challenges that we have, not only from a public safety standpoint, but trying to deliver services to our citizens. Aye.

**Leonard:** Aye.

**Saltzman:** Aye.

**Sten:** Aye.

**Katz:** Mayor votes aye. [gavel pounded] all right. Thank you, everybody. Let's get on now to time certain, item 434.

**Item 434.**

**Saltzman:** You remember that we on february 19, we had an evening council session, and we were briefed on the rationale for our decision to move ahead with the open reservoir replacement project at both mt. Tabor and also at work -- Washington park. One of the commitments I made was a closer connection between the public advisory committee's work and the city council. And this is the impetus for today's presentation. You may recall the public advisory committee was appointed late last year, and their job is to come up with recommendations for us to consider about what goes on top of the mt. Tabor reservoirs. And they've been doing yeoman's work, they've been meeting

MAY 14, 2003

twice a month, I believe, for many months, and so first of all, before I bring them up, I wanted to thank the entire public advisory committee. I realize they cannot all be here, but some are here today and I want them to please pass my appreciation on to the entire group. As I said, they've been meeting twice monthly over the past couple months in developing some great guiding principles for what should go on top of the reservoirs, and also some very stimulating site concepts. They had an open house a couple weekends ago, and I was very excited by some of the ideas that have been developed by the public advisory committee. So their effort is truly appreciated. So now I want to hand over the presentation to chet orloff, chair of the committee, and he may -- I think laura gordon was also going to come up here, another member of the public advisory committee.

**Chet Orloff:** I'm chet orloff, chairman of the mt. Tabor open reservoir replacement public advisory committee. I apologize for reading my testimony, I know you're used to me speaking either ad libbing, but I have remarks that I want to adhere to, hence I appreciate your abiding me here. The public advisory committee is a 15-member committee appointed last fall to develop recommendations regarding future use of the reservoir sites at mt. Tabor park following the replacement of existing open reservoirs with buried concrete tanks. I want to thank commissioner Saltzman and the staff of the water bureau, some of whom are here, as well as commissioner Francesconi and the staff of the bureau of parks and recreation, members who are also here. As well as all of you members of the city council, for establishing a public process for advising the technical, historic, and design considerations for this very important part of mt. Tabor park. I also want to thank, as commissioner Saltzman did, the members of the -- and staff of the public advisory committee for their sustained commitment to this phase one of the project. The open reservoir replacement project has been the subject of a great deal of public attention on legitimate -- and legitimate concern. The process has been well served by this high level of interest. As the public has provided invaluable information, ideas, and indeed criticism along the way. At the same time, public and especially neighborhood concerns about the project as a whole have added additional levels of complexity to a task already complicated by many engineering and design challenges, the unique natural and historical nature of mt. Tabor park and the multiple agencies and issues involved. In the face of these challenges, the p.a.c. has invested substantial time and thought in discussions, presentations, site tours, open house and other public functions. As a result of these efforts, we have made progress fulfilling your charge. And our approaching completion of the first phase of the reservoir replacement project, a development of a design program document for the reservoir sites. This document will provide guidance to phase two of the project, during which a detailed design and historic properties plan will be developed for the reservoir sites. This document, the product of the p.a.c.'s eight months of work, will have two main elements. First, a set of guiding principles, and second, general design contracts or conceptual explorations for the reservoirs that reflect how these guiding principles might be applied. The guiding principles drafted by the p.a.c., and you have a draft copy, emphasize the importance of retaining an -- and enhancing the existing character of mt. Tabor, with its large bodies of water, dramatic open views and important natural and historic resources. As a framework and foundation upon which we intend world class designers can create something truly wonderful for this park and our city. The copy of the guiding principles that you received this morning is the most recent draft. Tomorrow evening the p.a.c. will conclude refining the language of these principles and refocus our efforts on design concepts and options. Honing these concepts, the p.a.c. will be looking at each reservoir and at all three together as a unified whole. Ideas already on the table range from wildlife habitat areas, to formal gardens and reflecting ponds, to the incorporation of design elements found in the original plans for the park, including a water feature connecting the upper and lower reservoir areas. Preserving and augmenting the historic and natural qualities of mt. Tabor park are paramount. Once we have finalized the principles and design concepts, we will again turn to the public for

**MAY 14, 2003**

review and comment. At the end of the p.a.c.'s work next month, we look forward to your authorizing and initiating the creation after design team to -- the actual land escape design and historic preservation planning process this. Process must commence coincident with the engineering design of the buried reservoirs. It must incorporate stringent historic properties planning processes, and an absolute, absolute stellar design effort. The p.a.c. is in the home stretch of phase one, as we conclude our work, we need your endorsement. Most important, we need your, the water bureau's, and the park's commitment, publicly and very clearly voiced, to implement and maintain the vision and principles that will emerge from this process. The redesigned and restored park as we all know, will require a strategic investment on the part of Portlanders. I have asked one of our p.a.c. members, Laura Gordon, to briefly discuss the significant matter of money. In addition, another member of the committee speaking on her own behalf, Dr. Valerie Hunter, would also like to offer testimony on historic preservation. I'll pause here and ask if you have any questions of me.

**Katz:** Questions of cost? Ok.

**Francesconi:** Is the act of recreation, the fields still in play, or that has been removed? I too went to the open house.

**Orloff:** Yes. I think it's a good question, that this will be resolved by tomorrow evening. I'm meeting with the head of parks and the water bureau today to discuss this issue and I believe we'll have resolution of that issue.

**Francesconi:** Ok. Thanks.

**Laura Gordon:** Good morning. My name is Laura Gordon, I'm a p.a.c. member and a member of the Mt. Tabor neighborhood association. At our last meeting I volunteered to share concerns of the funding of the project with you all. Today I'm formally speaking on behalf of all the p.a.c. members. As we have explored options for what will go on top of the tanks, we have become concerned that adequate funding may not be available to implement our recommendations. We are also concerned that the funding needed to maintain any improvements may not be available. Just to give you a brief background, as you all know, in July of 2002, you approved the budget for the open reservoir replacement project, and at that time, \$2.5 million was set aside for what would go on top of the buried tanks, which was sort of a place holder figure. After that was approved, the neighborhood association formally requested of the water bureau to provide an estimated cost for buried -- for restoring above-ground features as they are today, kind of the as-is option. Because we wanted people to have a sense of how much money we are really talking about, and what it would really cost to put it back the way that it was. And that would be kind of a jumping-off place for people, because the \$2.5 million figure was really not a reasonable figure to look at in terms of what would really happen at the park. And we got that figure back from the water bureau in October of 2002, and that was a cost estimate of \$13.4 million. And city council -- you have reviewed that, and later adopted that as your working figure for the budget for above-ground improvements. And we appreciated the fact that you had the willingness to look at that figure, but I would caution you that that was just a figure for what would it -- what it would take to put it back the way it was. It is not the figure. So we're working with that right now, but as we've been working through this, there's a feeling from the p.a.c. members that this might not be enough to continue the legacy of what is Mt. Tabor park, that that actually -- that figure might go up because the above-ground features might include restoration of historical structures as well as extensive water and landscaping. And public comment that we've heard to this point continues to reflect a concern that there is no way to set aside or guarantee that the necessary fund will be available when it comes time to implement this project. The money for what's going on down below is set. That's a project that has -- that's being done, and everyone agrees that the reservoirs -- the money is available to bury the tanks. But then it becomes more of an open issue when you're talking about what goes on top. It's kind of, what's left over, and then what the public wants. And there's attention that --

**MAY 14, 2003**

there's a tension that exists between the desire to maintain the legacy of the park and the need to obtain funding to make it a reality. And the final point is to the future maintenance of whatever is chosen for above-ground features, because everyone agrees they must be adequately maintained, and currently the way that this system is set up, parks is responsible for park land and some of that reservoir space might turn into maintenance for parks, which is taken out of the general fund. The water bureau is responsible for buried storage and below-ground maintenance, and possible future above-groundwater features, but the way that's divided up and who takes care of it and who pays for it is an issue. And new park amenities might require higher maintenance costs, and there's a concern there might not be adequate funds to fund these. The concern that we're going to build something and not be able to take care of it. And I think the p.a.c. just believes creative funding options need to be explored by city council to maintain the integrity of this park, and to protect it against future problems. And i'd like to ask you at this time if you would like me to communicate anything back to p.a.c. members concerning this issue.

**Katz:** Thank you. Questions?

**Francesconi:** Maintenance is always an issue in everything. The problem has tended to be in parks, is the older facilities not the new ones, that have been the biggest problems to maintain. But we have to make sure whatever we build we can maintain, so between the water bureau and parks, we'll make sure that we address that. In terms of the creative funding ideas, we have created a parks foundation. And chet's on the parks board. The idea of having friends of parks, or friends of projects like this who increase the level of maintenance like we do at pioneer square, where the city provides a basic maintenance and then you actually enhance it, is a concept that we're -- the parks board, parks foundation, parks staff are all looking at. So you raise that as a possibility here. We're looking at that with the mayor's leadership on the transit mall, we're looking at it at o'brient square, new park block five as well, so this merits -- there's models already there. And that merits some consideration.

**Katz:** Further questions?

**Saltzman:** I would respond to the issue of the 13.4 million dollars, and whether that's sufficient. We increased that from 2.5 to 13.4 as a more realistic place holder. It's still a place holder. We don't know what the final cost is, because we don't know what the final design is. Once we know what the final design is and what that cost, it will be up to this council to approve an amount that's higher or lower than 13.4 as part of the water bureau rate ordinance. This will be paid for through water bureau rates, so -- and this council is keenly sensitive to the impact of water bureau rates and sewer rates on the public, on the larger public. So there is going to be that tension that needs to play out. But I think the 13.4 million is simply an attempt to put a more realistic place holder in there to provide sort of the base case of maintaining as you said, a reflective pool surface on the reservoirs. But when you come up with something we're going to see a more realistic budget, and then we'll -- whatever you recommend, we'll make a decision. I have committed that we will not proceed with the construction of the burial of the tanks until we know what's going to go on top and until we know how to pay for it.

**Gordon:** We appreciate that.

**Francesconi:** If I could follow back on my comments, your committee should look at the question of maintenance and the idea that I just raised. It should actually come from you as well. You should consider the maintenance when you -- in the right course of your deliberations.

