



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **17TH DAY OF DECEMBER, 2003** AT 9:30 A.M.

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

Commissioner Sten was excused to leave at 11:56 a.m.

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

Item No. 1418 was pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
<p>1408 Request of Jada Mae Langloss to address Council regarding reinstatement of TriMet bus passes for some Dignity Village residents (Communication)</p>	PLACED ON FILE
<p>1409 Request of Charles E. Long to address Council regarding the holiday season (Communication)</p>	PLACED ON FILE
TIME CERTAINS	
<p>1410 TIME CERTAIN: 9:30 AM – Create a local improvement district to construct street improvements in the SE 128th Avenue Local Improvement District (Hearing introduced by Commissioner Francesconi; Ordinance; C-10007)</p>	PASSED TO SECOND READING DECEMBER 31, 2003 AT 9:30 AM
<p>1411 TIME CERTAIN: 9:45 AM – Accept the recommended Title 7 Housing Compliance Report to Metro and adopt a voluntary five year housing production goal of 1,791 housing units affordable to extremely low-income households (Resolution introduced by Mayor Katz) (Y-5)</p>	36190
<p>*1412 TIME CERTAIN: 10:15 AM – Authorize a labor agreement between the City and the District Council of Trade Unions for terms and conditions of employment of certain represented City Employees (Ordinance introduced by Mayor Katz) (Y-5)</p>	178102

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<p>*1413 Authorize a labor agreement between the City and the Portland Police Commanding Officers Association for terms and conditions of employment of certain represented City employees (Ordinance introduced by Mayor Katz) (Y-5)</p>	<p align="center">178103</p>	
<p>*1414 Extend the use of Excess Health Fund Reserves to subsidize the CAP gap for Portland Police Association health benefits for the balance of FY 2003-04 (Ordinance introduced by Mayor Katz) (Y-5)</p>	<p align="center">178104</p>	
<p>*1415 Authorize contract with Aliquant Corporation to provide a Web-based Benefit Enrollment system for the period December 1, 2003 through June 30, 2006 (Ordinance introduced by Mayor Katz) (Y-5)</p>	<p align="center">178105</p>	
<p align="center">CONSENT AGENDA – NO DISCUSSION</p> <p align="center">Mayor Vera Katz</p> <p>1416 Accept the Report on Holiday Lighting from Portland Downtown Services, Inc. (Report) (Y-5)</p>		<p align="center">ACCEPTED</p>
<p>*1417 Authorize general obligation emergency facilities bonds and general obligation refunding bonds to finance capital improvements related to fire, rescue and emergency facilities (Ordinance) (Y-5)</p>	<p align="center">178087</p>	
<p>*1418 Authorize agreement with Volunteers of America for use of U.S. Department of Justice, Office of Justice Programs, Community Prosecution and Project Safe Neighborhoods grant funds to address the problem of firearms in domestic violence incidents (Ordinance) (Y-5)</p>	<p align="center">178100</p>	
<p>*1419 Approve Intergovernmental Agreement with Multnomah County to outline the terms and conditions for the administration of the State Domestic Preparedness Equipment Grant of \$2,955,653 (Ordinance) (Y-5)</p>	<p align="center">178088</p>	
<p align="center">Commissioner Jim Francesconi</p> <p>*1420 Authorize payment of \$4,049 to Alternative Sound for the delivery of technical equipment rental for summer concerts during 2003 (Ordinance) (Y-5)</p>		<p align="center">178089</p>

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<p>*1421 Authorize an Intergovernmental Agreement between Portland Parks and Recreation, Portland Public Schools and Bureau of Housing and Community Development for a feasibility study at the Washington High School Property (Ordinance) (Y-5)</p>	<p align="center">178090</p>
<p>*1422 Amend agreement with Oregon Department of Transportation for Bikeway/Walkway Project connecting SW Custer Street to SW 4th Avenue (Ordinance; amend Contract No. 51451) (Y-5)</p>	<p align="center">178091</p>
<p>1423 Extend the terms of current Portland Parks and Recreation Board members by eight months (Second Reading Agenda 1393) (Y-5)</p>	<p align="center">178092</p>
<p align="center">Commissioner Randy Leonard</p>	
<p>*1424 Amend ordinance granting franchise to Williams Communications, Inc. (Ordinance; amend Ordinance No. 175063) (Y-5)</p>	<p align="center">178093</p>
<p align="center">Commissioner Dan Saltzman</p>	
<p>*1425 Extend term and clarify language in agreement with K&S Madison, Inc. for use of property for land application of sewage sludge/biosolids (Ordinance; amend Contract No. 27955) (Y-5)</p>	<p align="center">178094</p>
<p>*1426 Amend contract with HDR Engineering, Inc. to proceed with design, bid phase, construction services and start-up assistance for the Columbia Boulevard Wastewater Treatment Plant Sodium Hypochlorite Conversion Project No. 6700 (Ordinance; amend Contract No. 33998) (Y-5)</p>	<p align="center">178095</p>
<p>*1427 Authorize a Joint Funding Agreement with the U.S. Geological Survey in the amount of \$57,550 to evaluate toxics in sediment and water in the Columbia Slough using semi-permeable membrane devices (Ordinance) (Y-5)</p>	<p align="center">178096</p>
<p>*1428 Authorize a contract for the NW Couch Sewer Reconstruction Project No. 6819 (Ordinance) (Y-5)</p>	<p align="center">178097</p>
<p align="center">Commissioner Erik Sten</p>	
<p>*1429 Amend subrecipient agreement with Rose Community Development Corporation to modify the scope of work, add \$17,500 and provide for payment (Ordinance; amend Contract No. 35015) (Y-5)</p>	<p align="center">178098</p>

<p style="text-align: center;">City Auditor Gary Blackmer</p> <p>*1430 Extend deadline for submission of documents to Auditor for filing in the Portland Policy Documents (Ordinance; amend Code Chapter 1.07) (Y-5)</p>	<p style="text-align: center;">178099</p>
<p style="text-align: center;">REGULAR AGENDA</p> <p>1431 Create a \$100,000 Transportation and Environmental Services System Development Charge grant program for owner-operated restaurants (Second Reading Agenda 1401 introduced by Commissioners Francesconi, Leonard and Saltzman) (Y-3; N-2, Sten and Katz)</p>	<p style="text-align: center;">178101</p>
<p>1432 Vacate a certain portion of SW Caruthers Street west of SW 6th Avenue (Second Reading Agenda 1402; C9997) (Y-5)</p>	<p style="text-align: center;">178106</p>
<p style="text-align: center;">Mayor Vera Katz</p> <p>1433 Provide commitment of City of Portland to assist the Armory Theatre Project in obtaining take-out financing for the rehabilitation of the Armory Building for use as a theater (Resolution)</p> <p>Motion to amend the second whereas to read; Portland Center Stage has committed to raising capital campaign funds to repay all outstanding debts, undertaken for the purpose of purchasing and rehabilitating the armory building and add to be certified to a LEED gold or platinum standard: Moved by Commissioner Saltzman and seconded by Commissioner and gaveled down by Mayor Katz after no objections. (Y-5)</p>	<p style="text-align: center;">36191 AS AMENDED</p>
<p>*1434 Amend contract with TMG Consulting to assist with procurement of a replacement Customer Information System solution (Ordinance; amend Contract No. 34533) (Y-4)</p>	<p style="text-align: center;">178107</p>
<p>1435 Adopt the 13th Amendment to the Oregon Convention Center Urban Renewal Plan to establish authority to acquire property located at 910 NE Martin Luther King Jr. Blvd., including by condemnation if necessary (Ordinance)</p>	<p style="text-align: center;">PASSED TO SECOND READING DECEMBER 31, 2003 AT 9:30 AM</p>

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<p style="text-align: center;">Commissioner Dan Saltzman</p> <p>1436 Accept an Intergovernmental Agreement with Metro to receive \$56,000 to conduct outreach to food generating businesses (Ordinance)</p>	<p style="text-align: center;">PASSED TO SECOND READING DECEMBER 31, 2003 AT 9:30 AM</p>
<p style="text-align: center;"><u>FOUR-FIFTHS AGENDA</u></p> <p>*1436-1 Amend contract with Business Risks, Inc. for investigation services (Ordinance; amend Contract No. 35110)</p> <p>Motion to suspend the rules to hear the four/fifths item: Moved by Commissioner Leonard and seconded by Commissioner Saltzman and gaveled down by Mayor Katz after no objections.</p> <p>(Y-4)</p>	<p style="text-align: center;">178108</p>

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

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **17TH DAY OF DECEMBER, 2003** AT 6:00 P.M.

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

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

<p>*1437 TIME CERTAIN: 6:00 PM – Provide better regulatory control of towing from private parking facilities (Ordinance introduced by Commissioner Leonard; amend Code Chapter 7.24)</p> <p>Motion to accept exhibit one, as amended: Moved by Commissioner Leonard and gaveled down by Mayor Katz after no objections.</p> <p>Motion to adopt the Ordinance, as amended: Moved by Commissioner Leonard and gaveled down by Mayor Katz after no objections.</p> <p>(Y-4)</p>	<p>Disposition:</p> <p>178109 AS AMENDED</p>
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At 8:19 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

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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.

DECEMBER 17, 2003 9:30 AM

Katz: Karla, please call the roll. [roll call taken]

Katz: Let's start with communications. 1408.

Item 1408.

Katz: Ok. Jada called, and said she's running a little late. So because she's a regular and we love her dearly, when she comes in, if there's a break, we'll take her for her three minutes. All right. 1409.

Item 1409.

Katz: Charles, we're getting to love you, too.

Charles Long: Thank you. My name is Charles E. Long and my address is 420 Northeast Mason Street. This period called the holidays is culturally significant. Between October 31 and January 1 is 63 days. Nearly half of these days are holidays. 27. Wow. Some of these days are legal holidays. Some are religious holidays. Some are national holidays. All are important, especially to the merchant. The written meaning of holiday is holy day. The fourth commandment of the decalog given to God through humanity to Moses states "remember the sabbath to keep it holy, Exodus 28. Each sabbath day is a holy day. The other holidays in the 23-day period include Halloween, All Saints Day, Election Day, Armistice Day, or Veterans Day, Thanksgiving Day, Portland Water Bureau Day -- Pearl Harbor Day, Hanukkah, eight days observed starting Friday, December 19 through the 26th this year, Christmas Eve, Christmas Day, New Year's Eve, New Year's Day. Holidays are fundamentally days of remembrance. The Israelites had many days of remembrance commanded by God or instituted through historically critical events. This morning I will focus briefly on Hanukkah and on the 31st with God's will on the Christmas tradition and New Year's celebration. In the second century, B.C., a ruler invaded Jerusalem and desecrated the temple of Jewish worship. Daniel 11:31 states in part, they shall pollute the sanctuary of strength and take away the daily sacrifice and shall place the abomination that maketh desolate. He caused a pig to be sacrificed on the altar of God. When the Israelites subdued this desecration the temple was cleansed. Worship was resumed. In remembrance of this triumph over evil and the rededication of the temple in 165 B.C., Hanukkah which means to inaugurate or dedicate, is observed privately in Jewish homes beginning with the 25th day and the lighting of the menorah. Thank you.

Katz: Thank you. All right. Let's take the consent calendar. I am pulling item 1418 off the consent calendar. Anybody else want to pull any items off the consent calendar? If not, roll call. [roll call taken] [gavel pounding] 1418.

Item 1418.

Katz: You heard a little bit about this when we were going after the grant, but I thought it would be nice to bring it back and have a little bit more discussion as to what the plans are for the expenditure of those resources. So go ahead.

Bill Sinnott, Captain, Family Services Division: Thank you. Good morning. I'm Bill Sinnott, the captain of the family services division, and this is regarding the Project Safe Neighborhood grant, which we received in the amount of \$249,000. Specifically we're here today for approval of

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\$83,000 for the volunteers of america, a volunteer which we have. There will be two more contracts coming up before you for rafael house.

Katz: Why don't you talk about that and then I won't pull them off next time they come.

Sinnot: Ok, I will. This project is built among the existing domestic violence unit and its experience in working with community-based victim advocates. This model of community-based victim advocates has been shown to be successful in reducing repeat calls to the police and increasing prosecution by the district attorney's office and increasing victim safety. This project augmenting the existing model of the family services division to focus more on cases in which firearms were identified as a significant problem, and we gleaned this information through incident reports, special reports, domestic violence reports, and restraining order petitions. The goals that we're going to -- we hope to accomplish are increasing arrest of domestic violence offenders who have firearms, increasing prosecution of both the -- at the county level and at the federal level for firearms cases, reducing incidence of domestic violence where firearms are used and increasing our understanding of the prevalence of the dynamics of gun violence in domestic violence cases. This project will provide a proactive approach to the problem of gun violence in domestic violence cases, and specifically the grant funds are to be used to contract community-based domestic violence programs for three victim advocates to work as part of teams with our domestic violence officers. These advocates will also be available to assist victims and fire -- in firearm cases that the united states attorney is prosecuting, and they will also be available to the gang units to assist victims. One of the victim advocates is bi-cultural, bilingual, and will work specifically with the hispanic community and will also be available to the gresham police department in their work in gang reduction activities in the east county area of the that victim advocate is kenya marquez and sitting behind me right here. Also with her is jessica amo from volunteers of america, and she'll be involved also. They'll be working in our office. Also journey oster is currently working in our office at this time. This model of community-based victim advocates has been shown to be successful in reducing repeated calls to the police and increasing prosecution by the district attorney's office, and increasing victim safety. The teams are assigned to one or two of the -- of the five Portland police precincts and they're teamed up with officers assigned to the d.v.r. Unit. The advocates assist in identifying and prioritizing firearms cases and they work directly with the victims to develop safety plans, obtain restraining orders, and to link domestic violence or other needed service.

Katz: Thank you. Let's hear from chiquita now.

Chiquita Rawlings, Multnomah County Domestic Violence Coordinator: Thank you. I'm the Multnomah county domestic violence coordinator. I'm here because i'm part of the project safe neighborhood executive committee that the u.s. Attorney has put together and that these funds are part of the national project safe neighborhood projects that are going on nationally. And so this is one of several grants that received in this low cat about half of them are going to domestic violence, partly to probation, partly to the police, another police officer is working with the a.t.f., alcohol, tobacco firearms, and working directly then with the u.s. Attorney on cases that are going to go through federal prosecution. And one of the things I wanted to let you all know about is -- is to some extent how this firearm issue became such a large issue and important to the u.s. Attorney and to the Portland police bureau and others in the community. In 2001, there were several domestic violence homicides in which firearms were used. There were two in particular. One in which the domestic violence unit of the Portland police bureau was working with the victim. There was what's called a qualifying restraining order in place. And the offender went out, shot the -- his wife in front of two children, took the children to his apartment, locked them in the apartment, and then killed himself out in the hallway of the apartment. Because of the involvement of the family court, the Portland police bureau, and others there was a series of meetings to talk about how could

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we as a community better address firearm cases, remove firearms from potential -- from abusers who we know then are potentially seven to 10 times more likely to kill their partners in there's firearms in the house and domestic violence is occurring, to look at probation, to work with the u.s. Attorney more closely, to work with the district attorney more closely on these. So out of that came a series of initiatives of which this is one. I think it's an important one.

Katz: Thank you. Did you want to add anything?

*****: They covered it rather well.

Katz: All right. Questions, anybody? I knew -- oh. Where you going to ask a question? Go ahead.

Saltzman: Well, I want to say, first of all, i'm really pleased this has come before us today. This is a great program. And this project safe neighborhoods has helped to bring more resources to bear on the issue of guns and violence, and particularly guns and domestic violence and gang violence. I was curious about some of the other initiatives that have been talked about. I've attended the executive steering committee meetings sporadically lately, but there was a whole issue of the sheriff's office of warehousing weapons that were to be taken from people who had restraining orders issued against them, sort of a -- they show up and say "you got any firearms?" and if they do we'll hold on to them. Did that part ever go through?

*****: That discussion --

Katz: Identify yourself.

Jay Drum, Portland Police Bureau: I'm sorry. Lieutenant jay drum, Portland police bureau. That discussion has begun as far as our involvement with the -- working with the advocates to address issues that come up regarding guns that would be better taken out of the home, considering the situation. And we're still in discussion on how we're going to address both the legal issues of taking the gun and also the storing of it.

Saltzman: Ok. And -- well, I guess that was the only other issue. We're doing better now with the courts in terms of judges checking off boxes when firearms are involved, and the court administrator making sure that information is given to the appropriate law enforcement authorities, and that's working?

Drum: And that's one aspect of the advocates. They work with the victim to help them through the system, and help them obtain the restraining order and make sure the proper boxes are addressed.

Saltzman: Ok, great. Thanks.

Francesconi: On the gun violence side, is there any connection with the gang issue and domestic violence issue and firearms? I mean, there's -- that's the common ingredient here on some of this.

Drum: Our coworkers and parole and probation have told us that one of the problems they're currently seeing is some of the older gang members that are getting released from the justice system, corrections system, it's not so much they get back into the gang lifestyle as they have trouble in their relationships, and they've seen an increase in their -- in the domestic violence from these ex-members being released from prison. So we're working -- this is a major collaborative effort. We're working with the u.s. Attorney's office, parole and probation, all the local police agencies, to bring the whole problem to light and address what resources we have.

Katz: This is really the continuation of the work that was done by the previous u.s. Attorney, two previous u.s. Attorney, and the focus has been continually on gangs, guns, but added the domestic violence piece. Chiquita.

Rawlings: I wanted to add a little bit to that, commissioner Francesconi. The project safe neighborhood that the project that the prior u.s. Attorney, michael mossman, presented to the federal government for approval had six priorities, but the top three were youth violence -- well, gangs and youth violence, domestic violence, and armed career criminals. And again, as lieutenant drum suggested, that this project has some ties to the gang. There are also two other grants related

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to gang and youth violence, one through the office of neighborhood involvement, working with the northeast coalition and john candace group to do those meetings, the stop the violence meetings, and to do some other outreach in the community. Part of the probation grant is to have a youth gang and a gang probation officer that works specifically, and then there's the piece out in east county that kenya marquez is working -- is also available to work with the folks out there, to look at gun cases and work with the victims in those cases. So there's an attempt here to raise the awareness in the gang world about domestic violence and the lethality of guns in those situations and in the domestic violence world to raise the awareness of the resources and intervention in gangs and youth violence in particular.

Katz: Thank you. Further questions? Thank you. Anybody else want to testify? If not, roll call.

Francesconi: This is a terrific example of community policing, utilizing terrific community partners. You picked two great partners here. Aye.

Leonard: Aye.

Saltzman: Great program. Aye.

Sten: It's important work. Thank you. Aye.

Katz: Mayor votes aye. [gavel pounding] thank you, everybody. All right, time certain, 9:30, 1410.

Item 1410.

Andrew Aebi: Good morning, mayor and commissioners. Andrew abebi. With me this morning is tom walsh, one of the property owners in the l.i.d., and martha mcclennan of northwest housing alternatives. We have no received no remonstrances against l.i.d. formation. The ordinance before you do would form the southeast 128th local improvement district. We received record level support of 100% for this project, and council accepted these petitions -- the petition when the resolution of intent was approved on the november 19 consent agenda. The last petition that we received for this project was from a lady in a nursing home that told me she'd been trying to pave her street for 43 years, so we're very happy to be able to help her out. We really appreciate the bureau of housing and community development for funding this project, and helping to make this project possible. This l.i.d. is similar to what we've been offering in lents where the property owners' costs are guaranteed in a low-income grant program is available to those who qualify.

Katz: Where was it? Where was the last one in lents?

Aebi: The last one was in the vicinity of southeast 104th and ramona, approximately 20 blocks away.

Katz: All right.

Aebi: Here's a picture of the south end of the project of the mr. Walsh worked with the neighbors and with pdot to improve the street, not only where the buses frontage to the north of here, but also this portion of the street as well, so that the entire street would be completed. Had he not done that, these potholes would have remained here after the housing complex was constructed. I'd like to thank mr. Walsh for being a good neighbor. Here's a picture of the north end of the project. We will be adding sidewalks in part of this project so that the lady that you see there on the right will not have to walk in the street to get to the bus stop at 128th and foster. Finally, here's a vacant property at the southeast corner of 128th and foster that mr. Walsh will be developing into multi-family housing. Thank you.

Katz: Thank you. All right, let's put up the lights.

Martha McClennan, NW Housing Alternatives: Hi. I'm with northwest housing alternatives on southeast willard in milwaukie. We're very excited about the city's support for this. Our project that is a partnership between tom walsh and northwest housing alternatives will be 36 units of affordable housing for very large families, three, four and five-bedroom units. We're very pleased that the city's support will allow us to improve both the frontage that we have, but also complete the

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street improvement through to the neighborhood and really finish that piece of infrastructure for this community. So we appreciate your support.

Katz: Mr. Walsh.

Tom Walsh: Good morning. My name is tom walsh, 1100 northeast glisan. Martha has described a fun project, as some of you would recall we were partners on rosemont, where with great glee and fun learned to be good neighbors, but we also learned what incredible assistance we can get from the city and both andrew on behalf of pdot and bhcd we're the ones who initiated the possibility of this l.i.d., and without the substantial financial support that came for it from bhcd through home funds we wouldn't have had the success in talking to our new neighbors to join in the l.i.d. Kudos go to them.

Katz: Thank you. Questions by the council?

Leonard: I have one. What is the price range of the housing going to be?

Walsh: They're all rental units, commissioner. 25% of the project will be project-based section 8, and our expectation is that a substantial majority of the other 75% will be occupied by families who hold tenant vouchers.

Leonard: Ok, great, thanks.

Katz: Ok.

Saltzman: And you said there are going to be 36 units?

McClennan: 36 units.

Saltzman: And three to four bedrooms, each?

McClennan: Three, four, and five-bedroom units in townhome configuration.

Saltzman: Great.

Katz: You will not allow people to rent those units if they don't have families?

McClennan: Right. We'll be looking for family-size households, really large families. Under the section 8 program, there are household size requirements.

Katz: Just wanted to make sure. Anybody else want to testify on this item? If not, karla, did you have anybody?

Moore: No one signed up.

Katz: If not, it passes to second. [gavel pounding] 1411.

Item 1411.

Katz: Go ahead, mike.

Mike Saba, Planning Bureau: I'm a part timer with the Portland planning bureau.

Katz: Wait a minute, wait a minute. We have you back?

Saba: Yes.

Katz: Are we lucky or not.

Saba: I think you're saving money by having me do this instead of a consultant.

Leonard: In my experience working with him, we are very lucky.

Katz: I know. I'm teasing him. We are lucky to have him back. I knew you couldn't leave.

Saba: I'm glad to be back. I've been hired to do a couple of projects. This is one of them and by the end of the year I hope it's finished and we can continue the dialogue we've been undertaking with metro for the last almost 10 years in terms of broadening affordability housing opportunities throughout the region. The report you have before you called the title 7 compliance report is really the second in a series reporting requirements that metro requires of jurisdictions who have been partners in the affordable housing strategy for the region. This report really just summarizes the policy backdrop that the city of Portland has adopted to undertake a variety of land use and nonland use strategies for affordable housing. I think the point we want to make here is that we're well ahead of the other jurisdictions in terms of considering tools to promote affordable housing development, both rental and home ownership, consistent and in full compliance with the letter and

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spirit of the regional affordable housing strategy. Commissioner Sten may want to comment on this in terms of his involvement. If commissioner Sten has anything to add, i'd be happy to --

Sten: Sure. Thanks, mike. I think it -- we have a regional affordable housing strategy, part in seriousness and part in jest, it's only got one problem, it needs to be implemented. There's a couple of pieces to it that are -- that are important. One is it's almost like a -- like a tool book of all the different things that are available to support affordable housing, from small to large incentives. And the only thing we really required coming out of the process was that groups -- or cities I should say report back on which ones they're implementing. They're not required to implement any of the pieces. There is a general sense, which I think is still true, and reflected in the real diverse participation in the -- in the blue ribbon committee looking at funding, that one of the critical pieces for affordable housing would be to have a regional affordable housing fund. Everything we're looking at would be helpful, but needed that to be in place. There's a real split on the committee which is interesting as to whether or not metro should be the requirements into statute and say you need to do this, that, or the other thing. The consensus on the committee was that as long as there was movement forward to try and get some more voluntary approaches that that shouldn't happen. It's going to be interesting, because it's not an easy task, and I think everyone's trying, but several years later we don't have any real hard commitments. Over time if we can't get a voluntary way to do things with the fund, there's going to be and more and more arguments that there should be mandatory requirements. We're embracing on a voluntary basis our fair share, which is easy to do, because it's easy to commit to. There's still a lot more to come, and the funding source needs to be there. This is obviously the right approach to kind of set the tone for what the other jurisdictions need to do. From my point of view, most of the other jurisdictions are being very supportive on the issue of affordable housing. They just don't have any resources on it. So that becomes the issue.

Katz: You are so kind. The problem we see is that there are jurisdictions that actually drop the numbers. And we haven't. We're on target. And my hope is that all of the jurisdictions take this very seriously in the region. And not change those numbers and reduce them for a variety of reasons. And maybe one of them is because they don't have funding. None of us have the kind of funding that we need to meet those targeted goals.

Saba: I think that's the basis for the voluntary nature of the aspirational goals. Nobody's going to be held or be sanctioned if they don't meet them, but it is some measure of progress. During the years 2004 and 2005, metro in conjunction with the jurisdictions will count what's actually on the ground, starting from the 2000 census, to see what kind of progress we made regionally and jurisdictionally. So hence the resolution before you is really the basic requirement metro has of jurisdictions to bring this before the elected bodies and have them at least acknowledge and accept them as aspirational goals.

Katz: Thank you, mike. Ok. Anybody else want to testify? Come on up.

*****: Do you want me to sit up here, answer any further questions?

Katz: Come on up. Karla will give us that. Come sit down and tell us who you are.

Jamison Cavallaro, Oregon Alliance for Land Use and Affordable Housing: I appreciate it. Thank you. I'm from 3333 southeast alder in Portland. I'm speaking today to talk about the title 7 affordable housing, and i'm a representative of Oregon alliance for land use and affordable housing.

But more importantly I speak to you here just as a citizen that's very concerned about the affordable housing crisis. I'm on the steering committee of this new group. We're on short notice i'd like to say first off that I commend the city of Portland for the efforts for affordable housing, but as the mayor stated a little bit earlier, we have a -- a lack of funding. Everyone in the region does. It's not really an acceptable reason for not implementing affordable housing strategies.

Furthermore, as we all know, our targets are 10% of what was declared as the -- the affordable housing need. And we just want to make sure that that's very clear, that -- yeah, we don't want to

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see the targeted numbers diminish. Frankly we'd like to see those targets go up. And I really appreciate what Mr. Saba provided, but we -- we certainly feel like it might be advantageous to maybe even put a simple note on your document stating that maybe 10% isn't enough. I don't know if that's possible. That's just my opinion. Jamison Cavallaro, not my -- you get the idea.

Katz: We do.

Cavallaro: Ok. And if there's any opportunity to open up the comment period, I know that you want to close and submit before the end of the year, but I have a feeling just based on my last-minute notice on this, that there might be other people that would like to comment on this report. I consider myself to be, at least around in the scene, and it was quite a shock to just find this information on Friday.

Katz: Ok.

Cavallaro: Really appreciate having the opportunity to speak. Thank you.

Katz: May I also recommend that you also meet with Commissioner Sten's staff and, you know we have a blue ribbon committee that we established to deal with affordable housing. And I flagged to the council that before we start putting other issues on the ballot, if that's a choice, that the committee wants to do that, that we ought to consider housing first. It's been always pushed aside until we build enough of the coalition. I think we have a very strong coalition. We'll have policy directions and analysis at the end of the blue ribbon task force recommendations, and then we need to make a decision as to what we're going to do.

Cavallaro: If I could just make one last comment quickly.

Katz: Sure.

Cavallaro: As we all know, two affordable housing issues have a demand and supply function. Martha McInerney and Mr. Walsh were here a moment ago to speak about supplying more affordable housing. As you know, you can supply it. You also need to create the ability for people to afford housing. And so when we made our comments and you're looking at it right now, we broach a question of maybe there needed to be some further land use regulatory changes with regards to the report here. You just had your comprehensive plan update. I don't know whether or not the economic development goal five is integrated with the ideas of helping to foster more income.