**Orloff:** Thank you, commissioner, we'll do that.

**Katz:** Ok. Thank you. Let's open it up to public testimony.

**Katz:** How many people want to testify on this item? All right.

**Valerie Hunter:** Good morning. I'm valerie hunter, a member of the mt. Tabor p.a.c., speaking on my own behalf as well as for other members of the p.a.c. I am pleased to have been invited to

**MAY 14, 2003**

participate in the p.a.c., and I thank commissioner Saltzman for the opportunity to serve. I believe the p.a.c. has done an excellent job in developing guiding principles and producing a document with the potential to protect and enhance mt. Tabor park. I request that our product be developed as a formal master plan and given the weight of city ordinance under the master plan's chapter of city code 33.820. This is for two reasons. One that the committee's efforts become more than an exercise that can be discarded if it becomes inconvenient, and two, because new uses of the park will undoubtedly draw many additional users. The master plan process requires that it be spelled out how possible new uses will be developed, how projected transportation and parking needs will be addressed, and how temporary uses and locations will be structured during construction. These issues are all of immense importance to the neighborhoods. On the topic of historic preservation, the user surveys, the open house comments, public comment during p.a.c. sessions have emphasized the importance to the public of historic features of the reservoirs. The reservoirs are a national historic landmark eligible in a formal nomination is under way due to the efforts of the friends of the reservoirs. Additionally the water bureau must comply with section 106 process for the identification and protection of historic and cultural resources and has completed a draft of the section 106 application. Members of the p.a.c. and general public were alarmed to hear at the april 26 open house montgomery states that the reservoir five gate house would be removed in the course of building the underground tanks. He also stated that they have no experience in preserving historic features. Dennis kessler at that time stated that we plan to try to save the gate house. At the p.a.c. meeting on may 1, dennis clarified that the contractor would subcontract saving the historic gate house to a company that did have experience in preserving historic structures. This information was reassuring, but I and others wish that we had more specifics. We were then surprised to learn the same may 1 meeting that the water bureau expects the pack to -- p.a.c. -- we were given a short handout on section 106 and we have a copy of the draft application to review. I and other members were surprised and uncomfortable to learn at this late date of this new charge, although protection and reuse of the buildings has been discussed in the context they are an important design element, there has been virtually no p.a.c. discussion of how and what extent historic features are to be maintained. With the support of expertise provided by friends of the reservoirs, I received and reviewed the actual language of the 106 document, the 36 cfr 800 document of protection and -- and the may 20, 2002 guidelines for the development of historic properties management plans for ferc hydroelectric projects. Is that the end of my --

**Katz:** I'll give you another minute.

**Hunter:** Thank you. I have learned there are detailed specific requirements for complying with ferc's policies regarding historic preservations specifically related to hydroelectric facilities notably the applicant must produce a historic properties management plan which -- it's a standalone document which identifies the nature and significance of the properties, identifies goals for preservation and rehabilitation standards, establishes a decision-making process, establishes guidelines for maintenance and operation, and establishes a process for budget planning. Basically it addresses all of the -- our specific questions about historic preservation at the reservoirs and how it will be funded. Furthermore, the document is to be developed in conjunction with the state historic office ferc and interested policies, the guidelines suggest a three-year time frame for all this to occur, and urge that the applicant begin this process early in the planning stages. This process has not begun. This is the document that the p.a.c. needs before it can be in any way considered to be the public comment vehicle for section 106. The applicant --

**Katz:** Finish your sentence.

**Hunter:** I thank you for your attention, and I thank the p.a.c. and I thank chet for all of our unflagging efforts. I ask that the council implement the p.a.c.'s efforts as a formal master plan and I

MAY 14, 2003

ask for more rigorous application of the historic review and preservation process beginning with a historic properties management plan.

**Katz:** Thank you.

**Alfred M. Staehli, 317 SE 62<sup>nd</sup> Ave., 97215-1307:** I'm a member of the neighborhood association. I attended the meeting on the first of may, the p.a.c. meeting on the first of may just an -- as an observer. I was frankly quite surprised to see that the meeting was devoted to a presentation of 106 and its issues, and what it was. It seemed very late to be doing that. I guess I have a question, or a statement to urge you to -- that somebody on the city needs to have 106 training and expertise to advise the bureaus when that happens. Those need to be a specialist in every single bureau, but somebody on the planning commission or whatever needs to have that training. It's free, g.s.a. had or still has a regular program of conducting training sessions throughout the country, usually up in seattle in this area, and they need to attend that. And it's very comprehensive, and I highly recommend it. That's all I have.

**Katz:** Thank you. John?

**John Wish, 1537 SE 72<sup>nd</sup> Ave., 97215:** John wish, 72nd avenue southeast. I have asked dennis, the water bureau, i've asked the p.a.c., and that the pittsburgh solution that is a small micromembrane filtration plant that works off of an open reservoir, be looked at as an alternative. My analysis, done two months ago, suggests that this is a cheaper alternative than the current plan to bury the reservoir. And I would welcome the opportunity to sit down and look at this as a serious alternative, and I have been told by the water bureau that this will not be looked at without direction from the commissioner or the council. Thank you.

**Katz:** Who is dennis kessler?

**Wish:** He's the senior engineer in charge of this project, works for the water bureau. Dennis and I have gotten very well acquainted over the last three years, with my work with the current open reservoir.

**Katz:** Ok. Thank you.

**Cascade Anderson Geller:** Can I give you this afterwards? It's not for everybody. I'm not sure of the protocol. My name is cascade anderson-gellar, i'm a member of the friends of the reservoirs. I have many issues as you know, with this project, and i'm here both -- mostly to reiterate what you've been hearing from other people about dollars and communication. This is a very expensive project. We could save a lot of money for the city if you would please go back to some of our reviews. We continue to research other technologies that are really becoming cheaper and more available, and could really rescue this project. A lot of you will not be probably sitting on this bench, or you may be rearranged in some other order when this becomes a reality. When what goes on top becomes a reality. If that's the case, it's going to be really great if you have some good lines of communication, because we're a large force on two sides of the river. So i'd like you to consider that. The p.a.c. is very expensive. We've looked at the documents, we know how much people are being paid. It's an irritant for taxpayers, even that aren't involved in this process, to pay for a p.a.c. That's not really addressing a lot of the issues that need to be addressed. So i'd really like for the fiscal agent, and i'm looking at you, mayor, as all the money stems from your department, to really take a close look at not only this public advisory committee, but other public advisory committees. A public advisory committee is only useful if it is a public process. And this has been given out to us as the public process. We've tried to use it in every way we can to make it the public process. It's been very difficult. Some of my issues -- first of all, the bureaus involved are not really involved. This is really passed on to the consultants. If I ask a question to mr. Kessler as the water bureau engineer, or let me start with -- I ask a lot to the parks. If I ask a question to david about something very specific, maintenance issues or whatever, he turns and looks at dennis, the engineer from the water bureau, and says, it's up to the water bureau. A lot of this is up to the water bureau.

**MAY 14, 2003**

The water bureau then and looks physically at the consult apartment, because we're leaving this up to consultants to design and to implement something that's very, very important to the city of Portland. So that's a very big issue. I again turn to you, mayor Katz, because the buck stems from you. If the bureaus are out of control, we need some guidance here. We need some really good leadership. The p.a.c. is cumbersome all the way along. If the public time is a lot of -- allotted to 15 minutes at the end of the p.a.c., which it is, and if it's reduced to five minutes, which it is often, and the consultants have already left, and the bureaus have already left, who do we have to ask our questions to? We're left to the list serve, we're left to other vehicles that are not available to the average person. Many of the people involved in this process are older and they don't use the web. So that's pretty much it. I thank you for your time, and I also will finish by saying thank you to commissioner Saltzman for putting a member of the friends of the reservoirs on the p.a.c. I appreciate that. I requested that, and thank you very much.

**Katz:** Under our form of government, if you're not getting an answer, if you're frustrated with regard to the bureaus, you need to direct it to the commissioner. It just -- unless we've got an overwhelming issue and it's not in my portfolio, address it to the commissioner. If you're not getting any satisfaction, then let me know.

**Anderson Geller:** Ok. Thank you very much.

**Katz:** You're welcome.

**Dee White, 3836 SE 49<sup>th</sup> Ave., 97206:** My name is dee white and I live on southeast 49th and i'm also on friend -- a friend of the reservoir's. I've attended all of the p.a.c. meetings except for one. Overall i'm impressed with the people on the p.a.c. their professionalism, their respect for each other and for the members of the public. However, aside from pleasing personalities, it is very apparent that the p.a.c. process itself has been narrowly focused because the process has been controlled by the water bureau, the parks bureau, montgomery watson engineering firm, and walker macy landscape architects. I'm also disturbed by the compressed park schedule and the frantic pace of the meetings. I am most concerned about the constant overwhelming presence of parties who have profited from this project, consultant montgomery, and those who stand to profit, montgomery contractor walker macy. What's the big hurry and why are paid consultants running our p.a.c. meetings? At the p.a.c. meeting on april 17, we were told by david of the parks bureau that there would be no design competition because there is no money and not enough time. I am sickened by this decision, made by the city. The p.a.c. meetings have been controlled by the very landscape architect who will more than likely be awarded the job. Without a sincere competitive process, the city, the water bureau, and the parks bureau lose credibility by completely ignoring the public's cries for an open, fair process. My voice always shakes like this. I would like to comment on the public process itself of which the p.a.c. is a part of. The public has not been informed of the security package. I talked to Portlanders every day who don't know one thing about this project, not to mention that their rates will be climbing on the next five to 10 years. As this project is so controversial as well as significant, the p.a.c. or another body, should consider the alternatives from independent sources and not just one source, montgomery watson. Of course they don't want a monitoring system, they would not make near the money. But los angeles has signed up for one. Plus new technologies are emerging constantly. Since citizens last came before you on this unsupported project, another neighborhood association south tabor, has passed a resolution asking the city to consider -- reconsider its burial decision. The public continues to clamor for an open public process. Safer water can be achieved at a much lower cost in these hard times. Thank you.

**Katz:** Thank you. Parks made a decision that you weren't going to have a design initiative on this? Come on up. I'm going to ask you that question, because I thought that this was a project that deserved a design competition, especially if you're going to be spending that kind of money. Go ahead.



**MAY 14, 2003**

**Floy Jones:** My name is floy jones. In evaluating plans for what goes on top of the buried tanks, the public advisory committee cannot ignore the strong community support and interest in preserving these historic landmarks at mt. tabor and in maintaining large bodies of water at the park. One of the documents the p.a.c. used -- is using in its decision ever discussions is a document prepared by the consultants, limitations on park use with below ground storage. And within that document, it's very clear that there's only going to be a limited amount of storage at mt. Tabor. We're losing \$1 -- 100% of the storage at reservoir one, 75% at reservoir six, storage at reservoir six, and i'd ask the commissioner to ask his staff to correct web information regarding the loss of storage that was posted on may 12. Toll replace that lost storage it's going to cost the community \$58 million, just to replace 50 million gallons at powell butte. As ms. Hunter stated, we learned from the consultant using this design, which they report as their best design for tank burial, we're going to lose gate house number 5, which is the gatehouse that can be seen from Washington park, driving up how -- it's the significant landmark to identify that park. So your choices are, we're going to bury very little water up there, half, half the water that's stored at mt. Tabor. That's all we're going to bury. And in the process we're going to lose the significant gatehouse, we're going to destroy the park, it's going to cost hundreds of thousands of dollars, and that contrast was another report, another paid consultant, historic preservationist who recommends that reservoir five be retained. That all of the character of reservoir five be retained. So you have two consultants with conflicting reports. Which report are we going to go with in this design? The one that provides a little bit of water storage and loses the gatehouse, or are we going to retain the historic landmarks and store very little water up there for hundreds of millions of dollars? As others have stated, there are alternatives. We could save a lot of money, a lot of headache, and still have equal improvement in the level of safety. So I ask you to again consider the alternatives. I love Portland, i'm going to vote for the school measure, I voted for the parks levy, but I promise you, if you destroy this park for very little in return, I will not be voting for any more parks levies, I won't be voting for any more taxes, it's a big loss to this city, and it's unnecessary. Thank you.