Katz: No, you're right on target. If we had those in place, and -- though today I heard from John Mitchell, who reported to the community that things are improving.

Cavallaro: Ok.

Katz: So that's the other part of the equation, the jobs market. Thank you.

Cavallaro: Thank you.

Katz: Ok. Anybody else? Roll call. Oh, yeah, on this one, Jada, or on your --

Jada Mae Langloss: On this one.

Katz: Ok, come on up.

Saba: If I may insert, I do apologize to the gentleman for the short notice of this. This was not intended to be sort of a public process. It's really carrying out a government-to-government communication. Noting the members on his list here, I would urge them to participate in the upcoming year's action at Metro, because that's really where this dialogue should take place.

Katz: Mike, why don't you spend a little bit of time with the gentleman and share that information with him. Jada, good morning.

Langloss: Can never get on time. Concentration camp, it's hard to get out of.

Katz: I know, sweetie. Go ahead, Jada.

Langloss: I heard that there was going to be a lot of low-income housing for people like me and people who I live with going up in Old Town. Well, I heard a rumor that maybe you can find out if it's true for me, that somebody came and bought out all the contracts for these low-income housing

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and paid off the mortgage and turned them into medium-income housing. Could you check that out for me, please?

Katz: We'll check that out.

Langloss: Thank you.

Katz: Why don't you stay there and do your three minutes.

Langloss: On what subject?

Katz: You said you were going to address us regarding reinstatement of tri-met bus passes for some dignity village --

Langloss: I know i'm a target. I was in seattle, come down to bring some information for mothers for police accountability. I was stopped at the bus stop and said I couldn't get a ticket. So I never made it to make that speech. But me and the other people at dignity village are at the end of number 10, at the end of the line. And these kids need to get off of that property. Two months of tri-met bus passes was offered a long time ago. And then it stopped. And so these kids are hostages at the end of line. They can't get off to get any part-time jobs for the holiday season. And I think that the council should probably adopt a couple of these ambitious dignitaries and give them a bus pass so that they can try and make enough money so they can do some mailing to their family and friends, myself included. Now I have socialistic insecurity wages, which is just wealthy out there, so i've been buying about five bus passes to share with the people who are trapped there with no money at all. So have mercy on these kids and give them a little chance. There's still time, you know.

Katz: Thank you, jada. If we don't see you before the holidays, happy holidays.

Langloss: Thank you very much. Have a happy no matter what happens.

Katz: Anybody else want to testify? If not, roll call.

Francesconi: Well, I appreciate the -- the city of Portland's doing a very good job on this issue, under the leadership of commissioner Sten, and with the help of a lot of folks. And we're also, again, under commissioner Sten's leadership doing a good job looking for new revenue sources that we take to make this thing happen. But i'm not really satisfied regionally that there's the regional effort to address this. Or that we're making progress. At least in the metro discussions that i'm a part of. The issue of affordable housing doesn't come up very often. And six years ago the metro -- regional inclusionary zoning was actually passed and it was taken away. I believe that this issue is on a regional basis, there's never going to be enough money to address it by itself. It's going to take a combination of some reasonable regulations with some incentives. The approach that I took before was too heavy-handed in the sense it was only regulatory. There wasn't the incentives. But just trying to do it with -- with incentives isn't going to work either. So I think that we need to have more focus on our regional approach again, and metro -- metro needs to play a more aggressive role on this issue from my perspective. But thank you for keeping it alive and moving it. Aye.

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

Sten: I appreciate the council's point of view on that. And I think commissioner Francesconi's right. We've got a lot more to do. This is a step in that direction aye.

Katz: Mayor votes aye. Thank you. Thanks, mike. Karla, help me out. Is only 1412 on a time certain or 1413?

Moore: All of them are.

Katz: They're all under the time certain.

Katz: Up to 1415?

Moore: Correct.

Katz: Then we've got a few minutes. So let's jump to the regular agenda. Let's take 1431.

Item 1431.

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Katz: Roll call.

Francesconi: This does not solve the major problem, and to look at how the change of use can be -- the issue can be addressed so that new development pays. We're speeding up those efforts in transportation. My commitment to the council, which I've said before, is that we need to do this in a more comprehensive manner, and the bureau's responding in transportation. But that doesn't relieve the -- the fact that we have small restaurants that are disproportionately impacted by this, and we want to help out these small businesses in our neighborhoods. So I'd ask the council to support this. Thank you, Brandon, for your work. Thank Michael Harrison for the work on this temporary measure. And thank you, Commissioner Saltzman, for your help and leadership on this. Aye.

Leonard: Aye.

Saltzman: Well, during last week's hearing on this proposal, the grant program for owner-operated restaurants, there was a great deal of discussion about council members, among us, about this pilot program, as well as the largest issue of justifications and waivers. I think maybe it served as a good prod for us to revisit that larger question. This pilot program is certainly not intended to mend all the wounds of our current program. It was encouraging to have the idea of further discussion and the larger discussion, but it's the intention of this -- of this ordinance really to deal with the a very small issue here, and that is to deal with owner-operated restaurants who face, in many circumstances, a very daunting systems development charge bill that often prohibits them or prevents them from entering into a business which often times is their dream. We do think that neighborhood restaurants are a key cornerstone of neighborhood vitality, and this is a small program to see if we can make a difference in helping some of these dreamers achieve their first dream of a restaurant. And to overcome one of the most daunting obstacles. Questions that the mayor asked last week -- would applicants with the greatest need have priority? How would the success of the program be measured? And would the program be first come first serve. I wanted to answer these questions. In the ensuing week we've met with the city's cost of business committee, the Oregon restaurant association, Portland business alliance, and bureau staff from both transportation and environmental services. We believe that we can work with the stakeholders in the -- in the -- and administrative rules -- that will implement this program, but I do want to say that we haven't figured out a way to not make it, other than first come, first serve. And that we do think that the success of the program is going to have to be measured by seeing who takes advantage of this program in the one year, in the fiscal year that the pilot program occurs under. The grants are limited. An applicant cannot receive more than \$15,000, or 75% of the charge, and at the conclusion of the pilot program, at the end of the fiscal year, a report will be brought back to council on the effectiveness of this program. It will include the number of grants awarded, the amount, location, number of employees, as well as testimonials from grant recipients and may provide a basis for further use or not of the grant program, and lead into a larger discussion. And it will, as I said, be administered on a first come, first serve assumption. I hope these are acceptable responses. I sense maybe not, but I did want to get those responses out on the record. I believe this is a small venture, with maybe low risk, that's well worth taking, and I know when I think of the fact we're going to be considering Portland armory and the city of Portland more or less becoming a loan guarantor for an \$11 million loan, I think this fits well within sort of the scheme of risks that we on the city council feel good about when we feel we're making a positive impact in our economy. Aye.

Sten: Well, I think we're in agreement on many of the goals. And I do think that the charges for people moving into existing buildings are excessive and we'll gladly support a look at lowering them. I appreciate Commissioner Saltzman's commitment to taking on some of those steps. So this is a -- and this is already passed. I'm not necessarily sad -- I'm happy that some -- you know, a couple of lucky businesses are going to get a break that they can use and deserve. That being said,

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i'm going to vote no, because I don't think it's got enough of a plan to it. I think first come, first serve isn't a great way to allocate a small amount of resources. And I fear that in these economic downtimes we're determined -- we're taking symbolic actions rather than restructuring the actual systems that we need. And rather than make a commitment to do that, i'd prefer we did it now. No.

Katz: Well, I appreciate the work that's been done, but I also will vote no. I'm not terribly satisfied with the response. A couple of issues. We raised the permits and the health inspections, the means testing, that if p.d.c. gave out grants up to \$15,000 without asking people what their financial status on some of these programs and without doing some evaluation, you wouldn't be terribly happy either. I'm not happy with the first come, first serve, and no means testing at all. I'm also not terribly pleased that evaluation is done by inputs as opposed to outputs. You don't evaluate a program by the number of grants that you've given or whether the people who have received it or satisfied. You don't have to be a brain surgeon to figure that everybody is going to say they're thrilled. What you want to do if you're going to continue this program is to create a controlled sample of restaurants with the same demographics, and to see how long they've survived compared to those that you've applied a grant. These are just basic evaluation performances, and if we're a city that's managing by results, we ought to be doing that. Finally is my concern is that this money is a utility fees, and if it grows we will have to raise those fees, and at this point my understanding is that this will be a reduction of the operating budget of b.s., but who knows what will happen if this continues. A lot more thought needed to go into this, even though it is a small program. And we quite frankly ought to wait until we've finished the analysis of the s.d.c.'s, because i'm almost at the point of saying we probably ought to look at its total elimination. No. [gavel pounding] all right, let's get down to 1412, 1413, 1414, 1415.

Items 1412, 1413, 1414, 1415.

Yvonne Deckard, Director, Bureau of Human Resources: Good morning. I'm yvonne deckard and i'm the director for the bureau of human resources. We're going to take these one at a time and ask you to act on them one at a time. The first one, 1412, what you have before you in this ordinance is the tentative agreement reached between the city of Portland and the district council of trade unions, which I will refer to from this point as the dtcu. This tentative agreement actually extends the contract scheduled to expire on june 30 of 2003 to june 30 of 2006. I want to first of all say that it was a very unique process. We did expedited bargaining. We limited the issues to compensation and health and welfare. This was the first negotiations that ed rutledge, sitting next to me, the new city's labor manager, has negotiated for the city. I want to commend ed on the job he did in getting through these negotiations. I want to cover the highlights of the tentative agreement that reached -- that we reached. The dtcu did ratify this agreement last friday, december 12. We'll be asking you to ratify it today. Some of the highlights of the tentative agreement is that on the wages, the c.p.i. increase each year with the floor of 2% and a ceiling of 5%. On the benefits, we maintained a -- based it on the medical compare component of the Portland cpiw, with a minimum of 2% and maximum of 5%, and that's really -- that's the same that we have in this agreement, the current agreement that we have. We also eliminated the 80-hour rule for benefit eligible. We eliminated the index premium share. And when we negotiated in the current agreement the premium share for dtcu we negotiated an index payment plan that was fairly complicated, and so that's what the index premium share -- the index that we eliminated in this agreement. We extended the he -- and cleared up -- any confusion that we had on the me 2 that was schedule to do expire. It will actually expire at the end of 2004. We worked on language as it related to overtime equalization and provided that the equalization within the work units be reviewed on a three-month cycle now. We extended the funeral leave by one day to a three-day -- up to three-day funeral leave. We also increased the clothing allowance in this agreement from

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\$100 per year to \$135. We implemented and instituted -- rather will be instituting a tool allowance of \$250 a year. We streamlined the grievance process, which was conversation that actually started in the labor management process that we began with commissioner Sten, under commissioner Sten.

We actually streamlined that process within these negotiations. And then under some special adjustments with some of the classifications within the dtcu, we agreed upon an increase for claims tech and assistant claims tech that will be 2% above c.p.i. as of July 1 of 2004 and another 1% above c.p.i. as of July 1 of 2005. We also moved to continue some offline negotiations with some specific classifications in which the dtcu and the city have concerns about that we need to make some adjustments in, but we decided we did not want to hold up the ratification of this agreement. So between now and June 30 of 2004 we will be looking in small groups, doing some special negotiation for the classifications of facility and maintenance techs, storekeeper, parking enforcement officer, building inspectors, plant examiners, electrical inspectors, plumbing inspectors and water mechanics. I think this is a good agreement. It's an agreement that the city supports, that the city should support, and that will serve us well, and I recommend that you ratify this agreement.

Katz: Ok. What we'll do, we'll allow Yvonne to go through all of them, and then we'll ask people to come and testify on the specific ones. That will be easier rather than you moving back and forth.

Deckard: Ok.

Katz: Do you want to do that?

Deckard: We can do it that way if you'd like.

Katz: Or would you prefer taking it --

Deckard: I think we should take them one at a time.

Katz: One at a time. That's why you're the director of the human resources, the hardest job here in the city. All right, commissioner Saltzman. I guess the biggest problem I have with the settlement is the -- the premium share holiday.

Deckard: The premium share holiday is not a part of the settlement.

Saltzman: It's not?

Deckard: Well, what we did --

Saltzman: I'm looking at it right here.

Deckard: Let me explain a little bit what we did with the premium share. We decided to do move it off of the negotiation table, and we referred it back to the Imbc. So the actual decisions that will be made as far as the -- whether or not there's a premium share or rate holiday will be something that the Imbc will look at and the dtcu will take that to the Imbc. That's not happened yet. This labor agreement does not extend a rate holiday or premium share holiday.

Saltzman: So in other words the Imbc will decide whether to do the rate holiday?

Deckard: Right, correct. When we implemented the rate holiday for this plan year, that was an act that we actually -- action taken by the Imbc, and in the last executive session council's directive was to -- to actually refer it to the Imbc. We went back to the table with that recommendation with the dtcu basically what we've said here as far as the management on the Imbc, that we will support the recommendation, but it goes to the Imbc, and that would have to pass by a 12-2 vote.

Saltzman: Does it become part of the agreement, then, under that action, or always remains --

Deckard: It always remains a part of the Imbc.

Saltzman: So, ok, I guess as the mayor pointed out I did miss I think one executive session in early November -- late November.

Deckard: Right. It was the last one that we had.

Katz: I think it was the last one, right.

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Deckard: Initially it was on the table, and afterwards the dctu did agree that it was an issue that belonged in the lmbc, and they will bring that forth to the lmbc for a vote when they're ready to do so.

Saltzman: Ok. So if the lmbc does it, and it sounds like they will, this will exhaust the health insurance reserve to extend the rate holiday to the end of 2006, right?

Deckard: If the lmbc would support the recommendation, then that's a recommendation I would bring forth in an ordinance to the city council for an adjustment at that time.

Saltzman: That would exhaust our health reserves by the end of 2006?

Deckard: Well, health reserves will be exhausted by the end of 2006 whether there's a rate holiday or not. Basically what the rate holiday would probably do is exhaust it about three months earlier. So instead of it being exhausted in may, it's probably going to be exhausted in march or february.

Saltzman: Ok. So since the last agreement, which was -- I can't remember what year it was, but it was very vivid in my mind, because it was a very confrontational --

Deckard: The 2001-2003 agreement?

Saltzman: -- where we achieved for the -- that employees would pay a small portion of their premiums, a premium share. How long since we achieved that has there been a rate holiday? In other words, how long has that not been implemented?

Deckard: Employees were supposed to begin the premium share in this plan year, july 1. Because we also -- remember, we had a three-prong approach, and one was plan redesign, employees would kick in a premium share and the city would put in more. The city put in more. We actually did do the plan redesign, but after we did the plan redesign, the for the core plan, the utilization changed so dramatically that the cost of the core plan was under the cap. Now where there isn't a rate holiday is with the employees on the kaiser plan, is where we were over the cap. What we recommending in may, through the lmbc, was that we implemented a rate holiday in order to reward the behavior of those -- the employees under the core plan. We felt that we needed to have some additional time to actually look at what we were doing under the kaiser plan, and it didn't make much sense to have a premium share for employees that had actually worked hard to change their experience and -- but yet not charge the employees on the kaiser plan where we were over cap. So the lmbc, we moved for a rate holiday for this plan year. This labor agreement really does, right now, still have the rate holiday kicking in as far as the beginning of the next plan year, which would be july 1. And unless the dctu moves forward to make a recommendation to the lmbc, sometime between now and before july 1, and the lmbc passes that recommendation and we come to council with an ordinance asking you to support that recommendation, the premium share would still kick in july 1 of 2004.

Saltzman: The long and short is, ever since we had this major change in how we were going to reduce health care costs, which was a three legged stool, plan redesign, premium share, and whatever the third one was, the premium share leg of the stool has never been actually in effect.

Deckard: Correct.

Saltzman: It looks like, if events play themselves out, as I think they will, the premium share will not be in effect at least until maybe july 1, 2007. Is that I reasonable conclusion to draw here?

Deckard: It could work out that way.

Saltzman: I guess, ok, I have philosophical concerns because I do think premium sharing is integral with controlling health care costs. With rates going up 10%, 15%, this is integral. I'll express those concerns. I guess that's not before me in this agreement, but I still remain very concerned about -- i'll ask one other thing, though. Ok, since we've never implemented the premium share and will not have implemented it for six, seven years, and then we start renegotiating again, and we get into -- I don't know, an arbitration or something like that -- can that be used against us, fact that -- can it sort of almost become a grandfathered right, that we had the right to implement premium share, we never did for six, seven years, and therefore that comes back

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to haunt us and we're told we can't do it now? Is that a scenario that makes -- has some plausibility?

Deckard: I don't think that scenario, commissioner, would actually play out. We were supposed to implement the premium share for this year. Like I said, unless the Imbc makes a recommendation to council and council supports it, the premium share will kick in for next plan year, which is July 1. If we play out the narrow and the Imbc and the council both supported that the premium share does not kick in until 2006, we would be back at the table and, you know, we would be out of reserves. We know that the health care issue is going to be the -- a looming issue and the biggest issue we have on the table. And I think everybody -- our employees, the unions, as well as management, understands that a premium share at some point is a reality too for the city.

Saltzman: But if we got --

Deckard: I don't think an arbitration --

Saltzman: Certainly there's an expectation, ok, we bit the bullet, four or 5 years ago, we still haven't implemented it, if you get into some sort of arbitration or -- I mean, I guess if it's a right, I mean if you consider our ability to implement premium share as a right, and we don't use that right for five or six years, do we lose it?

Deckard: No.

Saltzman: From a political point of view and from a more legal mediation --

Leonard: It's not a right. It's not a right. You have to bargain those issues.

Saltzman: Right, ok.

Leonard: And both sides from to agree, we can't unilaterally implement such a thing.

Saltzman: That's what I mean. It's an agreement we won on. You know, it was a hard-fought issue. And if we never in essence implement it, do we lose it?

Deckard: I don't believe that we lose the ability to negotiate a premium share in the future if there's a rate holiday.

Katz: Didn't we put language with regard to that, they don't expect us to continually place money into the reserve on this issue? I thought this was a conversation that we had.

Deckard: That's a conversation that we've had with the Imbc.

Katz: Ok.

Leonard: I think what's important here is that we've agreed to pay a certain amount as the employer. That isn't changing, irrespective of the fact, whether there's a rate holiday or not. We're allowing to have happen is what the employees to manage the health fund, and they determine how much of that health fund to use to subsidize premiums or not.

Deckard: Correct.

Leonard: It doesn't change what it costs the city, whether they do or not. I mean, that's the point.

Deckard: Right. It doesn't change -- it doesn't change what the costs the city today. You know, as far as the future costs and cost containment, you know, will it have an impact? Yes, it will have an impact. But I guess what I would say is that that impact in the future, once the reserve -- the excess reserve funds are drawn down, is there, whether, you know, you have the rate holiday today or not. It is a -- it is a huge issue that we will be grappling with. And the Imbc will start work on that, you know, after the holiday season. We have an actual retreat scheduled to start really looking at those hard issues of how -- what the solutions are as far as the reserves and cost containment, as far as benefits are concerned.

Saltzman: Ok. Well, I don't want to pursue this anymore. I'll once again state my concern that we -- in an era where health care costs are going up, we're not implementing an important cost control element, that is premium share, and instead we are rushing to spend down a reserve, and, you know, I have no doubt that it's a lot easier for those who control the reserve today to spend it, to get the rate holiday, and those coming after these people, the future Imbc members, six years from now,

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you know, are not going to benefit from decisions, you know, to spend down a reserve when a reserve is so important, I believe, in this era of health care costs. You don't have to respond. That's my last statement.

Katz: For those who aren't aware of the acronyms, that was the labor management --

Deckard: And they're concerned about this issue, too. I'm not sure that because we're sending it to the Imbc, you know, that they will automatically affirm that position, because it is a real important issue for them.

Katz: Further questions? All right. Then why don't you just step aside and let's open it up to that -

Moore: No one signed up for that one.

Katz: Nobody wants to testify? Nobody from dctu? Come on up.

Katz: Go ahead.

Rick Ensen, Local 189: Hi. Rick ensen, business representative for local 189. Kind of led the bargaining team for dctu. Obviously we've endorsed, and our members have supported overwhelmingly this agreement, so we'd ask for your support in it. Briefly, I guess, on the rate holiday. That was, I think, kind of the -- the piece that was the deal-closer, frankly, for our folks. The opportunity anyway to have that discussion at the Imbc. We had asked for the employee to contribute a higher amount into the fund, and that was our original direction on that, but we ended up resolving in the way we did and we're comfortable with that resolution. What I really didn't want to speak so much about the contract as just to encourage the council to make sure that on your side of the table, in the future, we continue to do the good work that I think we've been doing for the last probably eight or 10 months in meeting in the -- what's called the Sten group, Imbc, and in other areas throughout the city, that we just shouldn't use this as, ok, we're done for that for two years, that is this is one more step in the process of working more closely together to make sure that the decisions that are made for the city and for the workers in the city and the folks in the city are the right ones.

Katz: Let me just say, the Sten group is my request of commissioner Sten to work with yvonne deckard to begin to look at how can improve the relationships between the city and our union family. Ok, thank you.

Joe Edmund, IBEW 148, President DCTU: Yeah, good morning. I'm joe edmund from the ibew 148. I'm the president of the dctu. I was involved in the national negotiation, as we know, mayor, and I kind of resolved I wasn't going to go through that stuff again. It was too acrimonious and we ended up with the same result we could have started with. In the ibew, we meet once a month with our contractors, and we discuss issues. We can open the contract like that and fix problems that come up. So I would like to use that model down here. I did want to say thanks to ed and his staff for adult -- very good bargaining. It's hard times. If you don't know, I have, in my union, I got about 30% unemployment, so i'm very aware of the economy, and I think this is a very good for both sides of the fence here. Thank you.

Katz: Thank you. All right. There's nobody else to testify, roll call on 1412.

Francesconi: Well, there's, I mean in judging labor contracts, there's only real two standards -- is it fair to the public and fair to the workers? On both of those counts the answer is yes. It's going to be increasingly difficult to answer yes to both of those questions in the future, as revenues are flat or declining and service demands are increasing. So that gets to that we do need to continue to strengthen our relationship so we can look for efficiencies and savings that the public demands, but also continue to treat our workers fairly. On the issue of health care, this crisis is not just here in the city of Portland. It's every employer. It's the -- it's the reason for the jobless recovery, as we -- the benefits are so high. So we're going to need the labor management process to really focus on this. And i'm encouraged by the fact that utilization rates have dropped. And so that shows that people realize that there is some issues we have to address. It's going to get tougher to do, not

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easier, but there's not enough money in that reserve to -- we're going to deal with it one month sooner or one month later, or two months sooner or two months later. The issue is do we use that time that this reserve gives us to actually set it up to deal with it. I appreciate. I just want to add one word to yvonne and ed rutledge. By having a different approach on our city's side with commissioner Sten's help and each commissioner led by the mayor, I think that we're making some progress here. And we appreciate the union leadership, too, because you have to represent your members. But you have to do it in the context of serving the public, so thank you. Aye.

Leonard: I strongly people behave the way you treat them. If you treat them as though you mistrust them and that they won't do the right thing, that's how you behave. If you empower them and treat them as you trust them, and treat them that they'll do the right thing, I believe they'll do the right thing. Sounds like a simple concept. It's not been one that's been uniformly applied here in the city. I'd like to, just as joe said, not to see this as signing an agreement -- I guess it was rick that said that -- signing an agreement and moving on, but that each bureau set up effective empowered labor management systems within the bureau, that empowers employees to not just have the ability to solve problems, but also the responsibility that goes along with that, which is, I think, an important step that we need to take in each bureau. I think this health care cost as commissioner Saltzman pointed out is an issue that has to be addressed, and we need to rethink the health system that -- that provides benefits. But I also believe that we need to sit with our partners on the other side of the table and tell them that, and try to figure out a solution to it, and not just us contribute money and allow the employees to try to figure out what to do with the system. We need to be true partners and coming up with solutions. It's a tough issue. It's a national issue that everybody is trying to get a handle on. And I think there's no reason we couldn't lead the way on that. Aye.

Saltzman: Well, I think i've given you my views on my concerns about the health care issues and this new contract are out there, but I do want to commend all sides for coming together and working collaboratively to produce an agreement in a very short amount of time, really, and it seemed to work very well. So I just want to commend our people, dctu people, and just say my continuing concern is that we are postponing the day of reckoning by putting the premium-sharing idea further and further into the future, and spending down health care reserves. It's -- you know, if were a fortune 500 company, or if this was the city's reserves and we were taking the same sort of approach, you know, let's spend it down, spend it down, because it's there, postpone the bitter medicine of, you know, figuring out how to pay for services, you know, we'd all be thrown out of office, i'm sure. So it's a -- we've got approach health care control in a more rational approach, and I hope maybe the lmbc will do that, but the rate holiday is not the way to do it. It's bitter medicine, but it's an important part of the three-legged stool to control health care costs. Aye.

Sten: I want to thank our new head of negotiations, ed rutledge, and his boss, yvonne decker, this is good work, and equal thank joe and the team that put this together from the labor side. I think it's probably -- you know, this is a -- you know, enough of a similar contract that we're probably not making enough attention, getting this done ahead of time, and doing it in a collaborative fashion is actually I think the key first step to taking on the bigger problems that everybody's talking about. What's been absolutely clear over the years, and the labor leaders I think have been a leader in this, is having a acrimonious debate over a contract that's going to end up within a margin of error that everybody can figure out on the front end in terms of what's available, keeps us from solving the bigger picture, and I think that's exactly what's behind with the collaborative work that's happened with this new team over the summer and the result is the contract extension that's very different than it's been the last couple of years. And I don't think there's any magic solution for the health care benefits, but I think having a relationship between management and employees, where it's viewed as a joint problem, is the first step towards solving it. I think we're in much better position to do. Solve it, I agree with commissioner Saltzman, is going to be more a matter of trying to work

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through how you deal with these higher costs, which basically means less benefits and more money. Those are the two things that solve the problem at this point, although I hope we can come up with some bigger -- the issue of buying prescription drugs in bulk and some of the other things that are out there. So it's essentially benefits go down, money goes up, and it's a combination of all those things over the next couple of years. By getting this out of the way now, I can't underestimate how much more likely we are to solve this. I want to thank the team. Aye.

Katz: I too want to thank both sides for the good. And we made a commitment to each other that we would be working collaboratively as a city, and I want to thank all of you who maintained that commitment. My recommendation to the labor management benefits committee, for whatever it's worth, is to take a look at what the premium shares would be this year, relatively small, and what it would be once you spend down the reserves to zero. You would be falling right off a cliff. And there is no guarantee that there'll be any additional resources to build up that reserve again. So keep that in mind when you think through it and work through the details. It's not easy work. We struggle. I think one of the reasons that commissioner Saltzman feels so strongly about this, rightfully so, he struggled with that with the school district, in trying to get some agreement as to how to reduce the health care costs so we could redirect those resources into salaries for first-year teachers. So good luck. Aye. All right 1413.

Item 1413.

Deckard: 1413 is a tentative agreement negotiated between the city of Portland and the Portland police command officer association, the ppcoa. The p.p.a. agreement expired june 30 of 2003. These negotiations would replace that agreement -- that labor agreement and we would have an agreement in place until june 30 of 2006. We began negotiating with the ppcoa in march of 2003. Took a -- somewhat of a hiatus during the summer months, and got back to the table early fall. Some of the highlights of the ppcoa agreement is, once again, is a 2% wage increase retroactive back to july 1 of 2003. And then a cpiw increase with the floor of 2% and a ceiling of 5% for 2004 and 2005. We also, for the ppcoa, they will now be coming on to the city core plan, as far as the health benefits plan. They will be joining the core plan, which is the plan that the other -- all other city employees are on, with the exception of the p.p.a. at this point. And the increase to the medical plan, once again, would be a -- tied to the Portland medical care, cpiw, with the floor of 2% and a ceiling of 10%. When the ppoca are placed on the core plan, then they will receive the same increase of the 10.5% as the other employee groups, the bargaining units in which we've bargained with thus far. Some of the other highlights of the ppco tentative agreement is that they've -- we've agreed that they will reduce their holidays down from the holiday bank of 12 to a bank of six. This would equate into about a 2.3% savings for the city. With that 2.3% savings we will take 1% as of january 1 and place that in an account for them, and that's an voluntary employee benefits association, and they will get another 1% on wages. We've increased, because the ppcoa is not eligible -- they're exempt and not eligible for overtime, we've increased their management leave from 40 hours a year to 80, which is the same as all other nonreps. We've increased their professional development bank from 20,000 to 30,000. And we've actually added in some language on emergency event compensation that will allow them to get -- to pay the commanding officers at their regular hourly rate for all hours in excess of their normal schedule in the event of an emergency that has been declared under the -- the charter 15.04 city code and city charter language, which is the language that enables the mayor and city council to declare a state of emergency. We also looked at some changes in their discipline language that would allow us to extend probationary periods for those officers or individuals within that bargaining unit that would need -- that we would choose to do that with. Once again, I think this also is a -- is a sound agreement for the city, as well as for the ppcoa, and my recommendation is that the council ratifies this agreement.