**Katz:** Can we collect your ballot?

**Jones:** You'll collect the ballot? [laughter]

**Katz:** All right.

**Katz:** Come on up. Paul, why don't you start charles? Ok.

**\*\*\*\*\*:** Those have to be handed out to the council before I can begin.

**Katz:** All right.

**Charles Heying, 1619 SE 59<sup>th</sup> Ave., 97215:** My name is charles, i'm an associate professor at Portland state university, member of the friends of reservoir and a neighbor to the park. I entitled this sort of a walk through the park. As a professor, I know that with students past performance is the best predictor of future performance. I believe this is going to be the same thing for parks or water bureau, whoever has control of the maintenance of this park. If you look at picture number 1, this is my walk that I take every day. I'm heading up to the path between reservoir six of -- five and six. You can see that the water has washed down there, that's a continual visual thing that I get to traverse every day when I walk in the park. Down below is the washout that occurs after every rain. You can see the large puddles of water, the dirt, and so forth. That's a continual presence for the four years that i've been up there. If you go to the second page, if you look at item number 3, it says, this was pulled due to injury caused by illegal dumping of cat litter to the can too heavy, sorry about the inconvenience. There are three cans placed at two locations in all of the -- in the west side of the park. These cans are something you buy from wal-mart, they're just tin cans with a plastic liner in them. They've been removed, the can that was placed close to the tennis courts has been removed three times, neighbors have to continually call to get this can back. Now that it has been replaced, the can is placed at a location that's 20 yards from any intersection of walking areas,

**MAY 14, 2003**

so that people who do want to pick up their dog poop so it doesn't contaminate the park, are forced to make extra efforts in both locations that they've now placed the cans. And we have to continually fight to get these cans back. Going up to number 4, you can see the stand-out pipes that are existing all over the landscape in between reservoirs five and six. Going to five, you can see the stairs that would never pass any osha recommendations. You can see the standing puddle, the stairs, the drop-off on the first stair assist about 14 or 15 inches, and the raised stairs, i've seen kids going down this, tripping going down those stairs. Right next to there you can barely see it in the picture in number 6, is an open canister. That I believe is asbestos. It's not been checked. But that's stood open for about four months. If you go on to the pictures, item number 7, you can see the appropriate fencing that is available right now. This was the fencing that was to prevent erosion control, and you can see the water bureau made the best choice of fencing. Something that was very appropriate to the historic character of the park. And that's what exists right there right now. If you go on to number 8, this is the leaf and trash dumping. I've seen all kinds of things this is dumped right next to reservoir number 6, the lower reservoir. This is typically filled with all kinds of trash. Finally, nine is the sidewalk condition. If you go to the last page, I would like to say that in other parts of the country where they are facing financial troubles, the kind we're facing here, they have made decisions to delay burial of reservoir. This is the web page from the massachusetts water -- from the friends of the fells park reservoir. The massachusetts water resource --

**Katz:** We, read it. Your time is up. Thank you.

**\*\*\*\*\*:** Thank you.

**Katz:** Ok.

**Paul Leistner, 2350 SE 57<sup>th</sup> Ave., 97215:** I'm paul leistner, i'm the president of the mt. Tabor neighborhood association. I just wanted to make -- ask for your help on clarifying some of the process issues, and I also wanted to close with a personal comment about the shooting at my daughter's elementary school yesterday. With the process I think one of the things we're seeing is there's lots of suspicion in the community about the process. Of which the land use process, the federal energy regulatory commission process, and i'm wondering if you guys can help us just sort of make public what will be the steps in the process for land use review and the ferc review that's coming up. I think that will help reduce a lot of the concern that's out there. I think we mentioned a -- commissioner leonard wanting some clarification on the conditional use issues around the definition of utility, the reservoirs as a utility, what people are concerned about is what review will there be for the demolition, and the -- and the burial. I think a lot of the water bureau's process comments have been focused on the land use process related to what goes on top. Also with the ferc process, the section 106 is usually something that ferc requires after the water bureau's formally announced they're interested in doing the project. So it seems out of sync with what the ferc requirement is. So I think it would be very helpful to everyone if we could just lay out what is the process, what are the steps going to be, and what is the water bureau intend to do. And some of that will be the planning bureau maybe helping us with some of the intent of the conditional use process, and then what's going on with the permitting with b.d.s. and with the water bureau, commissioner Saltzman's staff and their intent of going through the process with ferc. I think that would be very helpful and calm things down a little bit if we had a better sense of that. Finally i'd like to close with, I would be to give a very sincere thanks from the parents of bridger elementary to the mayor, to the police bureau, for the wonderful coordination, and for the school staff that did a work job. My daughter was out on the playground when the shooting occurred with her kindergarten class. The teachers got them off that playground immediately into the school, locked down in their classrooms, as all of us parents went rushing over there, they did a great job of securing the building. The police were there and the teachers did a fabulous job this morning of talking it

MAY 14, 2003

through with the students and helping work through that. So I really want to commend the police for that coordination with the schools. It was very, very important.

**Katz:** Thank you.

\*\*\*\*\*: Thank you.

**Katz:** And they have caught the shooter.

**Leistner:** My daughter raised her hand and reported that to the class today. [laughter]

**Katz:** Thanks. That's it. All right. Oh, yes.

**David Yamashita, Planner, Portland Parks and Recreation:** Good morning. I'm david, i'm a planner with Portland parks and recreation. I'm in the -- i'm the project manager for the above-ground improvements for the mt. Tabor open reservoir project. I want to answer the question about the design competition. I want to back up and say that the goal as I understand it of the design initiative, is design excellence, number 1. And number 2, that we have a process that encourage a range of creative designers to apply or to submit their proposal. And we agree with that, and support that wholeheartedly.

**Katz:** And you will do it.

**Yamashita:** Yes. The process that we've outlined at this point, it's still being prepared. It's one where it's not a design competition, but we've tried to incorporate elements of an interactive phase, you might say, for the process. Let me tell you what we're working with. One of the assumptions has been that we've got to work with the water bureau's schedule. You've got to get the reservoirs built and designed by a certain point. We start from that point, and what we've found from design competitions, mayor, is that they can take up to a year or more. The other problem that we've run into is that it can cost money because you've got to pay the teams that come, you've got to pay them and whoever or you've got travel expenses, there are a whole lot of expenses we've got to deal with.

If there's more time and there's more money, that's certainly possible. What we've tried to do is to set up a process where right now we're looking at a request for qualifications process, where in the first phase, we -- it's totally open. And we ask -- we send out a request for qualifications, so on a national level, anybody who's interested in the project submits their qualifications. The next step is to create the short list, and it may be five or six firms, and the idea now is that what we do is to take those five or six firms, do -- have a two-stage process where the first stage is maybe what we did with the tram, where we have presentations, there's an interactive phase with the public, people ask them questions, they present more of their qualifications. The second part would be the more formal interview, where the selection committee actually sits down for an hour with each team. So the idea then is that through these two steps that we would then select the most qualified team. Again, it's an open process from the beginning when we send out the request for qualifications, and then we have this interactive phase where they're allowed to present more of their work.

**Katz:** Let me just ask a question and then we'll let it go, at least for now. In the presentation of their work with the public like the tram, that they actually do a design, or will they be doing a design for the reservoirs?

**Yamashita:** We weren't going to ask them to do a design. What we were thinking of is to have them talk about work that they've done that's similar, say, to the mt. Tabor project, to maybe talk about ideas that they have.

**Katz:** All right. Let's get back to this issue, because I think in all fairness, there's really a strong concern on the part of the public that this be a project that the entire community be very proud of. For all the reasons that you've heard. And if we're spending the kind of money that we're spending on it, we ought to have the ability for the public to see at least the sketches of the design in the same way that we saw the tram designs, and then select somebody then who will continue working not necessarily only from their sketch, but also to use the other ideas of the designers and work through all of these issues with the public. But sitting and talking about their last designs is one part of the

**MAY 14, 2003**

process, and for them to show that to the public, but the second phase is for them to show what would they do if they had the opportunity to meet all of the design criteria. So i'm going to leave it to commissioner Saltzman, but I have to tell you --

**Saltzman:** Let me just add one thing, unlike the tram design competition, this process does benefit from the fact we've had a public advisory committee who's laboring long and hard over some guiding principles and things like that. So I think that's an important distinction, but nevertheless, I will committee to work with commissioner Francesconi, and the water bureau to look at this issue about the process that david has described and whether we might want to tweak it a little to make it more like what you're asking for. I don't know if chet --

**Orloff:** Thank you. I would consider -- could say in all confidence that the overwhelming consensus of the p.a.c. Is to extend this process in the direction I think the mayor is going. We are feeling as I think everyone who has discussed the process this morning stated quite clearly, we are working under constraints, timewise, and missionwise we've been given a relatively narrow office by virtue of the project. However, if you determine that the process and the timing should change, let us know. But I would urge you to do it as respectfully as quickly as possible. Thank you.

**Katz:** Ok. And we do now have an urban designer, and -- who leads the design initiative team. And I would suggest that we have a little bit more conversation with him.

**Yamashita:** Actually, we have. Janet and I sat down about a month ago to talk about this process, so a run has been part of the conversation, and essentially agreed to what we just talked about.

**Katz:** I'll have a conversation with him as well.

**Yamashita:** Ok.

**Katz:** Ok. Good. So we've got three people here who are interested in just slightly tweaking what you presented to us. All right?

**\*\*\*\*\*:** Ok.

**Katz:** To raise the bar a little bit more. Thank you. All right. I guess -- I can't remember what we do to presentations. But let's accept the presentation. Roll call.

**Francesconi:** Just briefly, we're moving in the right direction. I think a good reason we're moving in the right direction was said by a couple people here, and that is commissioner Saltzman appointed people from the friends of the reservoir to the committee, and I think that's a good thing. What we're trying to do here is rebuild some trust, and we're moving in the right direction. Because as important as the expertise, the money is, we have to have some trust among us if we're going to take advantage of this situation and do something good. The only other thing I want to say is that we have very high quality staff on this project. David is very high quality at parks, and this is being over -- watched closely by the director of parks who's a world class landscape architect herself and designer. You may have not seen her much, but she's watching this for the reason that commissioner Saltzman and the mayor just talked about. Then you've got chet, we tried with commissioner Saltzman, put a high-quality people in place. That doesn't mean that there aren't reasons for some mistrust, but we're moving in the right direction here. And so i'm very confident that we're going to provide safety for all the water users of the city, and do something good for mt. Tabor. And we have to kind of let the process work itself through. Aye. And I guess I also want to thank the water bureau for all their help on this. And commissioner Saltzman as well. Aye.

**Leonard:** Aye.

**Saltzman:** Well, I want to thank the public advisory committee, the water bureau staff, the parks bureau staff, and all the comments we've received today from the public, friends of reservoir, and we'll see if we can -- I will commit to revisiting the design competition, design excellence and make sure that above all, that it is a design excellence process, and that the budget will be revisited on -- when we know what's going on top, and we'll make sure the council has the opportunity to decide, make that decision in consultation with the p.a.c. and the public about what goes on top. And I

MAY 14, 2003

have utmost confidence that we'll have an outstanding features on top of the reservoirs of mt. Tabor.  
Aye.

**Sten:** I wanted to thank everybody who testified today, particularly friends of the reservoir and the p.a.c. It was very thoughtful, and i've been -- I talked with people over time, and I think I add hired how the opponents of the project are trying to work on the design and pursue the other arguments you have. I think you're doing a terrific job of that. Also commissioner Saltzman, the water bureau, for -- and the parks bureau for putting this together. I think we've gotten quite a few of the issues improved. I don't think we'll have an answer until we get all the way through this process, and it probably will have some twist and turns, but I think that the issue of the design competition, i'm open to working a little bit on the schedule and trying to make sure it's done properly, because to go through all the way this process, I don't know exactly what that means in terms of it, but I think there's support on the full council for doing that. I think the issue of the budget was pretty clear, and I certainly support, let's try and get the budget right. I like the principles, nobody's talked about the actual report, but I think the principles without being able to completely say everything exactly right, look like they're right to me in reading them and have the right feel. It sounds like -- i'm personally dish personally don't think it's a good place for an active use of ball fields or something like that, just -- but I think getting that worked through the p.a.c. process makes more sense, and I think these principles could go a long way to showing people what the intent is, and chet, I think you've done a very good job in a tough project moving it forward, and I want to thank everybody again. Aye.

**Katz:** My thanks as well, and to commissioner Saltzman for considering to push a little harder on the design competition issue. There are varieties of different design competitions, but a few dollars to enhance the designs into -- and to allow the public to feel more confident, because many of the people who have come to testify here have not even appreciated the issue of burying the reservoirs, is worth that energy and effort and time. So i'm looking forward to hearing more about it, and I will be speaking to the planning bureau on that particular issue. As far as the historic preservation and the issues some of you raised, I would appreciate it, because my plate is full right now, to call tommy brooks in my office, and sit down with him and review that particular issue, because if that happens, it has to happen in planning. Aye. [gavel pounded] all right. We're at regular agenda. What school is here? [inaudible] nice to have you here. Thank you. All right. 453.

**Item 453.**

**Katz:** All right. Who's going to do this for us?

**Moore:** There were no remonstrances on this.

**Katz:** All right. Anybody want to testify? Then i'll take a motion.

**Saltzman:** Move adoption.

**Francesconi:** I'll second.

**Katz:** And bring back an ordinance. All right. Roll call.

**Francesconi:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

**Katz:** Mayor votes aye. [gavel pounded] 454.

**Item 454.**

**Katz:** All right. I made a decision to bring this forward. I know that the council had mixed feelings on this issue. Let me just kind of make a very brief presentation. You all know that since 1980, the supreme court has interpreted the Oregon constitution to provide more expansive protection for speech than does the first amendment of the united states constitution. We struggled over that as a council. The interpretation of the Oregon constitution limits the ability of Oregon cities to apply the kind of reasonable time, place, and manner regulations of speech that are permissible under the federal constitution. The Oregon supreme court has in the past under the hands -- under the hands lindhy leadership, invalidated zoning ordinances laws regulating adult

**MAY 14, 2003**

businesses and obscene materials on the grounds that such laws violate Oregon constitution. If you recall, one of the reasons i'm bringing it forward, that this council felt very strongly about a measure that was in the Oregon legislature that would allow some regulation of time, place, and manner. In the particular case we were talking about, it was with regard to zoning regulations. The Oregon supreme court, the reason that this is here now is the Oregon supreme court has accepted a review of a case and will have the opportunity to revisit its interpretation of the Oregon constitution in this context. This was because the court of appeals upheld a zoning regulation adopted by the city of nyssa, Oregon, that required new dance -- nude dancing establishments to maintain a four-foot separation between patrons and dancers. This resolution authorizes us to file an amicus brief in this case, and it will give us the opportunity to argue at the court should the interpretation of the -- it would allow us to argue this issue at the court. That's the reason it's before us. Testimony?

**Moore:** We have lake paraguay.

**Katz:** Anybody else?

**Moore:** That's all who signed up.

**Lake Perrigey, 507 NW 22<sup>nd</sup> Ave., #105, 97210:** Good morning. My address is 507 northwest 22nd avenue. The resolution states that the city has an interest in having the ability to apply reasonable zoning and other regulations to adult businesses, and it's my point that the city actually does not have an interest, and in fact it has the contrary mandate as has been expressed three times by the voters of Portland, when this very issue has come before them under the initiative. They were asked, the voters of this state and the city, do you want the ability to carve out a special exception from the Oregon constitution to allow cities to regulate or create ordinances targeted at adult businesses. And three times the people of this city, the majority of people in this city have said no. So in so far as there is a mandate to authorize this resolution, I believe the city has spoken, and the will of the people is that they don't want a resolution to even argue that the constitution should be interpreted such that cities could have this power. Secondly, the preamble to this resolution says that the city has an interest, which I stated that it doesn't, certainly doesn't have a mandate. But I wonder what that interest is. We know from a letter from david woboril that the city has not ever done any sort of investigation, that this is the type of expression that should be regulated for any purpose whatsoever. So in so far as there is a generally stated interest, there is no -- there's been no study by this council, by this city, linking adult uses to any sort of adverse secondary effects or any -- it's just unclear from the resolution why there's an interest. There's no mandate and there's -- there have been no studies linking sexually oriented businesses to any crime or property values or anything of that diminishment and property values. I submitted for your review a september 24, 2003, letter from david woboril that says after speaking with knowledgeable people in the office of the neighborhood involvement and mayor's office, it appears all efforts to link adult use was neighborhood crime were limited to reviews of routinely distributed crime statistics and that the city has made no organized documented effort to study or describe a relationship between the two. That letter was dated 2002. If the city were to authorize this resolution, it would be encouraging the supreme court to scale back constitutional protections that we've enjoyed in this state for over 30 years, it would be an act against the thrice-stated will of the people of the city u. And it would an -- it's been recognized by aclu and whitebird, dance promoters who have come to this city and brought incredible internationally renowned art groups and they have filed an amicus brief against the city in this petition.

**Katz:** Thank you.

**\*\*\*\*\*:** Thank you very much.

**Katz:** Anybody else? Roll call.

**Francesconi:** Well, one of the -- our citizens that identify themselves with main streets and town centers near their homes, this is true in all corners of our city, from st. Johns to sellwood,

MAY 14, 2003

Multnomah village, to roseway. When -- and it's true in nyssa. When a neighborhood like roseway becomes a cluster of adult businesses, it cheapens it. No matter what the crime statistics show. So all we're asking for is what 48 other states have, and that is the ability not to deny location in the city of Portland, but to regulate where, particularly away from schools, away from overrunning main streets, and away from those of the -- those are the main things. So all we're asking for is that. And I think that it's very reasonable. Aye.

**Leonard:** This was an issue that I remember grappling with in the 1995 session of the legislature. And I have long, you know, been a staunch defender of the first amendment and freedom of speech, and certainly of the ability of our citizens to read documents uncensored or books uncensored. But it was really a struggle for me, and I don't find it any less of a struggle today. But I think commissioner Francesconi is correct that the issue here is not one of censorship, because if I thought that it was, I couldn't support this brief. Rather, it's one of neighbors through their elected officials, being able to decide where certain businesses are located within a city. And that's consistent with making sure some kinds of manufacturing concerns aren't located within neighborhoods, and other kinds of activities are limited from being in certain parts of the city. For those reasons and those reasons only, and this is always been a close call for me, this issue, i'm going to vote aye.

**Saltzman:** I think as was pointed out in testimony, we -- Oregon voters, Portland voters have spoken out on this many times, and they have staunchly defended the Oregon constitution in this regard, protection of free speech as it applies to adult oriented businesses. And I think in a time when we're trying to focus our city resources on what's important, I think getting involved in this case is a stretch. It doesn't meet my litmus test of being highly necessary for us to join the many other cities i'm sure that will be filing briefs. And I also think that because voters have spoken on this issue, we're really playing to sort of the polarization and divisiveness on a hot button issue, and it's -- this is a time when we need to pull together as a city, as a state. We have enough divisiveness and polarization, we ought not to be seeking out additional opportunities to plan those -- play on those feelings. And even if it were a good idea to zone the location of adult businesses, and i'm not sure it is, because we talk about sort of the reasonable zoning and application of that, but it's nice to talk about those in an extract concepts. I think we all know if you get down to the practice, people that don't want them, they want to put them in places where they want to put them in heavy industrial zones, miles away from any place that be would be economically feasible for any kind of adult business to be. It just leads you down a path that is illogical. And furthermore, I think even if this case is upheld by the supreme court, it's a big stretch to go from keeping a dancer four feet away from a bar patron to giving us the ability to zone where adult businesses can be. I don't think we'll be able to get away with it, even if this case is upheld. I don't want to see us suddenly have the focus and attention of our city attorney's office focusing on these issues, which to me are peripheral. No.

**Sten:** I'm actually torn on this one. I think commissioner Saltzman makes a good point, and i'm worried about there's issues of slippery slopes in terms of trying to figure out what we could regulate. So i'm not positive where I would be on actual regulation in terms of zoning, but i'm comfortable putting in a brief if it does go that way so we have the ability to debate that locally. And to me it's close, and I do know -- i've actually voted against some of those measures myself, I think most of them. Some were broader than others, but the issues that give us the chance to work some things out locally I think I support that principle, and like I said, I don't know if I actually would support zoning it, because you would have to get to a point of make something definitions that I think are going to be so much easier said than done, that it may be something that's not achievable, but I think having the ability to debate that locally makes sense. Aye.

**MAY 14, 2003**

**Katz:** Thanks. As I said, I would not have brought this forward if there wasn't a court -- an Oregon court of appeals decision. And commissioner Sten is right, that doesn't mean that we will do anything. The issue is we have -- our hands have been tied, and cities' hands have been tied whether it's by the legislature, or by some court decisions on preempting us from making decisions for the best -- for this community and for the citizens. There will still be a very interesting case to follow, but I don't think it means expending a huge amount of time or money to file an amicus brief.

Aye. All right. 455.

**Item 455.**

**Katz:** This probably couldn't come at a better time, and we have received a grant, and i've been in discussion with the -- with some members of the community and with the chief on thinking through what we might want to do. So i'm asking for your support. Anybody want to testify on this one? Roll call.

**Francesconi:** This is a great thing. I'm wondering, mayor, if at your timing, and your direction, since community policing also involves more than the police, if we could have maybe a discussion on it, or work session at some point about how others can contribute to this. I think it would be worthwhile. Aye.

**Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

**Katz:** Mayor votes aye. [gavel pounded] 456.

**Item 456.**

**Katz:** Anybody want to testify on this? If not, roll call.

**Francesconi:** Aye.

**Leonard:** Aye.

**Saltzman:** I hope we see more public telephones on city streets. Aye.

**Sten:** They're going to have to be public cell phones. Aye.

**Katz:** I'm only going to vote aye if they clean them up. They're an absolute mess, and you could probably hire people who would like to have a little bit of work to help clean the graffiti and the chewing gum, and everything else on them. Because you're violating a city ordinance. Aye. [gavel pounded] 457.

**Item 457.**

**Katz:** Roll call.

**Francesconi:** This was a very good discussion. It was provoked by commissioner leonard. So the reach project clearly needs these subsidies, or else it doesn't happen. So it's clearly in the city's interest as well as the residents' interests. On the second one, I thought that commissioner Sten also raised a good point that we need to look at these as to whether we want to continue them at all, but I think that works well with commissioner leonard's claw-back, in quotes, provision, that if it turns out that calculations were either inadvertently incorrect or there's been a change in market conditions, it allows the taxpayers to recover the subsidy that makes a whole lot of sense. I think as a general rule, I think we're doing this, we need to review all tax breaks, both on the employment side and the housing side, to make sure they still meet the citizens' interests, and this is a good step in that way. Complimented by commissioner Sten's addition. Aye.

**Leonard:** Thank you. This is a provision in here that allows for the audit as the project -- as the abatement project goes through its term, I think it's very important for a couple reasons. One, I think all expenditures by us should be scrutinized, and this is an expenditure this. Has been an investment in a project. Secondly, I think it also validates and justifies the public purposes of abatements, why they happen. And I think it makes it clearer that without these kinds of investments, they cannot happen when we have the ability to do a retroactive look into the term of the project to see if it is performing the way the developer and -- analyzed it would perform. So I think this is not just an important tool that allows us to assure ourselves that we're investing our



**MAY 14, 2003**

money wisely, but it also I think speaks to why abatements are good tools and why they cause development that might not otherwise occur. Aye.

**Saltzman:** I appreciate the discussion we did have last week on this, and the work that commissioner Leonard did in bringing it forward, what I think is a very reasonable approach for this particular investment, and possibly for future investments as we will determine. Aye.

**Sten:** Aye.

**Katz:** Mayor votes aye. [gavel pounded] thank you, everybody. And we stand adjourned until 2:00. [gavel pounded]

At 11:38 a.m., Council recessed.

**MAY 14, 2003**

**MAY 14, 2003 2:00 pm**

**Francesconi:** Here.

**Leonard:** Here.

**Saltzman:** Here.

**Sten:** Here.

**Leonard:** The time for the appeal of the pleasant valley neighborhood association against the hearing officer's decision in any case we're going to hear. Mr. city attorney, do you have something you'd like to say?

**Item 458.**

**Frank Hudson, Office of the City Attorney:** Good afternoon, everyone. Welcome to council chambers. I'm going to begin today's hearing by reading some things that the city wanted me to read to you whenever the city conducts public land use hearings. Today's hearing is an on-the-record hearing. This means you have to limit your testimony to material and issues in the record. That means that during this hearing you can only talk about the issues, testimony, exhibits, and other evidence that was presented at the earlier hearing before the hearing officer. You cannot bring up anything new. This hearing is designed only to decide if the hearing officer made the correct decision based on the evidence that was presented to him. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded that you must limit your testimony to the record. Order of testimony will be as follows -- we will begin with the staff report by the bureau of development services. That for approximately 10 minutes. Following the staff report city council will hear from interested persons in the following order -- the appellate will go first and have 10 minutes to present his or case. Following the appellate, persons who support the appeal will go next. Each person will have three minutes to speak to the council. This three-minute time limit is regardless of whether you're speaking for yourself or on behalf of an organization, such as the business association or neighborhood association. The principal opponent, which is typically the applicant, will have 15 minutes to address city council and rebut the appellate's presentation. After the principal opponent, council will hear from persons who oppose the appeal. If there is no principal opponent, council will move directly to testimony from persons who oppose the appeal after supporters of the appeal conclude their testimony. Again, each person will have three minutes each, whether you are speaking for yourself or on behalf of an organization. Finally, the appellate will have five minutes to rebut the presentation of the opponents of the appeal. Council will then hearing the hearing and deliberate. After council has concluded this deliberation, council will take a vote on the appeal. If the vote is tentative, council will set a future date for the adoption of findings and we'll finally vote on the appeal. If the council takes a final vote today that will conclude the matter before the council. If you wish to speak to the city council to this matter today and have not signed outside the council chambers, please sign up at this time with the council clerk, who's sitting across from me. Testimony's for today's hearing will be as follows. Again, this is not a evidentiary or de novo hearing. This means you must limit your remarks made to the record compiled by the hearings officer. It is permissible to refer to evidence previously submitted to the hearings officer. It is not permissible to submit new evidence today that was not submitted to the hearings officer. The planning staff and I will be listening carefully to your arguments, and if I strays from the evidence, or issues presented at the initial hearing, I may interrupt you and remind that you must limit your argument to issues and evidence in the record. If your argument includes new evidence or issues, the council will not consider it

**MAY 14, 2003**

and it will be rejected in the city council's final decision. If you believe a person who has addressed city council today improperly presented new evidence, or presented a legal argument that relies on evidence that is not in the record, you may object to that argument. Council will provide a time at the end of the hearing to anyone to offer this kind of objection. Finally, under state law, only issues which were raised before the hearings officer may be raised in this appeal to city council. If you believe another person has raised issues today that were not raised before the hearings officer, you may object to city council consideration of that issue. Again, council will provide time at the end of the hearing for anyone to offer objection. Thank you.

**Leonard:** Thank you so much, b.d.s. staff, 10 minutes.

**Hudson:** Excuse me, commissioner. We have to ask for conflict.

**Leonard:** Thank you. Have there been any ex parte contacts or does anyone on the council have any conflicts they wanted to clear? Great, thank you.

**Kimberly Parsons, Bureau of Development Services:** Good afternoon commissioners. I'm here for the bureau of development services. I've been assigned this case. Before I begin, i'd like to also note kelly hyde from bureau of environmental services is here, and can answer any technical questions. The purpose of today's hearing is to consider an appeal of the hearings officer decision to approve with conditions an 18-lot planned unit development amendment subdivision with concurrent environmental review and adjustments. The appellant is the pleasant valley neighborhood association. Applicants are tom miller builder, bill mcmonagle, the jordan family. Choices before council today are to uphold the hearings officer decision, uphold the hearings officer decision with modifications or overturn the decision. A summary of the request before you is to amend a previously review of the site. The proposal includes a p.u.d. amendment to the 1997 approved p.u.d. amendment. An 18-lot subdivision to create single-family lots with a dead end public street. An environmental review to amend the previous environmental review approval because the proposed development has changed and adjustments to increase building coverage and adjust main entrance standards. The relevant approval criteria that were in effect at the time the applicant submit the application are listed. They include title 34 subdivision and partitioning regulations, which include 34.20 steps to approval, 44.40, improvement guarantee, 34.50, principles of acceptability, 34.60, design standards, 34.65, solar access retirement, 34.70, improvements, also title 33 planning and zoning regulations, which includes 33.269.310, planned united development approval criteria. 33.430.250. Since this application is under the old title 34 code the transportation planning rule also applies. The p.u.d. amendment site is at the southwest corner of cedar bridge p.u.d. and zoned r-10 low density single dwelling residential. There's a history of previous land use approvals for this site. Lur 95-650 approved 73 single family lots, 18 condos, public streets, stormwater facility, including a pond and open space tracks. The law currently under review was originally approved for 18 condo units and five single family lots. That area is outlined in red at the bottom of the screen. The stormwater facility for the entire p.u.d. was approved in a tract at the north end of the p.u.d.. That's outlined in red at the stop of the screen. The stormwater facility included a water quality swale and retention tension pond for the entire cedar bridge p.u.d.. Also in 1997 an amendment to the p.u.d. was approved that replaced the 18 condos and five single family lots with 23 row house lots and a private street still outlined in red there. An amendment to the p.u.d. -- or the amendment to the p.u.d. did not change how the stormwater for the site would be managed. Stormwater for the 23 attached houses and private street was approved to continue to be treated by the swale and detained by the pond at the north end of the p.u.d.. This is the 23 attached housing lots and a private street. This is a 2002 aerial of cedar bridge p.u.d. And outlined in red at the bottom of the screen is the amendment site and the

**MAY 14, 2003**

top is the existing stormwater facility for the p.u.d.. This is the staff recommending and hearings officer approved site and utility plan for the amendment, which created 18 single family lots and a public street. And this is the staff recommending and hearings officer approved building envelope plan, showing how the site would be developed. The amendment site is currently vacant. I'm just going to briefly run through photos of the site. This was taken at the southwest corner of the site. This is taken from southeast clatsop looking north into the site. This is taken from southeast clatsop and 134th, looking into the amendment site. And this is the approximate location of the new public street. This is an aerial photo of the approved cedar bridge p.u.d. stormwater swale and pond, which is located at 138th and deardorff road. Basically how this facility works is that stormwater is piped from each lot to a line in the street. The stormwater is then directed through these lines and outfalls to the swale. I've drawn a red line in the location of that swale. The stormwater flows through the vegetated swale where it's treated for water quality and then it flows into the detention pond. The outfall for the swale, it's just beyond the row of trees. And again, this is another shot of stormwater tract. The outfall is just to the left of the screen. The vegetated swale is to the right of the screen, so as waterfalls through the swale it receives water quality treatment. Stormwater will flow through that swale and then across these rocks and then down into the pond. And then this is the pond which provides stormwater detention. And then a shot from the opposite direction of the pond. Staff recommending to approve with conditions the p.u.d. Amendment sub 56 environmental review and adjustments. The hearings officer generally agreed with staff recommendation and approved with conditions the p.u.d. amendment, 18 lot subdivision, environmental review to amend the p.u.d., and zoning code adjustments related to building coverage and main entrance standards. Included in this decision is in their final response, bureau of environmental services did find that the existing stormwater facility for cedar bridge was designed to provide service for the amendment proposal. The hearings officer also included in his findings that sufficient evidence related to stormwater treatment and disposal was submitted to b.e.s. To demonstrate that the existing swale and pond were designed to accommodate this development. The appellant raised a number of issues related to the proposed stormwater treatment and treatment for this site. The appellant believes that approval criteria has not been met. That the stormwater requirements of today's stormwater panel requires ponds to be double the size that the old manual requires, and that stormwater from this is more than the new standards would allow in the pond. The appellant also believes that is required by 33.800.050, the required stormwater improvements for each lot have not been submitted for approval and review, and that the applicant has not submitted a method of onsite treatment of stormwater and approval. So for the first appeal issue, the appellant believes that approval criterion 33.269.270 has not been met. Among other things, this requires that the facilities for control and disposal of stormwater and groundwater must be provided and be approved by the bureau of environmental services and the bureau of development services. And that these facilities must be adequate to serve the p.u.d. site. Calculations and information related to stormwater drainage, impervious services and pond capacity were submitted and reviewed by the bureau of environmental services. In b.e.s.'s most recent response, they indicated that the existing swale and pond were built to include improvement of this lot. B.e.s. approved the use of the existing cedar bridge swale and pond. This stormwater facility was originally approved for the entire cedar bridge p.u.d. and for the 1997 amendment. This current amendment is not adding to the area of the p.u.d. That is disposing to the pond or increasing the impervious surface area that was anticipated to dispose to this stormwater facility. The hearings officer also found that b.e.s. was provided with sufficient evidence to demonstrate satisfactory evidence. The appellant believes that the pond is required to be double the size of what