Katz: Ok. Questions? All right. Who wants to testify on this?

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Katz: Come on up, just make it quick. We want to recognize the leadership.

Dave Benson, President PPCOA: I'm Dave Benson, president of the Portland Police Commanding Officers Association. I want to thank you, Bureau of Human Resources, Yvonne, and Patrick Ward, the city's lead bargaining agent at the table, negotiations were sometimes tough, but they were always professional, and I appreciate that. On a little bit of another matter, Commissioner Saltzman, I share your concerns about the health reserve as a longstanding member of the Imbc, I can assure you that we will have a thorough, thoughtful, and probably very animated discussion about the use of reserves in the coming weeks and months, and Imbc has been involved in this process for a long time and will continue to be.

Katz: Thank you, Dave. Anybody else want to testify? Roll call.

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

Katz: Good work. Aye. [gavel pounding] 1414.

Item 1414.

Deckard: 1414 is an ordinance that you have before you, authorizing the use of excess reserves -- health reserves for p.p.a. members too the period of January 1, 2004, to June 30 of 2004. In May of 2003 the Imbc actually made a recommendation to Council and an ordinance was brought forth asking for a reserve above the cap for all city employees with the exception of p.p.a. for this plan year. The Imbc was not able to reach any type of recommendation for the p.p.a. Council then amended that ordinance, asking -- approving or authorizing use of the excess health fund reserves for the p.p.a. for the first six months the plan year, which was July 1 of 2003 to December 31 of 2003. The reason we took that action because we're now engaged in the interest arbitration as a result of not reaching agreement with the p.p.a., we believed at that time that we would be done with the arbitration and have an arbitrary award. We were not done with that arbitration and we do not have an arbitrary award and do not expect one until sometime, probably the end of March, or sometime in April. Given that, if we do not take action with -- for p.p.a. members, p.p.a. members will begin paying for their health benefits above, for that amount that's above the cap as of January 1 of 2004. What those costs would be for p.p.a. members would be approximately \$84 for a single individual, for two party, \$155 a month, and for a family, \$217 a month. Actually the p.p.a. put forward the motion to the Imbc concerning this issue, that motion, however, did not pass. The motion failed for -- with the vote of eight affirmative, two nos, and four members of the Imbc abstained and chose not to cast a vote. This ordinance would allow Council to actually approve the use of the excess reserves for the latter six months for p.p.a. Members for this plan year. That total cost would be approximately a million dollars for the rest of the plan year. One of the reasons that we're asking it to go through the end of the plan year is because if an arbitrary award was given in April, we do not have the ability, meaning the city does not have the ability, to bring those members on to the plan the remainder for this year, and they would actually be going on to whatever plan the arbitrator will decide as of July 1.

Katz: Questions by the Council? All right. You want to come up, Robert?

Robert King, President Portland Police Association: Mayor Katz, Commissioners, I'm Robert King, president of the Portland Police Association. Back in June of last year, you supported the use of the health insurance reserve fund over the six months during the time where we were in the process of arbitration. Commissioner Leonard supported the use of the health insurance reserve fund from a principle position, that the terms of the relationship between the employer and employee shouldn't change. During the bargaining process, up to and including arbitration. We've selected an arbitrator, who's a Willamette Law School professor, who is in high demand, and the dates for arbitration have gone beyond what we thought they would. Our case has taken longer and the city's case has taken longer. I think it's unfortunate that we're here today talking to you about the use of the health insurance reserve fund, but we do face the reality that Yvonne talked to you about, a

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financial out-of-pocket expense to officers and to their families up to \$217, which would just -- would be onerous, and frankly just devastating, I think, to them and their families. So we're here to -- to ask you to support the use of the health insurance reserve fund for the p.p.a., to cover the cap gap between January 1 and June 30 while we continue in this negotiations process. And I guess the one thing I would say about all this is in the lmbc, there was eight votes, as Yvonne said for use of the fund, two it, four abstentions. I think the work that Commissioner Sten has done in the labor management arena has improved the quality of the relationship, not just between the unions and the city, but also between the unions. I think, you know, we're all -- all of us, all the unions and the city are in a difficult position. I think that's unfortunate for a variety of reasons. We're just hoping to work our way through the last steps of this process to reach a solution, to reach a conclusion. And so for all the officers of the city, I'm just very hopeful that all of you, each of you, will be supportive of the use of the health insurance reserve fund for us.

Katz: Thank you. Anybody else? If not, roll call.

Leonard: I have a question.

Katz: Go ahead.

Leonard: I haven't gotten a satisfactory answer to this yet. But the agreement, Yvonne, expired June 30, 2002?

Deckard: Correct.

Leonard: And had we had an agreement July 1, 2002, there would have been two increases in the city's contributions with respect to the health care costs? Maybe I should put that a way. The other units have increases built into their collective bargaining agreements, July 21, 2002 to July 1, 2003.

Deckard: Correct.

Leonard: How much have those increases been?

Deckard: Initially this year the increases to the other units was an increase of 5.1%, because it was actually tied to the health care --

Leonard: 2003?

Deckard: 2003, for this plan year.

Leonard: What about 2002?

Deckard: 2002, it depended on the unit, to what the increase was. For the people -- for the units that went on the new core plan, they received a 10.5% increase initially, and then subsequent increases have had the floor of two and the ceiling of five, and tied to the health care index.

Leonard: But we're still contributing the amount that was in the collective bargaining agreement that expired for the p.p.a. June 30, 2002?

Deckard: Correct.

Leonard: So if we presume, just for discussion sake, that the increase we would have otherwise paid had we had an agreement was 15.5%, which was roughly what you said 2002-2003 figures are, where are that money going?

Deckard: I'm going to actually refer that question to Ruth, who's here. Is that a question that you can answer?

Ruth Roth, Office of Management and Finance: Ruth Roth, office of management and finance. For the year beginning July 1, 2002, the 10.5% that otherwise would have gone in support of both of the p.p.a. Agreement, had it been -- had they joined the new core plan, those -- those dollars fell to -- to ending fund balance.

Leonard: Do you know how much that was?

Roth: And I'm going to be speaking from memory. It was approximately, I believe, \$600,000 to \$700,000. Again, I'm speaking from memory. I'd have to ratify that.

Leonard: And then this year?

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Roth: This year the way our general fund target methodology works, when the targets were distributed to the police bureau for the budget year in which we are in, their target -- their target reflected the distribution of the 10.5 in the year beginning July 1 of 2003. So the impact of that 10.5 increase on an ongoing basis is built into the police bureau budget. It's my understanding that they are sequestering those dollars in the current year.

Leonard: But that's 2002. What has happened to the dollars since July 1, 2003. That's what I'm saying -- they're the police bureau budget.

Leonard: And identified as dollars that will go to the health care fund?

Roth: They are being sequestered, it is my understanding, by the police bureau, and they know that they are dollars that are supposed to be spent for benefits. Whether they will be spent on benefits, fall to ending balance, spent on other police bureau activities should there not be an award for this fiscal year remains to be seen.

Leonard: So the 2002 dollars that the six or \$700,000 was spent, it is not sequestered, right.

Roth: Right. It fell to ending balance. Those dollars are --

Leonard: This year they may or may not be spent?

Roth: They may or may not be spent. The second piece of that, which is the 5.1%, as for all general fund bureaus, that 5.1% cap increase is in the general fund compensation set aside, and distributed to bureaus probably in May to the extent that they need those dollars to pay their health benefit costs.

Leonard: Ok, thanks.

Roth: I might also add, although you did not ask the question, when you talk about savings, there was for every dollar, not distributed of that cap increase, there was a dollar for dollar increased expenditure of the health fund reserve. So there was no net city savings.

Leonard: But that's my point, is that the health fund reserve, that is there to pay the costs of -- health costs of our employees was subsidized by the health fund reserve and not the payments that we would have otherwise have made to that fund gone there to keep those costs down. So in my rough calculation I'm thinking a little over a million dollars, the city saved, by not contributing for the p.p.a. to the health care fund that we otherwise would have contributed.

Roth: Again, when you talk -- when we in fiscal talk about the city, we're talking about different pots of money.

Leonard: In, no. Listen to what I'm saying.

Roth: All right.

Leonard: The city general fund, had we had a collective bargaining agreement with the p.p.a. effective 7-1-2002 would have contributed around \$1.2 million to the health care fund that we did not contribute.

Roth: I would have to look at my numbers, but your assumption is correct, that there were dollars that would have been budgeted and contributed in the form of a higher cap increase.

Leonard: And now we're taking, as a council, money from the health care fund that is there to help cover employees' costs to subsidize a cost for the p.p.a. that probably should have been subsidized through money that was set aside for dollars that should have gone to the health care fund, but didn't because we didn't have an agreement.

Roth: I'm not prepared to comment on the legitimacy of whether it should or shouldn't, I can simply tell you the flow of funds, and your assumptions are correct, that had the police settled, there would have been a higher cap contribution made by the general fund. Since that was not the case, the dollars came as a reserve drawdown.

Leonard: Right, thank you.

Katz: Did you want to add anything?

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Deckard: I guess my question to Ruth was, do you know what the difference is of what we actually -- because the p.p.a. has remained on the city selected hire plan, what the city is actually putting into the reserves for that hire plan, what the difference is between that and what we would have put in.

Katz: All right.

Roth: But we don't have that information.

Katz: All right. Roll call.

Francesconi: Aye.

Leonard: Well, I have conflicting feelings about this. I think we should keep a unit whole through the term that we're bargaining. On the other hand, I'm very mindful of the excellent comments of commissioner Saltzman with regard to spending down the reserve fund. Well, we have participated in the -- what I consider the unfair spending down of the reserve fund to the benefit of the general fund of the city by not contributing dollars that I think we rightfully should have contributed to the health care fund, irrespective of us having an agreement or not, because every employee in the city now is shouldering the cost of us not having an agreement with the police association, and we, the general fund, are benefiting from not having an agreement with the association. We have, it sounds like, somewhere around a million-plus dollars extra that we otherwise would not have had in the general fund of the city because we do not have an agreement with the police association. And there's just something about that that strikes me as patently unfair. Aye.

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

Katz: Mayor votes aye. Thank you. [gavel pounding] 1415.

Item 1415.

Deckard: I have to start off by saying we've been working on this project with -- for a good year and a half. When benefits first moved to bureau of human resources and I went through with the bureau and with our benefits staff our actual -- our first open enrollment, I was, one, mortified and amazed at the same time. We have thousands of people in our benefit plan. We bring on extra staff to actually -- and we collect open enrollment, a piece of paper for those thousands of plan participants. We collect the piece of paper for each of them. We then would store those pieces of paper in a room in a box, and amazingly enough we did not misplace any, we did not lose any, but one of the things that it does, is that for benefit participants who actually turn in their open enrollment information early, if they chose to make a change, we have no way of retrieving it, no way of allowing them to do so until after open enrollment period. It is not an efficient operation. Our benefit participants cannot access their benefit information easily. It takes up staff time in order to do it. And this project is certainly far -- it's been a long time coming. I'm going to let Peggy Anet, our benefit manager, actually go through the -- the actual -- the particulars of the contract, but we did put in an r.f.p. approximately a year and a half ago. We went through the r.f.p. process. We actually had some good vendors that participated in that process, and we've decided on a quo as the vendor to go to. I'm going to turn it over to Peggy at this time.

Peggy Anet, Benefits Manager, Bureau of Human Resources: Good morning. I'm Peggy Anet, the benefits manager in the bureau of human resources. This ordinance would allow the city to enter into an agreement to develop and implement and maintain an online enrollment system for the city's plan participants. As Yvonne just mentioned, the city's current system is paper-based. And burdensome with more than 5,000 participants submitting pieces of paper. The element that Yvonne did not mention, is that after the paper is received back in the office then it is a manual data entry process to re-enter all of the information that's been submitted. What that does, is it essentially brings the benefits program to a halt for that period of time during the open enrollment while this process is undertaken. The automation of the enrollment process will allow employees and other eligible individuals to make their benefit elections online. This means that they will be able to

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make and see the changes at the time they make them. They will then be able to identify and correct any kind of mistakes or revisions that they want to make. This will also be an ongoing process. So when an individual has a change in family status or some other thing that affects their benefits over the course of the year, they will be able to go online and make those changes. The new system also will allow us to establish new communication links and do more education online with the employees. It's interesting that the different union groups that we've talked to are interested in allowing us to set up web links and their union sites and the benefits program, so people can go in there and find new information or link into the online system. We had considered doing this project in-house versus outsourcing it as we're proposing. The reason the determination was made to outsource is was because we realized that there were a number of economies associated with having an expert vendor who had specialized in these types of systems. And the company that was selected really had two characteristics that led to their being the entity that we preferred. One was that they were more flexible than the other vendors that we talked to in terms of being able to tailor some of the screens and some of the other reporting mechanisms that they wanted, and the other key component, of course, was that they were less expensive than the other vendors we talked to. During this process, we're going to work with employee groups, as well as bureaus. This project actually is consistent with the city's egovernment orientation, and some of the bureaus that we've talked to actually see this project as a way of furthering some of their own internal objectives of establishing basic computer literacy among wider portions of their work force.