**MAY 14, 2003**

the old stormwater required and that stormwater is more than the standards would allow for the existing pond. Again, the entire cedar ridge p.u.d. has a previously approved method of stormwater disposal. The amendment site was originally approved with approximately 78,000 square feet of impervious surface. B.e.s. has confirmed that the amendment to the p.u.d. is not required to meet the current stormwater manual requirements because it has a previously approved facility. The amendment site has approximately 65,000 square feet of impervious surface and does not exceed the previously approved impervious surface area. So since the swale and pond were originally approved to serve over 78,000 square feet and the p.u.d. Amendment was approximately 65,000 square feet can be adequately by the existing previously approved swale and pond. However, discussions with b.e.s. do indicate that the facility does in fact meet the current stormwater management manual requirements. Stormwater treatment is provided by the vegetated swale and the pond detains to the 2, 5, 10 and 25-year storm events, as required by the current stormwater management manual. This slide is intended to demonstrate that the existing approved stormwater system for the entire cedar ridge p.u.d. can accommodate this amendment. So to the left of the screen, the original 1996 approval included 78,701 square feet of impervious surface coming from the 18 canned dose and five single family lots disposing to the swale and pond. In the middle, approved in 1997, that amendment included 70,803 square feet of impervious surface from the 23 attached houses and private streets. That was approved to dispose stormwater to the approved swale and pond. And specifically in that decision the findings stated that the stormwater system was sized and located to accommodate the attached housing. So with the current proposal, this -- the p.u.d. Amendment includes 65,710 square feet of impervious surface from the 18 single family lots and dead end street. So this is approximately 13,000 square feet less of impervious surface. The appellant also believes that as required by 33.800.050, the required stormwater improvements for each lot have not been submitted for review as required. This co-section describes the function of approval criteria, and among other things states that all proposed improvements must be submitted for consideration prior to a final decision by a review body. So the applicant has submitted a site utility plan that shows each lot directing stormwater to the storm line in the street, which then outfalls to the existing swale and pond. And the appellant believes that the applicant has not submitted a method of onsite stormwater treatment prior to disposal to the pond. So again, the applicant has submitted a utility plan showing each lot directing stormwater to the line in the street, which then outfalls to the existing swale for onsite stormwater treatment. Previously approved onsite stormwater treatment system is provided within the approved p.u.d. by that swale. B.e.s. has reviewed the plans and approve this development's use of the existing swale for treatment. And the pond for detention. And the hearings officer found that sufficient information was submitted by the applicant related to stormwater from the site. Finally council will most likely hear additional testimony that the existing stormwater swale and pond was not constructed as shown on the previously approved plans, and that the stormwater swale and pond are not functioning properly. The bureau of environmental services sent out a maintenance crew yesterday to inspect cedar bridge stormwater system, and the maintenance staff verified that the pipes were installed per the approved plan, however the maintenance crews did find that the manhole was plugged, which could affect the flow of stormwater to the swale. And a maintenance crew was scheduled to clean out that manhole this morning. The maintenance staff also checked the depth of the pond and found that the bottom of the pond is not an elevation from sedimentation that would require maintenance at this time. With that said, the alternatives facing council are to deny the appeal and uphold the hearings officer decision, deny the appeal and uphold the hearings officer

**MAY 14, 2003**

decision with modifications, or uphold the appeal and overturn the hearings officer decision. So that concludes staff's presentation. I'd be happy to answer any questions.

**Leonard:** Thank you. Any questions? If not, Linda, you have 10 minutes.

**Linda Bauer, Pleasant Valley Neighborhood Association:** Linda Bauer, for the Pleasant Valley Neighborhood Association, as well as myself. Good afternoon. I'd like to start by complimenting b.e.s. for the positive improvements they've made to the revised stormwater manual. I've included a copy of the summary showing that now all ponds are included in the same chapter on page 3-24 under the heading permanent ponds, the first paragraph talks about determining the size of the storage volume for a permanent pond. The next paragraph talks about the formula for determining treatment runoff volumes. You'll notice that the formula is the same. On page 3.25, it gives you an example. On page 3.26, it says that all design criteria for ponds and wet ponds shall apply to extended wet ponds as well. Now I have -- there's pictures in there. Now I have -- now I'd like to show you why these improvements to the stormwater manual were needed. The first one is a picture of an outfall structure at Cedar Bridges. Staff has told me that according to the pond design specifications there should be about one foot of clearance between the water and the bottom of the pond. As you can tell from the pictures showing tires resting on the sediment buildup, the sediment has built up to within a couple inches of the bottom of the orifice. The entire permanent pool has been filled with sediment. The next picture shows the secondary storm outlet, which goes to the permanent pond. As you can see, water is flowing into the permanent pool where this picture was taken and the incoming water is cutting a new channel through the buildup in the sediment. The next picture shows what staff calls the primary inlet, which is supposed to direct stormwater into the swale. That's the one they found that was clogged this morning. As you can see, from the picture, no water is flowing from the primary outlet. In fact, there's only a small amount of water in the base of the outlet, so while the secondary outlet is functioning, the primary outlet is not. The next picture shows McGregor Heights Pond where water quality is bad and most of the surrounding vegetation is dead. The next picture is McGregor Pond outfall on Southeast Foster Road. Prior to the installation of new transportation maintenance structures rocks were falling off that cliff -- that slope into the road on Foster Road. Thanks to transportation maintenance a structure was put in place to prevent rocks from continuing to fall on to Foster Road. The next picture was taken 11 days after the installation of the structure. You can see how much sediment has been deposited in this short time -- period of time. The pond is -- this pond is also not working as designed. These examples illustrate why the revised stormwater manual requires stormwater ponds to be twice the size recommending by the old manual. The increased size allows the pond to function as designed, while accommodating some sediment buildup, rather than asking that the applicant increase the size of the pond to comply with the current stormwater manual requirements, we are recommending that they do stormwater c.d. planters to reduce the anticipated stormwater runoff. Questions?

**Leonard:** Any questions by the council? Great. Thank you, Linda.

**Bauer:** Thank you.

**Leonard:** Is there anybody who is here to testify in support of the appellant? Ok. Then the applicant, if you'd like to come forward. You have 15 minutes.

**Lamoine Eiler, 2336 SW Osage, Suite 603, 97205:** With me is Bill McMonagle.

**Bill McMonagle, 12555 SW Hall Boulevard, Tigard, 97223:** My address is 12555 southwest hall boulevard, terrific Tigard, Oregon.

**Eiler:** Ok. I think we have just basically a couple of issues to cover here. First of all, as the first presentation from b.e.s. indicated, the stormwater facility on the site has been designed and built to

**MAY 14, 2003**

accommodate all development within the p.u.d.. As a consequence, the project does not have to meet the current stormwater management manual. So ms. Bauer's suggestion that we provide additional stormwater treatment facilities on site is not necessary since all of the stormwater is being met by the current facility as it was planned to be met from the very beginning. She has discussed in her argument that sediment is accumulating within the facility. Again, that's a maintenance issue and should be dealt with by the maintenance department. They made a determination this morning that that was not the case, that there had not been enough sediment accumulating in the pond to warrant additional maintenance beyond cleaning out the pipes and we defer to their opinion on this matter. So the need to provide additional stormwater facilities on each lot as I said is not required. The hearings officer did indicate a finding that if additional stormwater was required, that it would be provided on each lot. We have submitted a plan that's part of the file, part of the record, which shows the approximate location and size of stormwater treatment facilities on each lot if they were ever needed. B.e.s. and b.d.s. have reviewed this plan and it meets their requirements. The plan itself, each one of those sites would be identified and sized according to the building itself and the amount of impervious surface on the site at the time of the building permit. But once again, I want to point out that this is not a requirement that b.e.s. has placed on us, because we have an existing stormwater facility on the site that was sized to meet the requirements of this multi-density tract. That's the end of my comments. Bill, do you have anything?

**McMonagle:** Just a few. As staff pointed out in their display, the impervious area from what could have been built back in I think 1996, 1997, somewhere in there, to what it is today, is almost 10,000 square feet difference. Maybe a little more. Having said that, the pollutant requirements for removal in -- at the time that the pond was designed were more stringent than they are today. Therefore, the amount of actual pollutant removal that will be provided by that existing water quality swale within that pond area is in excess of what is actually required today. So we've reduced the impervious area, and through a better knowledge of pollution removal, through plant materials, we've actually had a net increase in removal -- decrease in pollutants and increase in removal of those pollutants. Relative to linda's statement as to the doubling of the size of the pond, I know she's not an engineer. She doesn't understand that there are different types of water quality treatment facilities. One being a vegetated swale, of which this facility has both. It has a pond and it has a swale along the perimeter, within the pond. So that the low flow waters come in to the pond area, flow through the swale, that summertime flows, and leave the system. The larger flows, which are normally wintertime flows, go into part -- part of it still goes through the water quality swale. The balance of it goes into the main pond, which functions as a detention system, to slow the release of the waters back to the site prior to development. That's what its primary function is. The pond she refers to is an extended period pond, which is a water quality facility in and of itself, with no meaningful means of vegetation. It is simply done by depth and exposure to ultraviolet light during those summer months, and that is what accelerates the removal of the pollutants, and it has to be about twice the size of a normal detention pond only to the extent that it's not as efficient as a vegetated swale. So I think that's where she errs. Lamoine pointed out that the siltation within the pond, those are naturally occurring events. During housing construction is when most gnat stuff gets there in there. After the houses are built the water is pretty much clean running off the site. And maintenance for all intents and purposes becomes a nonissue. Maintenance certainly has the expertise to accomplish any small things. Having said that, I don't really think there's anything. We've analyzed these 18 lots quite a bit and feel quite confident that you should deny the appeal.

**MAY 14, 2003**

Ray: Thank you. Any questions from council? If not, thank you very much. Is there anybody here to support the applicant? If not, Linda, you have five minutes to rebut.

**Francesconi:** You sure learned all these rules fast.

**Bauer:** That's good. The big one is the map that they spoke about, that shows water quality on each lot. And I would urge you to adopt that as conditions of approval. Also, he's absolutely right, I'm not an engineer, but I do sit on your stormwater advisory committee and have for -- what? Four years. I think about four years. So I -- I am fairly familiar with stormwater facilities. The first handout you have is -- is an official report that was done by Fishman Environmental when they redid the intersection at 162nd and Foster, they found over 750 individual fish in Kelly Creek. That's why this is so important. Every single stormwater pond in Pleasant Valley drains directly to a creek. And these creeks have fish in them.

\*\*\*\*\*: Excuse me.

\*\*\*\*\*: Yes?

\*\*\*\*\*: I wanted to ask, Ms. Bauer, is that document in the record?

\*\*\*\*\*: Oh, that -- oh, you know what, I didn't.

**Hudson:** Council can't consider it.

**Leonard:** Well, she's not a lawyer either, so we can forgive her. No problem.

\*\*\*\*\*: I didn't think about that, but it wasn't in the record, and I'm wrong for doing that.

**Hudson:** Point out the issue while we're on the subject, I was also going to ask, are these photographs in the record?

**Bauer:** Actually, they are in the record. Just at a little different angle. If you'll revisit her slides, you'll see, yeah, they really are in the record. I took them at a little different angle, that shows a little bit more.

\*\*\*\*\*: Thank you.

\*\*\*\*\*: Than what everybody would like you to know about. Then I -- I'm open to questions.

**Leonard:** Great. Thank you. Questions by council?

**Saltzman:** This map you just handed us, what's on the map?

**Bauer:** That shows this lots, if they were to do water quality on site, how it could be accomplished easily.

**Saltzman:** Which they've said they would do if an appropriate trigger is reached? Maybe I'm putting words in their mouth, but I thought that's what they said.

**Bauer:** I thought they said --

**Saltzman:** There's no disagreement this they will do those. It's a question of whether they need to do them now as opposed to some point in the future.

**Bauer:** I would be very happy with that. There's no buildings now, but if they're willing to do them in the future that's all I want. The pond is --

**Saltzman:** I mean, they're willing to do it in the future under an appropriate trigger.

**Bauer:** According to their application, they're not willing to do them. They want to send the stormwater straight down into the pond.

**Saltzman:** Maybe we can have b.e.s. And the applicant come back up and answer that part. And b.d.s., too, I guess.

**Kelly Hyde, Bureau of Environmental Services:** My name is Kelly Hyde. I work for the Bureau of Environmental Services.

**Saltzman:** Is there, under this proposal, a point under which onsite stormwater treatment as shown on that map would be triggered, or could be triggered I should say?



**MAY 14, 2003**

**Hyde:** My understanding is that plan was submitted for a contingency. If we found that the pond wasn't sufficient, there would be a feasible means of doing onsite treatment, but it's my understanding it's not required at this point.

**Saltzman:** Ok. And that's more or less --

**McMonagle:** I believe that's fair. I guess the trigger you were speaking about is if for some reason there were a home constructed, then maybe a stormwater planter would be need.

**Eiler:** If I can point to page 70 of the hearings officer's report. Under the findings, the second paragraph, he's actually addressed this. The hearings officer, partway through that second paragraph, it says the hearings officer finds it necessary to impose a condition requiring the applicant to receive b.e.s. approval of final plans for stormwater treatment and if the existing pond is found not to have sufficient capacity, then the applicant will install water quality planter boxes on all lots mandated by b.e.s. With this condition, this criteria can be satisfied. So what we're saying is that if for some reason it was found that the water quality treatment facility did not meet all the stormwater requirements for this proposed site, then we'd put the planters in. But b.e.s. and b.d.s., both agree that the facilities does involve the stormwater requirements.

**Saltzman:** And you would put the planters in as shown on that map?

**Eiler:** Right.

**Saltzman:** Ok.

**Leonard:** Further questions?

**Saltzman:** So that's already a condition of approval?

**Eiler:** Yes. It's not actually a condition, but it is in the findings within the hearings officer's report, so it's essentially treated as a condition.

**Saltzman:** Does b.d.s. agree with that interpretation?

**Parsons:** Yes. It's not actually approval criteria that needs to be met at this time. The hearings officer did not add that condition of approval into his approval section, but each lot would be required to meet these development standards at the time of development. So again, that would be the second check at the time of development, they would check to see if bureau of environmental services and site development would check if stormwater could be disposed to the pond and swale, and at that time if they found it wasn't, then they could just do onsite.

**Saltzman:** Ok, thanks.

**\*\*\*\*\*:** Thank you.

**Leonard:** Further questions?

**Saltzman:** I guess my only other question, is there some further thing we'd need to do in terms of an ironclad guarantee that what's shown on that map will happen? I mean, is there a need to actually adopt that map as part of the record of decision or what?

**Parsons:** I would be cautious about adopting that map since site development doesn't have an official response in the record about the feasibility of that plan. I know the rear of some of the lots that front on to Clatsop may not be able to use -- they might have to dispose their planters to Clatsop or Deardorff. So that plan might not be able to be developed exactly as shown.

**Saltzman:** Exactly as shown, ok.

**Hyde:** And furthermore, b.e.s. has already determined that the pond and swale meet current stormwater manual requirements. So in my mind I can't see a reason that we'd in effect make them install these onsite mechanisms on each lot.

**Saltzman:** Only in the contingency scenario, but --

**\*\*\*\*\*:** Right.

**Saltzman:** Ok. Thank you.

**MAY 14, 2003**

**Leonard:** Further questions? Ok, I guess mr. City attorney, do you have anything else to say? I've got the alternatives I can read for the council here. That council can deny the appeal and uphold the hearings officer decision, deny the appeal and uphold the hearings officer decision with modifications, or uphold the appeal and overturn the hearings officer's decision. Do I hear a motion from anybody?

**Saltzman:** I would move to deny the appeal.

**Francesconi:** Second.

**Leonard:** Ok. Let's do roll call.

**Francesconi:** Aye.

**Leonard:** I appreciate, linda, you bringing this forward. It's if, nothing else, helps me learn a little bit more about this entire process, but I think the applicant has met the criteria required. Aye.

**Saltzman:** Yeah, I appreciate it linda. I know that mcgregor heights has not been one of your favorite developments, and I know you've been traumatized by it and its impacts and it's had some problems, but I don't see anything in this application that would suggest they haven't done everything they need to do, and in fact reduced the overall amount of impervious surface, so I think we won't -- obviously b.e.s. and b.d.s. will be monitoring site development. If problems arise, onsite solutions will have to be undertaken and the applicant recognizes. Even though she's not an engineer, she knows stormwater very well. She's one of our best. Aye.

**Sten:** Well, linda, you always do great work on these, and I think it does have an impact. In this case i'm confident that b.e.s. will make this work, so i'm going to go with the hearings officer, but i'm glad you brought it in. Aye.

\*\*\*\*\*: In two weeks, commissioner Saltzman and the mayor are gone, and as the mayor wasn't here today, that probably wouldn't be good. Three weeks out, both leonard and Saltzman are gone. So if we want to go four weeks, june 11, wednesday june 11, at 2:00 p.m. For findings. I have everybody in that week.

\*\*\*\*\*: So I didn't think there would be any additional finding.

**Leonard:** If we're just affirming the hearings officer without change, do we need to come back?

\*\*\*\*\*: Not necessarily. You can just adopt the hearings officer's findings.

**Leonard:** That was the intention of commissioner Saltzman's motion.

**Francesconi:** Let's just do that.

**Leonard:** So we don't need to come back, we're just adopting formally the hearings officer's finding. That was adopted unanimously by the council with mayor Katz excused.

\*\*\*\*\*: So it's a final decision.

\*\*\*\*\*: Ok.

**Leonard:** If there's no other business, we're adjourned.

At 2:45 p.m., Council recessed.

MAY 15, 2003

MAY 15, 2003 2:00 PM

**Katz:** Please call the roll.

**Saltzman:** Here.

**Sten:** Here.

**Katz:** Mayor is present. 459. Hearing officer.

**Katz:** Ok, why don't you come on up.

**\*\*\*\*\*:** Ok.

**Katz:** I just wanted to see you blush.

**\*\*\*\*\*:** Yeah. Not too hard to do that.

**Mark Walhood, Planner, Bureau of Development Services:** Good afternoon, mayor Katz, members of council. I'm Mark Walhood with bureau of development services.

**Katz:** I'm sorry, mark.

**Walhood:** Today's case is the providence conditional use. The public hearing in this case, including public testimony on submission of comments occurred in march of 2003. Council agreed to keep the record open for seven days following the hearing. No additional testimony was submitted during that time and the record was closed. In addition at the conclusion of the march hearing, commissioner leonard proposed a motion to tentatively approve the hearings officer's decision between providence and the center neighborhood association. Motion carried and council asked the parties to return in 60 days for review of whether an agreement was reached. On may 8, 2003, representatives from providence and both center and laurelhurst neighborhood association signed a six-page agreement. The good neighborhood agreement addresses communication and problem-solving, construction activity, parking and traffic issues, no net loss of retail space along glisan, and all the other issues specified in leonard's motion. Copies of the agreement have been distributed today. Based on council's tentative decision at the march hearing, we recommend that council reopen the record only to accept testimony regarding the good neighbor agreement and that further testimony regarding other aspects of the master plan or the master plan overall be rejected and not accepted into the record. Because the hearings officer's decision already includes decision b-4 that requires a good neighbor policy and refers to the possibility of a superseding agreement, staff recommends that council deny the appeal, adopt the hearings officer's decision and findings, and then we have two choices. Either take a final vote today or if requested by the applicant, make a tentative decision and return in the future for findings. That's all.

**Katz:** Ok. Questions of mark? Does everybody remember where we were on this? Ok. So let's hear from both the applicant and the neighborhood that worked on the good neighbor agreement, since those are really the only two issues. Come on up.

**Brian Bateson, Land Use Chair, Center Neighborhood Association:** I can go ahead and get started. I'm brian bateson, I live on 415 northeast 61st avenue and i'm the current land use chair for the center neighborhood association. I come to you today, again, thanks mayor Katz, commissioner Saltzman and commissioner Sten. With the good news that we were able to, since our last meeting before you, come to an agreement that I think is mutually beneficial to both the neighborhoods and providence, we had a rapid succession of meetings to get to that point. As you heard from mark I think we've worked out a very good agreement that can become part of providence's conditional use master plan and really will set the stage for future communications between neighbors and providence and allow us to work through all the issues we have with the hospital. Again, i'd really like to thank the council and their staff for their guidance on helping us get there. People feel really good. Not everyone, not 100% of the people are going to be happy,

**MAY 15, 2003**

but I think we've set up a formula and a process that will build on itself over the next several years as providence begins to implement their master plan improvements.

**Katz:** Thank you.

**Gary Naylor:** My name is gary naylor. I represent the laurelhurst neighborhood association. I'd like to second what brian has said. I'd like to add --

**Katz:** Excuse me, one second. Do you want to introduce -- are these your grandchildren?

**Leonard:** I was trying to be subtle.

**Katz:** You can't be subtle. Certainly with the grandchildren, you don't want to be subtle.

**Leonard:** That's my grandson cole, and that's my stepdaughter nicole.

**Katz:** You can see yourself up on the screen, ok? And people who are watching television -- lord knows how many are out there, but they're there, they will see you. Ok? All right, thank you.