We think that this -- this is going to provide a way of helping that become a accomplished. We also recognize that they're going to be individuals that are not capable of going online and doing this, so we realize we will be able to maintain a paper system for retirees and perhaps other populations that for whatever reason cannot do that. But our ultimate objective is to get as many people doing their enrollment process online as possible. The other thing that will be of value to the city is that it will vastly improve our administrative support. The city's current benefit processes have evolved over time and they're fragmented and it's death to get good management information out of them. So the way that we've designed this, I think will -- we will be able to improve our reporting. One of the interesting side effects of this, I think, since i've been involved in it, is there have been more discussions between the information technology folks, payroll and accounting, and benefits, than i'd seen before. And I think at each meeting we've had, every entity has learned something new and positive about how the processes in those other areas actually work. The current fiscal year costs would not be too exceed \$173,000. That includes \$97,000 in implementation costs, and then we will be paying a per participant fee after we go online to aloquont for maintaining and servicing the system. As yvonne said this project has been in development for more than two years, and we're definitely looking forward to its implementation. It's going to be a real -- it's going to be a project that is visible to every employee in the city. And everybody that is involved in it is on notice that it has to be well done.

Katz: Questions?

Francesconi: How much is it costing us to handle the system manually? Do you have any idea?

Anet: Well, when we look at it, with our two components, there's the benefits staff component, and then there's the computer programming component. And in terms of the -- what we're spending on the computer component right now, it's about \$225,000 a year, give or take, in terms of the system cost. And the staff costs are at around \$250,000 to \$300,000. Those staff costs will not actually go away. That will really mean that we're going to be able to reallocate people's time to do regular benefits work during the open enrollment period. So when we look at the savings from the system, we're actually, in terms of the analysis that we've done, we're actually looking at the reduction in the information technology costs as associated with a kind of special programming and tweaking that we require on an annual basis.

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Francesconi: There's no way we can save a little money on --

Anet: Well, right now we're estimating that the system is going to be cost neutral. I think that's conservative. I'm frankly optimistic that we can get some savings out of it, but in the discussions that we've had we right now are projecting it cost neutral. The issue that we run into is we can take a look at -- and we've actually done a good job of documenting what we're going to be able to save in terms of the -- the kind of computer programming that's presently required. What we don't know for sure right now, and going into it, what kind of special programming needs we're going to have to be sure that our interfaces work between payroll and accounting and the new system. I'm hopeful that that's where we're going to see some further savings on the computer end, but we at this point could not identify it. I should also indicate that we do have the actual cost savings associated with part-time employees that we presently use during the open enrollment period, and those costs definitely will go away.

Francesconi: Well, I mean this is the -- the general fund bureaus are under tremendous pressures here during the budget. One of the costs that's not been going down is information technology, and yet I don't believe they did -- it gets the same level of scrutiny as some of the other general fund bureau requirements. So this is an opportunity to try to save some money for the bureaus and the public.

Anet: Commissioner Francesconi, I did not anticipate becoming an expert in the computer budgeting process, but i'm finding that it is something that I am much more deeply involved in than I had anticipated, and for the kinds of reasons that you're talking about. I want to fully understand what those charges are in those areas.

Katz: Ok. We'll have those discussions, i'm sure, as we go into the budget. Yvonne?

Deckard: I just wanted to stress the point, that as far as cost savings, is that we believe -- we know that the -- to implement the program is cost neutral, but what we really do is anticipate cost savings, you know, in the outyears as the program is -- comes online and is codified. We just don't know exactly how much that is at this point.

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

Francesconi: Appreciate your good wok. It's embarrassing we didn't do this sooner. It's great we're doing it now. Aye.

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

Sten: I think this is great. And I just want to put in one small request as we get on this, is we look at computerizing reimbursements for people's funds. I mean, it's just crazy, because the system tells me whether or not i'm going to get reimbursed by my insurance, and if i'm not I have to mail the system back all the receipts that it already knows about. We should be able to speed that one up too, but this is great. Aye.

Katz: Mayor votes aye. [gavel pounding] 1432. It's the second reading.

Item 1432.

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

Katz: Mayor votes aye. [gavel pounding] thank you. 1433.

Item 1433.

Katz: Let me -- a little bit of background. When we lost the brewery there was a sense of hope that some of the historic buildings would be preserved, and you'll see that one of them has been -- or is undergoing rehabilitation, and will maintain the outer shell. Even some of the inside. And then there was the armory that I thought needed to be preserved in the city. It became rather clear after we saw deals going down, and not being realized, and the potential of the armory to be torn down, that there was a possibility of maintaining that building as an icon for the -- for one of the arts. At the same time we had the ballets, the opera, the dance, the theater, coming to us and asking us to consider looking at facilities -- one facility or several facilities, because we were overbooked

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and there was very little flexibility for some of the local performances here. And so I did flag this to the council during one of my state of the city addresses, that wouldn't it be nice if we could take one of -- a real historic building and turning it into an arts icon. We know that this community has - - is very strong in supporting of the arts. We also know that this community is one of the leading cities in the country that's attracting creative people, young people, well-educated, who are coming here for one of the reasons that they're coming here, in addition to the quality of life, is the arts community. It's the diversity of this community, it's the tolerance that's in this community, and opportunities for them in a variety of art venues. And so we turned to the Portland development commission. Well, first we turned to Portland center stage and asked them would they be at all interested. You'll hear about that, I hope, in a few minutes. Then we turned to the Portland development commission and asked them, is this an opportunity that we can -- we can take and how would it be financed? I'm not going to begin to spell out the financing of this arrangement. You'll hear it from norris, who will try to explain it in eighth grade english for everybody. But it is a combination of new market tax credits, bank financing, loans, as well as raising the money by the arts community that supports Portland center stage. The resolution before you is the -- and it's a takeout financing by the city, if that is required in the outyears. You'll hear that explanation as well. I asked the question of how risky this is. And I got an answer from ken rust, as well as from norris, that they felt very comfortable, that this will not be a risk to the city, but it was something that needed to be in place for financing reasons and probably for lowering some of the debt. And so that's the history of this building. If all of this goes through, we'll have an opportunity as the city to identify the use of another historic building for the arts. And the creation of additional job opportunities for the arts as well. So come on up. All of you.

*****: Good morning.

Katz: There you are. I was looking for you. All right. Go ahead and do it your way.

*****: All right. Do it our way. Thanks for allowing us to be with you this morning.

Katz: You have to identify yourself.

Chris Coleman, Artistic Director, Portland Center Stage: I'm chris coleman, the artistic director of Portland center stage. And you spoke really eloquently to some of the reasons, some of the advantages of this particular project. Obviously it would create what we believe would be a world class home for the major theater in the city. It also would begin to create rehearsal space, classroom space and performance space for some of the smaller arts organizations around town. The really exciting piece -- the way that it's come together -- is the design we believe can be designated at least leads gold standard in terms of leading efficiency energy and design, and perhaps platinum. If we accomplish that, even if it hits the cold standard, it will be the first performing arts facility in the country that accomplishes this, and perhaps in the world. What I think is interesting about that, is it makes the building even more valuable for the community. It makes it more interesting building to be in, but it also in terms of attracting those knowledge workers and the creative class that are so critical to making the economy more vital, I think it becomes a huge p.r. Opportunity for the city. We're innovating in so many ways already. This is one of the real leaders. This can be one of the real leaders in showing how communities come together to think about what are the synergys, not only creating creativity but a sustainable community together. That's one of the major reasons that i'm excited about it. I believe we can raise the money to support it and do that in a timely fashion so that this risk that you mentioned, that you guys are stepping in to say we would take place, probably would never come about, but I thank you for considering it this morning.

Katz: Thank you.

Greg Ness, Chair of Board, Portland Center Stage: Good morning. I'm greg ness chair of the board of Portland center stage and work for standard insurance company here in Portland. I think the opportunity before us all is really very unique, because it's a win-win on a number of different

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fronts. We have an opportunity to save a historic building and turn it into an icon in Portland along with many others. It's in a geographic location that's virtually ideal for an arts area, surrounded by restaurants, right on the trolley line. It's an excellent spot. We also have the opportunity to show that sustainability works here in Portland. And it will certainly be our goal to reach platinum status and we'll work hard to see that we can get there. It's also a very unique opportunity, I think, for this public/private partnership. We have, with this project, an opportunity to bring \$11 million into the city through this tax credit program and using the Portland family funds that we otherwise would not have available to us. That's very significant. As both the mayor and I heard this morning when John Mitchell spoke on the economic status here, creation of jobs is very, very important for economy, and Portland specifically right now. This project allows us to create probably 300 jobs alone, just by virtue of this project. As Chris also mentioned, it also gives great latitude to the other arts organizations in the city to have a venue that makes sense for them, that they can perform in as well, that they don't have available to them today. It also frees up space in our current performing venue for the other major opera and ballet, so they can continue to perform there, and opens up space in the Keller Auditorium which allows more national road shows to move through the city. I think if you add it all up in sum total, there are a number of possible wins here on a number of fronts for it, and I would encourage your adoption resolution.

Katz: Thank you.

Norris Lozano, Portland Development Commission: Norris Lozano, p.d.c. This project allows for a unique public/private nonprofit arts project that is unique in the city and unique for further opportunities. The structure of financing has a number of layers tight. It has historic tax credits, which aggregate almost \$3 million. It has new market tax credits, which is a new program, which aggregates almost \$8 million, a subordinate loan from p.d.c. of approximately \$4.6 million and senior loan of approximately \$10 million. It adds up to a \$28 million project that is going to result in being built for Portland Center Stage for roughly \$16 million. What I think that we've ultimately accomplished for the community that we can accomplish in other projects, and this is the just the beginning through the use of tax credits, is using nontax-based resources to bring \$10 million in for economic development for our community and creating jobs now. It's an especially exciting to diet on this project. One of the last components of that is to have the city's commitment that should in event Portland Center Stage not be able to raise all the dollars, that there be a strategy for the lender that makes the \$10 million loan to be paid back at the end of term through other -- some sort of loan.

Ken Rust: Good morning, mayor, members of the council. Ken Rust, chief financial officer, Bureau of Financial Services. I want to talk specifically about the obligation that the council is considering with this resolution. And it is a little bit unusual for us in terms of the kind of commitment that we're making. In effect, what we're saying is that the council, to the extent, as a point in time 10 years from now, that the U.S. Bank loan, if it is U.S. Bank that we enter into the indebtedness with, has a loan to take out, that the council will at the time, subject to the appropriation by council, will consider doing one of three things. Sponsor a conduit financing that the city can undertake under existing code and charter, do it a direct financing, maybe a tax exempt financing, as if it was a public facility, or enter into other financing arrangements that the city can undertake at that time. If state law or other city laws have changed at that time, we can't do that, we're not obligated. If credit markets aren't functioning at the time, due to war or financial calamity, we wouldn't be obligated to act at that time either. What we really is have a unique commitment that the city is making. It's a moral obligation. In the credit markets, it's a moral obligation we're making to U.S. Bank. And I think what this points out, too, is the reason why we're able to say something to U.S. Bank now that we will do something in 10 years and they will loan money on that commitment, that promise, is because the city has a A.A.A.P bond rating. It has

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demonstrated in the 20 years -- actually the 30 years it's had that bond rating, that when it says it will do something, and make good on something, it will. We often talk with council about why is it valuable for us to maintain those credit ratings? What do they do for us? What kinds of things happen as a result? This is one of the things that can happen by us simply passing a resolution where other communities are trying to do the same thing. And so the credit rating that we have and the credibility we have as a consequence gives us the ability to enter in an agreement, which if it goes as planned, is relatively low risk for the city, may never be acted on, but gives us a tremendous opportunity to leverage resources that otherwise wouldn't be made available and allows projects like this to move forward where they otherwise might be stalled. So based on the analysis that we've done, the review by the hobby company on the feasibility of this project, the risks we're taking, we think it's appropriate and ask for are your support.

Katz: Let me ask the question of Portland center stage. You did raise the initial \$2 million and you did it in very -- it was in short order.

*****: Yeah.

Katz: You had proof that you had in it hand.

Ness: That is correct.

Katz: You're chair of the board. I don't know how long you're going to be chair of the board, but you are right now.

Ness: Correct.

Katz: How do you see your efforts continuing on an annual basis?

Ness: Well, you're absolutely correct, and the \$2 million has already been raised for the project and committed solely to this project. There have been extensive efforts underway since that time to continue to raise additional dollars, and we have raised additional dollars beyond the \$2 million already. We have not moved into any of the fund -- foundation arenas or anything yet, because we don't actually have a property or anything like that yet. We've continued on with designing elements, and so on, but at the same time have continued to canvass this community and specific individuals to raise money and achieve commitments. As you know, that's a little bit of a long process that you plant the seed, then you go back and continue to work with individuals, but we have no doubt that over a period of time we can raise the required fun. We have the complete support of our current board to do so.

Katz: I asked chris the same question. And would you share --

Coleman: How long am I going to be here?

Katz: No, no. [laughter] did you feel comfortable, since you're an integral part of this organization --

Coleman: No, absolutely I feel like given the conversations we've had, and even yesterday, we got a check in for -- I was telling commissioner Francesconi, we got in a check, to an individual that we had just kind of told the story to, hadn't even made an ask yet. There's a high level of excitement. I think a lot of people we've spoken to, are waiting to see are the pieces actually going to come together for this project to manifest. Once we're able to say, yeah, the building is here, and we're going to move forward, that the dollars are going to flow in an appropriate manner. I actually feel pretty excited bit.

Katz: Ok. Did you have a question?

Saltzman: So the \$2 million in hand, none of that is challenge grants or anything like that, I mean it's --

*****: That is correct.

Saltzman: Just hard, cold cash?

*****: That's correct.

Saltzman: I did have another thing I wanted to explore.

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Katz: Ok, go ahead.

Saltzman: I met with you yesterday, and, you know, was greatly supportive to hear that you want to go for the leed platinum rating, or perhaps gold, and that, as you know, we have a city green building policy that more or less requires that in this situation, since this is indirectly city financing, but more directly through p.d.c. You will be getting a loan. I wanted to add some language that reflects that agreement and understanding at the end of the second whereas. It would say that the armory building -- well, i'll read the language now. The second whereas, Portland center stage has committed to raising capital campaign funds to repay all outstanding debts, undertaken for the purpose of purchasing and rehabilitating the armory building, and then I would add to be certified to a leed gold or platinum standard. I wanted that -- to make that amendment.

Katz: How do you feel about that?

Coleman: Fantastic.

Ness: No problem whatsoever.

*******:** Yeah, that's great.

*******:** In total agreement.

Katz: Any objections? Hearing none, so ordered. [gavel pounding] you'll need to give the language to the city attorney.

Sten: Technical question, norris, are all these pieces committed at this point?

Norris: We'll now go back to the potential lenders with the city's commitment, which is the final piece for them, to get their final approval. We have tentative agreements with all of the lenders.

Sten: And would that loan come back to us, or we authorizing you to make the loan if they agree to the terms that are in today's vote?

Norris: You're authorizing us to go forward, yes.

Sten: If they didn't accept those terms, it would come back?

Norris: Back before the council and p.d.c. Commission.

Sten: Ok, thanks.

Francesconi: Do we have the new market tax credits in line as well? They're also contingent upon that, and we're meeting with a group allocating those in four days to finalize that transaction.

Katz: Do you want to explain what that is, what the new market tax credits --

Norris: They were passed in 2001, and it's a \$15 billion worth of tax credits, being allocated through an application process. There's a remaining five-year period. Last year there was approximately \$2.5 billion allocated as tax credits. It's 39 cents for every dollar invested is the gross amount of the tax credit. We did not receive any tax credits directly, therefore we saw tax credits from someone who had received tax credits on a national program. They were targeting the specific types of tracts that this project is located and we were able to make an arrangement to receive a suballocation from the tax credits from golden for this particular tragedies.

Francesconi: So if we don't get the tax credits, does it come back to council?

Norris: It would have to come back.

Francesconi: Just a couple areas of questions. Are we seeking these arrangements for tax credits in other neighborhoods in addition to this neighborhood?

Norris: Yes. We applied -- "we" being p.d.c. supporting the Portland family of funds -- applied for tax credits in the last round of \$175 million, which will be awarded. There's no assurance we'll have an award, but which will be awarded this spring. Though tax credits would be focused in a variety of projects throughout the city of Portland for investments and in a variety of communities. This project is a good starting project for improving the financial community to the best way to use these tax credits.

Francesconi: Ok. So it's like a warmup.

Norris: It is a warmup.

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Francesconi: Getting people accustomed to it. But do we have targets as to which neighborhoods we're trying to target?

Norris: Specifically in our application, we had projects such as m.l.k. and killingsworth for the -- we had projects throughout the city and all the urban renewal areas, and outside of the urban renewal areas identified to the u.s. Treasury.

Francesconi: And are we also seeking, or is it feasible to seek -- I don't know you the term you use -- suballocations where we go to goldman sachs for other neighborhoods and try to get their tax credits? Can we do that?

Norris: The next round we can seek from people who were awardees suballocations. All of the amounts in the last round have been oversubscribed. There was a lot of appetite for these tax credits. So they've all spent them.

Francesconi: On the risk side, I guess one question for center stage and one question for ken. In addition to purchasing the building, and the risks of that, there's the operating costs that we talked about yesterday that I was most focused on, because we -- because there's other facilities out there, and we can't find ourselves in the business of subsidizing operating costs on top of capital costs. And can you talk to me a little more about what assurances that's not going to happen, you can give to the city?

Norris: Let me first interject about the reserves. In this program, we've established \$2.3 million in operating reserves that can only be freed up if Portland center stage hits operating targets, which is to say that's enough operating reserves if they continue to pay the rent they've been paying historically to operate the armory rehabilitated as projected for the entire 10-year period. So if they never did any better than they've historically done, there's sufficient reserves to deal with that.

Greg?

Ness: That's the issue, commissioner, that when we've modeled this, we've modeled only on our existing operation, so that we understand exactly how that works today and the reserve fund is really designed to carry us through any potential problem for the entire term of the loan. That's 10 years.

Francesconi: How about the effect on the operating costs of the performing arts center by you withdrawing? Is there adequate demand to feed that center?

Coleman: As we understand it, there is. And in fact as mentioned before, the opera and ballet have been chafing at the bit to have the -- to be working there. They feel quite confident that they would be able to rent the newmark and not only rent it, but they would actually be able to bring in higher revenues, because it would open up space for other commercial users for that space. What I hear from them is there's a high degree of confidence that they'll be able to utilize that space well.

Francesconi: My final two questions are for you, ken, I believe. You know, we didn't have the most pleasant experience with p.g.e. Park, and part of the issue there was we brought in experts to estimate demand. And what the facility could generate in terms of revenue. Turns out all that was off. And it was a new areas we were trying to do. Here it's my understanding from reading the report and from our prior conversation that these estimates on revenue projections from center stage, and the amount of money that they have to raise on the capital side, are more realistic, if not even conservative, because they're more based on what they're currently doing, at least on the operating side, but I need some assurances from you that you've reviewed these reports and this time there's more accurate revenue stream projections.

Rust: It's correct, commissioner, norris mentioned it, is that the key part during the first 10-year period on the operating cost side, the assumption has been that Portland center stage will perform no better than their currently doing. And so we're not, based on expectations that the new building will generate more revenues for them and have developed a financial plan that assumes that. So I think that's a pretty conservative assumption that the past, and what they've achieved in the past,

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will be all they're able to achieve in the future. With them doing that, and structuring the loan the way it's been structured, that the obligations during the loan period will be met. That, I think, gives us a great degree of comfort. At the takeout, if there is a need for a takeout, it really is predicated on Portland center stage's success in the capital campaign. And you've heard from folks here that they believe and are confident they'll be able to achieve the goal of raising s.u.v. Capital to pay all of the loan back. But if they're only partially successful at that point in time, we believe that the remaining amount to be paid back to the bank in 10 years would be manageable, and is a risk that -- that we consider is well worth taking at this point in time. So we have looked at the hovi report. It looks like the scale of this endeavor and the capability of Portland center stage isn't at the high range of what other groups have been able to achieve. Gives us a lot of confidence that the fund-raising and the long-term capabilities of Portland center stage should be able to handle this obligation. During the first 10 years, the risk is covered. And the city has no obligation at all during that 10-year loan period, which I think it's very important for us, is that, you know, we're not on the hook if things don't turn out successful in the first year or two. There's a long workout period. Our obligation will be in year 10 and beyond. I think Portland center stage has a lot of incentives to do well in this particular project.

Francesconi: If the worst case scenario happens and on the capital side money isn't raised sufficiently, do I have it right in 10 years we'd get a building that costs \$28 million to rehabilitate and we would get it for \$10 million essentially?

Rust: That's correct.

Katz: Let me just add that when we were thinking of the building the chinese classical garden, when we started seriously in raising money after bill naito's death, we were able to raise from I think very -- some of the very same resources over 5, 6, \$7 million. I can't tell you the exact amount, but considerable amount. I know that you're going to be able to do it, because it wasn't that difficult, though we worked hard at it, and it was a relatively short period of time. It was a year, maybe a year and a half, maybe two at the most. So within a 10-year period of time you should be able to do that. I would be very surprised if you didn't.

Sten: One last question. I don't know if this is for p.d.c. Or center stage. What are the terms of acquiring the property?

*******:** Go ahead.

Norris: The terms in terms of the acquisition price --

Sten: Yeah. Overall what's the arrangement to acquire the property?

Norris: It's being acquired in a new entity that will use the tax credits. The purchase price is approximately \$3 million, which is below the appraised value.

Sten: Is that fund, is that a subfund of the Portland family of funds?

Norris: It is. It is a newly-formed entity specifically for the purposes of facilitating the armory and utilization of the tax credits.

Sten: Does the purchase price come from the tax credits?

Norris: The purchase price was just derived --

Sten: I'm sorry, the funds to complete the purchase.

Norris: The historic tax credits are roughly \$2.8 million. So that the net cost of the building, after the historic tax credits, is roughly 4 to \$500,000. Was that your question?

Sten: Yeah, I think it was. And then you've done a current market appraisal on the property?

Norris: We have. A company did the market appraisal and we did a feasibility study.

Katz: Further questions?

Saltzman: You've done some sort of environmental liability issues, asbestos, underground tanks, all that stuff. You know what's there?

Norris: We've done a phase two environmental assessment and we know what's there.

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Saltzman: Ok.

Katz: Anybody else want to testify? All right. If not, roll call.

Francesconi: Well, there's a summary here in our -- the hovi analysis. The combination of new market and historic tax credits associated with the armory are uniquely available to this project at this time and this location. And I think we can bring in some federal dollars to do what Chris said -- make this a world class facility that blends, you know, the best of who we are. The issue of sustainability, the issue of creative services, but also with our past, the historic nature of this. So it kind of brings all three together. And it helps us. Plus it's a statement that we believe in excellence.

And it's a statement in the people assembled here, they're going to have to do most of this on their backs privately. My only request is that the same energy and the same focus and the same level of talent and the same level of resources also be dedicated to those other neighborhoods that more -- are even more appropriate in the use. That's my only request. And especially for the new family of funds, you will not be able to survive if the next project is not focused in those poor neighborhoods. I do believe in a diversity of neighborhoods, a diversity of opportunities, and in excellence. Aye.

Leonard: It's exciting for me being a guy who grew up here and used to go by the corner about a block away where KISN radio used to be and wave at the deejays and have been a person as a small child who went into the armory for its prior uses and walked by it for years, you know, when you go to Powell's, you walk by, it's 1889, is that the -- 1889, and to actually be in a position to support the efforts that will reclaim the armory for time immemorial is frankly very exciting for me, to be able to be in a position to support that. Aye.

Saltzman: This is a good convergence of need. Portland Center Stage has -- fortunately has need to grow, which is a good thing. I think this will complement the needs of the rest of the arts community in the city of Portland and PCPA. I think it will benefit PCPA as well. And it benefits -- you know, admittedly, it benefits the property developer, the brewery blocks, and benefits those of us who have lived here for a long time and also go by KISN radio, but this is an historic building, and to me it strikes me as a better use for it to be home to a theater company than to R.E.I., or a climbing facility, 24-hour fitness. Those are all sort of nonpublic uses, and this seems more consistent with the history of that building and history of this area. I'm pleased to support it. This is not totally risk free, but I feel that there's a real commitment here by some very dedicated people to make sure that this does become risk free to the city of Portland and to P.D.C. and to all the other investors. And thank Norris for leaving this altogether, and Ken Rust, too, and Portland Center Stage for being bold. Aye.

Sten: This is quite a project. Very complex and moving in a bunch of pieces. I don't think there's any question the building is worth saving. It's a wonderful building and relatively hard to save. I'm absolutely convinced that the entire arts community would benefit from another performing venue. Obviously it's most beneficial to Center Stage, but I do actually agree with the analysis, having spent a little time on this, that the space will be used actually more efficiently than Center Stage use it right now. It's not the perfect space for Center Stage. And there are lots of groups who will step in and fill that void. I think the performing arts center, although it will have to do some work, will come out ahead, and actually by moving some shows that really are too small for the auditorium over to Center -- over to the performing arts center, there's opportunity to make some more money into the arts community, because there are profitable shows that can't get dates right now. I think that will work quite well. I'm worried, I think it's worth saying this, about your ability to raise that much money. I'm looking at Greg and saying that, but I believe you'll go after it. And I think the deal resolves and getting these tax credits in, because obviously U.S. Bank has a \$10 million loan that could end up back with us, but if there's more than \$10 million worth of building there something will be worked down the road, if you can't raise the money, and I think you can, but obviously that's an issue. Norris, you've got quite a job to get the tax credits lined up in the next 15 days and to get

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the bank loan from a moral promise on their part to a loan. And if we can get there, that financing structure, should work. It's impressive. I have actually, just kind of speak to some of the issues flying around, in the past have actually opposed pretty aggressively projects that -- I want to speak to this -- that use resources that are low-income purposes, that just sort of barely qualify. You know, it doesn't help low-income people. In this case, you know, I think this could be accused of that, but I also believe that it does qualify and that with the competition for the tax credits and expiring uses, it's one of those situations, there's no question there are no other projects ready to go and there is an import of those dollars in a creative fashion into the city of Portland. So it makes sense. I wanted to speak to that issue, because I can hear people saying I don't believe there's any other project that could have been done this year that won't get done because of this. So in fact I think it will have more benefit and will create some -- I wouldn't overstate its benefit to turning around poverty issues in Portland, but I think it's not hurting those issues, and therefore is really appropriate. You know, it's exciting. And I look forward to the next phase of it. Aye.

Katz: I just want to tell the council, I have one more state of the city address. And who knows what's next. I say that because the energy to begin thinking this through came from my office and through sam adams. So commissioner Francesconi, if you're going to be in this seat next time, a lot of that work has to come from -- will have to come from your office, because i'll be very honest with you, p.d.c. Was not terribly excited at the beginning to look at this arrangement and this possibility, and it wasn't till we grabbed norris, and said "norris, you've got other revenue and other resources that was brand new --." I want to make sure that council remembers that don sat here during the budget time and basically said we're going to have to find new resources to do the kind of work we're doing because there's just not enough. It wasn't until norris put his creative financing hat and realized that some of those historic tax credits could be used that we finally convinced p.d.c. that this was a doable project. And then of course we went to center stage, Portland center stage, and they talked long about it, what can we actually make this happen, what are the responsibilities that we're going to have on our shoulders to raise the money, and keep the operations funded. And they finally -- and it took awhile, and I appreciate that, because you really thought through all of the risks yourself, and they finally came back and said yes, this is doable, we'll make that kind of commitment, and the \$2 million came very quickly. And I know that the remainder of the funds will occur. So for all of those reasons, i'm certainly going to vote aye and hope that we can package those dollars and start the construction and the rehabilitation and provide room, additional room, for our new artists, who if you talk to them as I have, they need rehearsal space, they need -- they need their own small space to do their work, that eventually will bring them to the attention of Portland center stage, the arts venue. I'm very pleased. And thank all of you for all your hard work. Aye. [gavel pounding] all right, 1434.

Sten: Mayor Katz, point of order?

Saltzman: Yes.

Sten: I was signed out at 11:30, but want to stay for this, and i'm late to get to salem. I want to check if the last two need a vote from me.

Katz: Folks, take a look at it. It's only 1434. It's only 1434. The rest go to second.

Sten: Ok.

Katz: So I think we're all right.

Ben Walters, Sr. Deputy City Attorney: Mayor, there is the 4/fifths matter. I don't know if commissioner Sten was one of the --

Katz: We need four votes for that?

Walters: You need four votes for that.

Katz: We'll have four votes, I think, for that. Ok, let's take 1434.

Item 1434.

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Katz: All right. Come on up.

Dick Hofland, Office of Management and Finance: Thank you. I'm Dick Hofland, the office of finance -- what are we calling it? Office of Finance and Management. I'm sorry, I can't --

Katz: Hello.