**Naylor:** Family's important. Anyway, I think we all appreciated the fact that through the city's office of neighborhood involvement, we had a mediation service. So we had a coordinator, eric king, and the mediator, susan driver, and we also had a use of a meeting room here in city hall. Over the course of april and may, I think it was six evening sessions, all of this group worked out what I think is a -- a better-than-hoped for good neighbor agreement.

**Dave Underriner, Providence Portland Medical Center:** And dave underriner from providence, Portland medical center, thank you. It was actually a very good process. We were able to have -- work through quite-a few issues and turn those into opportunities for how to work together in the future. I think one, you know, obviously key to this is the communication, and how we communicate and involve the neighborhood, because we are a large part of the neighborhood. We impact the neighbor. I think we now have a good formal way on top of the --

\*\*\*\*\*: Informal.

\*\*\*\*\*: We like the kids. That's awesome.

**Katz:** Sorry about that.

**Underriner:** That's ok. So anyway, we do want to, again, thank you for this opportunity, and appreciate -- really appreciate both the center neighborhood and laurelhurst neighborhoods commitment of the time and energy and creativity to make this happen as well. It wouldn't have gotten done without that. So we're looking forward to moving ahead. Thank you.

**Katz:** So what did you all learn? I mean, we didn't have to lock you up in a room with a mediator and a facilitator and three bright people, what did you all learn through all of that?

**Bateson:** Again, brian bateson. What we learned is that we share a lot more similarities as far as how we act -- act and look towards the neighborhood and what the neighborhood is. I mean, I think we ultimately knew that. I think it was just a realization for both providence and for the neighborhood folks that we weren't really all that far apart on what we wanted. It was just how to get there and how -- actually, the words how to talk about it, because, you know, how I think what we were talking about, what was scary initially is we were coming from different places to get to the -- what I think is in the end the same place as far as a better neighborhood, more livable neighborhood, places better for people who live there and work there. That's what we ultimately want to do. Working through kind of the business realities of a medical institution and the realities of volunteers who try to do what they can to make their neighborhood better. What gary said, really, I think, it really helped and was -- there's no question that the office of neighborhood involvement's help and susan driver, the facilitator, got us to that point to discuss it. I don't think we could have done it as quickly on our own in just a short period of time.

**Naylor:** Good I would put it very simply -- we got to know each other a lot better and therefore were able to work out problems.

**MAY 15, 2003**

**Katz:** All about relationships.

**\*\*\*\*\*:** That's it.

**Underriner:** I would add, sometimes it's easy to take things for granted. We assume we have a pretty good working relationship and so on. But what this did was point out that there are much better ways to achieve and goal and get things done. We're embarking on a new direction that will be very positive for both.

**Katz:** Good. Thank you. Anybody else want to testify? But only on the good neighbor agreement.

**Jeff Kleinman, Attorney for Tom Saunders:** Good afternoon, mayor, and members of the council. I'm jeff kleinman, the attorney for tom saunders who owns several residential properties in the immediate area of providence. We have one small but serious quibble with the good neighbor agreement we'd like to raise with the council this afternoon. And mr. Saunders is here with me today. We did participate in one of the work sessions that resulted in the final form of the good neighbor agreement. Mr. Saunders is especially concerned about preserving and expanding retail in what's become sort of a pedestrian dead zone around providence, including restaurant development, which would help to serve the employees of providence, most of whom leave the area frequently in cars to go somewhere else for lunch, because there's no place to go. It's an area that's really kind of died out. At one point there was a bit of a retail village, a kind of main street environment near providence on the block that includes the current elder place facility that providence operates at 4540 northeast glisan. That's actually a stretch of two blocks where five or six old traditional storefronts have been sealed off from the street --

**Katz:** You need to tell us how you tie this to the good neighbor agreement. Otherwise, I can tell you a better way of getting it, because rescuer not going to get it through here if it doesn't tie in the good neighbor --

**Kleinman:** That's in my next paragraph.

**Katz:** All right.

**Kleinman:** Give me a chance. So what happened there was that the remaining retail storefronts were sealed off from the street, and converted to this elder care facility that's accessed from the back and there's no more retail. Our proposal to the folks working on the good neighbor agreement was that that be addressed specifically with a timely conversion of that facility back to retail, because otherwise there's no place for it. Now, where the current language is in the good neighbor agreement, mayor, is at the bottom of page four. It's paragraph iii-2-c, little v or 5, the very bottom paragraph. It states that "recognizing the value of the building located at 4540 northeast glisan for retail purposes, providence agrees that when the elder place program currently located in this building is relocated, providence commits to return the space to retail use." what we suggested there and weld suggest again here is that unless there's some time limit, unless there's some certainty to it, that may never happen, or it may not happen within a useful time frame for that neighborhood and that community, and we would propose a time limit of two to three years for this to actually occur.

**Katz:** And what was the discussion when you raised it with the parties that were involved in putting together the good neighbor agreement?

**Kleinman:** Well, during -- we raised it, and went back and forth a bit, and then the neighborhood association folks and the providence folks and the facilitator and the mediator caucused without us. So I don't know what the actual discussion was that led to this precise language.

**Katz:** What we'll do is bring the parties up, because we're not going to -- after they've worked together, we're not going to go around them. So thank you.

**MAY 15, 2003**

**Kleinman:** I can appreciate that. That's our concern. We also think that ties into the conditional use criteria as well, which otherwise are not met. Thank you very much.

**Katz:** Thank you.

**Katz:** Ok, parties, come on up. Let's ask the hospital first. So the issue is, you understand the need to do this, but they want a level of certainty, two to three years.

**Underriner:** Correct. Dave underriner. This is property we purchased it. But we did convert some of that building back to retail, so there is a florist, american dream pizza and a starbucks in that property, as well as the elder place facility. Part of the reason we purchased it was for the elder place daycare facility. It's a day facility where residents come and have treatment, but also have social interaction, lunch and so on. The difficulty -- and so what we agreed in the discussion and the compromise we had was, it was not originally in the good neighbor agreement. So what we agreed to do, was this language you see now, which was when we moved elder place, weld convert to retail. But that we could not commit to a time frame.

**Katz:** When do you think you'll move it?

**Underriner:** I don't know. It's not been on our planning, you know, to move it. It's in a good location because it serves quite a few of the elderly who live in the community, close proximity to providence, so it's a good location, although there's always the possibility it grows too large and we immediate to move it. As an example, we did move our day center from 60th and glisan out to gresham, or will be as we finish that construction. So there is a possibility. We just can't commit to a time frame.

**Katz:** Neighborhoods want to comment?

**Bayson:** Again, brian bayson, center neighborhood. We felt in the discussion, although one of our goals in the neighborhood was to get more retail, particularly restaurant type uses back in the neighborhood, and I think there was a concurrence that providence felt the same way, we felt that the elder place, which does serve particularly the senior population in our neighborhood was also a valid, important service. Without knowing whether there was additional space to relocate, we had no problem with the process that we've set up to talk about the future of the neighborhood and retail uses that through the process that we're going to engage in, once we move forward, that whether we find a new place for the elder place or we find some other buildings that providence currently owns that could be converted back to retail, we will work that out with providence. There were a number of other buildings that we identified in the six-week process that are other uses that providence has that used to be former retail, that as the campus moves and expands and uses may be able to become retail. We didn't feel the need to put a time limit on it. You know, i've lived in the neighborhood now since 1991, and things are fluid. There's been lots of changes in that time period at the campus. Things move around fairly regularly in a large institution look that. We have a communication process set up. The neighborhood can be involved in those decisions. We already have a neighborhood representative who's already attended their first facilities planning meeting that providence has now asked a neighborhood representative to be on. If we as a neighborhood keep on it, positive changes will start happening.

**Katz:** Thank you.

**Naylor:** Gary naylor, representing laurelhurst neighborhood association. Again, brian has pretty much said it all.

**Katz:** I'm sorry. Next time i'll start with you.

**Naylor:** I had add when we were looking at the good neighbor agreement, which presumably is going to become a condition of approval of this conditional use should it be approved by council, we were looking at connectiveness of the good neighbor agreement to this, and some of the

**MAY 15, 2003**

requests can get pretty far afield from the land use application under discussion. And we believe we, through the existing provisions of the good neighbor agreement, have a pretty firm commitment with respect to retail use, present and future retail use, within the growth boundary of providence Portland medical center. I guess we didn't feel that it was necessary to take an additional step to require the applicant to adhere to a firm time limit with respect to the elder care facility, understanding the -- you know, the variables involved in finding a relocation site, etc.

**Katz:** Ok. Thank you.

\*\*\*\*\*: Thank you.

**Katz:** Anybody else? Anybody else? All right, council. I'll take a motion.

**Saltzman:** I would move to approve the conditional use master plan with the good neighbor agreement as presented to us.

**Sten:** Second.

**Katz:** You seconded it. When you do this, I get very nervous. When you do this, I get very nervous.

**Linly Rees, City Attorney's Office:** We're simply talking about whether the applicant and city attorney's office would like time to prepare for --

**Katz:** Ahh.

\*\*\*\*\*: We'd like two weeks to do that.

**Katz:** Two weeks, just for a good neighbor agreement?

\*\*\*\*\*: It will be findings to address any approval criteria.

**Katz:** Ok, all right.

\*\*\*\*\*: We'll try to be quicker.

**Katz:** This will be a tentative motion -- approval. All right. And commissioner Sten seconded. Roll call.

**Leonard:** Aye.

**Saltzman:** Well, i'm glad that this was -- it looks like it was time well spent and looks like a good neighbor agreement with respect to elder place and retail use, I do think that -- well, retail use is probably very valuable, but in my pecking order right now elder place plays a more important place in our community. I think the language as it's written is good. Aye.

**Sten:** Well, I want to thank you, excellent work. It's a great institution. And two very strong, terrific neighborhood associations. So i'm not surprised, but pleased that you got there. Aye.

**Katz:** Thank you for all your good work, commissioner leonard, you think thank you for your motion on the good neighbor agreement. I'm going to vote aye and we'll come back in two weeks. We need to set that date. Aye. [gavel pounding] ok, the date?

\*\*\*\*\*: The 28th would be two weeks. We'll have two members out.

**Katz:** Which two?

**Saltzman:** I'm one of them.

**Katz:** Who's the other one?

\*\*\*\*\*: It's commissioner Saltzman.

**Katz:** That's all right. Commissioner Francesconi wasn't -- why don't we do it on a wednesday.

\*\*\*\*\*: That's a wednesday. Thursday, there'll be three of you gone.

**Katz:** Oh, it's that --

\*\*\*\*\*: Sue, do we have a full -- we have a full quorum next --

\*\*\*\*\*: In the -- yes, we do, on the 22nd, thursday.

\*\*\*\*\*: We can do that.

**MAY 15, 2003**

**Katz:** Ok. So we'll do it in a week, on the 22nd, thursday. Good, because commissioner Francesconi was not here initially, and I just worry a little bit about having him vote on something he hadn't heard. All right, thank you, and we stand adjourned. [gavel pounding]

At 2:20 p.m., Council adjourned.