Hofland: I'm sorry, I can't remember the name. I apologize for that. This ordinance amends a contract with t.m.g. consulting, and it's been assisting the city with the procurement of a replacement c.i.s. solution. The reason that we need to amend this contract at this point is because of additional expenses, not additional professional consulting fees by t.m.g. that is a fixed fee, and they are continuing on on the basis of the fixed fees, but their expenses have increased in the last year. And I think it's important for you to understand why that's the case. The c.i.s. project has been a very time-consuming and thorough process of evaluating our alternatives for a c.i.s. solution.

To that extent, t.m.g. assigned an additional person for five months last spring to assist us in managing the schedule. We've had like anywhere from 12 to 15 people, city employees, full time, working on evaluating alternatives, participating in interviews, and conducting a due diligence about our solution options. And t.m.g., in order to assist with that, actually found it necessary to add a person to help out. Now that did not increase their professional services fees. They continued to do it for the same price they had bargained for, but the expenses did increase.

Additionally, we spent an additional about three months of rereviewing some areas that we had previously taken a look at it. We wanted to take an even closer look, and that was specifically at the direction of the executive committee, which is Tim Grewe, who is the chief administrative officer, and Mort, who's the director -- administrator of the water bureau, and Dean Marriott, the director of b.e.s., and Matt Lampe who is our chief technology officer. They specifically wanted some additional work done in terms of are we getting the right solution, and is it going to work for us? And so those things just simply have pushed the schedule out by several months, and the increase in this -- in this contract at this point is about \$30,000 for additional expenses for t.m.g.

Leonard: I'm sorry, I've read everything here, and I can't find anything that will tell me what a replacement --

Hofland: I'm sorry. Customer information system. This is the utility billing system --

Leonard: So you use anything but the water bill system to describe it?

Hofland: Yes, I'm sorry, that is it.

Leonard: That's very effective.

Hofland: I'm sorry, it wasn't designed to confuse, obviously, commissioner.

Saltzman: All these acronyms.

Katz: I want you to know that commissioner Saltzman and I are also watching this, and before we make any final decision we want to make sure that we've got a system that will respond to the city's needs.

Hofland: Yes, ma'am.

Katz: Ok. Any further questions? Anybody else want to testify? Roll call.

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

Katz: Mayor votes aye. [gavel pounding] 1435.

Item 1435.

Katz: Ok, the two of you.

Abe Farkas, Portland Development Commission: Good morning, commissioners. We are here to ask for your support in the next important step in moving forward the headquarters hotel, which has been one of the most important council and commission priorities in the Oregon convention center since its establishment. We're anticipating up to 800-room facility, generating hundreds of construction jobs, hundreds of permanent jobs, as well as be instrumental in revitalizing the area around the

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convention center. Michael is here to walk you through the process and we'll be glad to answer questions.

Katz: Michael?

Michael McElwee, Portland Development Commission: This ordinance would amend the urban renewal plan, identify property located at 910 Martin Luther King Boulevard for possible acquisition by the commission. The a major amendment to the plan as per requirements of the plan, needs to go to the planning commission, and then to city council for approval. Nonemergency ordinance. The action was considered by our commission in October and approved and went to the planning commission two weeks ago. The property is identified on the map to your left by the red star. It's a half a block, about 18,000 square feet, contains approximately 15,000-square-foot building that was most recently used as a television studio. You can see by the hatched areas that the half a block to the north of the subject site and the full block to the south is also owned by the Portland development commission at this time. We have five issues for council consideration. The first and foremost is the public purpose that's at issue here, which is the development of a headquarters hotel for the city. There's been significant efforts underway, as you're aware, to proceed with the development of the hotel and the timing seems right to deliver one after many years. We have recently issued and received responses to a request for qualifications. There were eight responses. Seven were considered qualified and the commission anticipates issuing an r.f.p. asking for specific proposals by February. We've also conducted some massing and programming studies with an architecture firm. The drawing is hard to see, but it's behind the map. They were intended to demonstrate that the site could in fact hold an 800-room headquarters hotel with its associated parking. These are just ideas. They're just essentially massing diagrams, but show two options for tower locations for an 800-room facility. The property control is obviously crucial for this project. This project would not be able to be -- would not be able to be able to be constructed wow the full two-block configuration. Thus the half a block between the p.d.c. ownership is crucial. As Dave mentioned, this project, should it occur, would generate significant numbers of jobs, both permanent and also during construction. It would approximately be \$160, \$180 million project. Briefly the public policy basis for this action is contained in the urban renewal plan, the goal one to recruit a headquarters hotel for the convention center, goal three to encourage lodging and entertainment uses and retail between those who see in the Lloyd Center, and goal five to upgrade the setting and environment to visitors. More specifically, the negotiations with the property owner have not been successful, which is the reason we're here. There's a fairly large difference between the appraised value of the property and the price that the owner's willing to accept.

Katz: When did the property owner purchase the property?

McElwee: It was approximately four years ago.

Katz: Thank you.

McElwee: We'll keep negotiations and discussions with the property owner, but believe that they're not likely to be successful. And the significant gap between appraisal and asking price. As per the plan, we've conducted public outreach through the requirements of section 900. We've received no negative responses. We have received few positive responses from Pova and Merc. Finally, the planning commission staff has prepared a report, which I believe you have a copy of, and the matter was discussed with the planning commission in -- and last week they approved this, recommending approval to you with one caveat, being that the planning commission staff and p.d.c. staff continue to discuss the urban design framework for this project, both in terms of the issuance of the request for proposals, but also in selection of a future developer in design of the hotel.

Katz: We'll be watching that, especially that.

McElwee: So if this were to proceed, commission could take further action than January or February to move the acquisition process forward.

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Katz: Let me just ask you a question. There was considerable amount of conversation over the years as to the subsidy or the nonsubsidy with public funds, and there was very strong feeling by myself, as well as the other hoteliers, that we were not to subsidize a headquarters hotel for the obvious reasons that we had built several new hotels in the -- in the downtown core. The r.f.p. went out and you want to trace that in terms of whether there was a subsidy built in or not.

Farkas: Sure. We issued an r.f.q. and explicitly asked the responders to give us answers to the r.f.q. That focused on private sector construction capability of a headquarters hotel. Of the eight that responded, I believe none of them clearly came through with a strict private sector arrangement. However, there seems to be enough content in what we received that we should be able to go out with an r.f.p., again emphasizing the private sector emphasis that we're concerned. We'll see what comes back. Across the country in almost all cases across the country, there's either a very deep public subsidy or the establishment of a nonprofit corporation, to own the facility, not to operate the facility. We're examining how that could work. Again, we're not going down that road at this point.

Katz: Ok. Go ahead.

Saltzman: Who is the property owner?

McElwee: Mr. Barry menashe.

Saltzman: And the appraised value is what?

McElwee: Approximately \$2.5 million.

Saltzman: And you're pretty far apart?

*******:** Uh-huh, significantly.

Saltzman: You've been in discussions for how long?

*******:** Several months.

McElwee: Five, six months, yeah.

Saltzman: And so with this action, you mentioned commission action, p.d.c. Commission action next month. Would that be an action to condemn or are you still going to have further conversations?

Farkas: We will still endeavor to have conversations about reaching a price that does work for both of us. There's also the possibility of looking at land swaps, but again the valuation has to be something that the commission can live with. We'll continue having those discussions. We don't do eminent domain unless it is the last resort.

Saltzman: Ok, thanks.

Katz: Further questions?

Francesconi: So you'll proceed even before we have a financing plan in place for the convention center hotel, I take it, then, right? I mean, we'll proceed to acquire the property, even without --

Farkas: Without acquiring the property, we really can't offer to the respondents of an r.f.p. Site control, and that's a huge stumbling block.

Francesconi: Ok, got it.

Katz: Anybody else want to testify? Ok. This passes on to -- did you want to add anything?

Farkas: No, ma'am.

Katz: Let me just -- let me -- there's been some speculation with regard to the grand ronde and casinos, and that's not in any of this mix. It's not acceptable for the governor. Hasn't been from day one. So we're going to have to -- unless there's a major change of heart, and I don't think that's going to happen, we're going to have to finance this the traditional way without a potential casino.

Francesconi: And since the mayor brought it up, I was going to wait till next week, the public purpose of a convention center hotel is in relationship to the public's investment in the convention center, is so important, that it does justify condemnation if you can't work out an agreement. But the public purpose does not justify a casino there. Of a convention center hotel, in my view.

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Katz: Ok? All right, thank you. 1436.

Item 1436.

Saltzman: Madame mayor, members of council, this is a grant from metro to assist businesses in participating in our still developing commercial food waste composting program. As you know, food waste composting is sort of our next frontier. In boosting our recycling rate and food waste now comprises over 20% of the solid waste going to the landfill. Office of sustainable development has been working hard to develop the voluntary food waste collection program and will begin reporting back to council next year before any program begins. Our plans are to initiate a program of outreach to the largest commercial food generators of food waste with the goal of assisting them to begin diverting food waste voluntarily. The grand funding awarded by metro will be used for direct contact with food waste businesses through phone calls, site visits, training sessions, to recruit, inform, and facilitate business participants. And we will also provide hands-on training, troubleshooting and educational materials. If there's any questions, we have people here from office of sustainable development.

Katz: Questions? If not, anybody want to testify? If not, passes to second.

Item 1436-1.

Katz: I need a suspension of the rules.

Leonard: Move to suspend.

Saltzman: Second.

Katz: Hearing none, so ordered.

Katz: Anybody want to say anything about this? All right. Roll call.

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

Katz: Mayor votes aye. [gavel pounding] all right, everybody, we stand adjourned until 6:00 p.m. tonight. Please be on time. I think it's going to be a long hearing. [gavel pounding]

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

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Katz: Please call the roll. [roll call taken]

Katz: Commissioner Sten is excused for --

Moore: He's out on personal time.

Katz: Ok. 1437.

Item 1437.

Katz: Commissioner Leonard, why don't you describe what you want to do, and then describe the proposed amendments, so everybody's aware of it.

Leonard: You bet. Thank you. Thank you for coming. In this past year, we have, at the bureau of licenses, recognized that we need better regulations that apply to the towing of vehicles from private lots. And to that end, what we're going to hear tonight are the regulations regarding what we have termed predatory towing and we've defined and also prohibited predatory towing practices within this proposed ordinance. We have regulations that will require that if a car is towed from a lot, that transportation will be provided to the person whose car has been towed from that lot to the towing lot. We want to have signs clearly published that make it clear that if a person does park in a private parking lot, they are subject to towing, but we want the signs very clear, legible, and in conspicuous places. We're going to begin regulating towing from apartment complexes with 10 or more parking spaces. We are going to basically try to come up with a system of regulations and enforcement that requires tow companies behave in a responsible manner with respect to towing cars from private property.

Katz: Ok. Do you want the staff to --

Leonard: Yes. Can you come forward, please?

Marian Gaylord, Towing Coordinator, Bureau of Licenses: Good evening, mayor Katz, and council members. My name is Marian Gaylord, the towing coordinator in the bureau of licenses. I will try to be brief, but the esoteric nature of this discussion requires a certain amount of description and there's a lot of emotion attached to it. I'm sure you can imagine. But I want to be very sure that you're very clear on some of the peculiarities of this particular type of towing, and feel free to stop me at any time if you have questions. During nearly 11 years in this job, I've had almost daily contact with the various players in the private property impound equation. There are the citizens whose vehicles have been towed from private property, property owners who are trying to preserve limited parking resources for their customers, and the towers who are eager to serve the property owner's needs, and delighted with a rare chance to maximize their opportunities in an area where prices, until now, have not been controlled by either government or a competitive market. The citizens are sometimes sheepish about having ignored posted signs that warn to the risk of towing. Sometimes they are incensed because there were no visible signs. Sometimes they're confused because they truly believe that they followed the rules, but still been towed. Many are in tears. Many have expressed fear of reprisal to the point that they are afraid to have their address included on any complaint document that the tower would receive. They feel powerless to deal with the towing companies, and they know -- and the towing companies of course know only too well that they're holding all the cards when they have the person's car. All citizens have been outraged by punitive and exorbitant prices that from the citizen's perspective don't fit the crime. Property owners are frustrated by abandoned vehicles that are dumped on their lots and citizens who insist on occupying a space that serves another business and the customers who subsequently leave because they can't find a space to park. Many towers feel powerless over high fuel prices, high insurance premiums, high liability, and regulation of any kind. They react with anger and defensiveness when a citizen challenges them. The incidence of p.p.b. Officers being called to mediate a highly-charged exchange has risen dramatically judging from the police reports that I receive. I'd like to give you a

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snapshot of the two types of towing that the city regulates. The first you're probably already somewhat familiar with, because that's a municipal towing contract. I've come before you many times to present ordinances to approve the municipal tow contract and the list of towers approved by the towing board of review. This is the instrument by which the city, the port of Portland, odot, Multnomah county, city of fairview and tri-met all obtain vehicle recovery and towing storage services. Prices are set by the contract approved by the tow board, which is comprised of representatives of the agencies, the towing industry, and citizen members. Towers are closely screened to ensure integrity, equipment, staffing and facilities adequate to serve the needs of all of these agencies. The rotation of city contract towers is managed and comprehensive records are kept in the city's tow desk database and maintained by a private company that has won the dispatch contract through a bid process. This is the tow desk, with which most p.p.i. towers are very familiar because they're also municipal contract towers. Towers are already accustomed to the procedures for reporting tows and releases through the tow desk. This database is used by several agencies as an accurate, up-to-the-minute source of information about cars that have been towed. It is an invaluable tool in resolution of complaints and police investigations. Now private property impound tows, or p.p.i. tows, occupies a unique niche in the world of transportation services. The tower is hired by a private property owner or operator, but the property owner or operator pays nothing for the service. Frequent patrols by the towers searching for potential targets cost the tower time and fuel and sometimes don't yield any tows. Therefore the citizen's fee is loaded with the burden of these dry runs, as well as whatever overhead accrues from their specific tow. P.p.i. Fees are not competitive. The citizen has to pay for the privilege of having their car towed without their knowledge or consent, but has no choice of provider and no chance for shopping for a better price. They don't have the usual option of voting with their feet. Once their car is impounded, it's pay up or lose your car and its contents. These circumstances have resulted in fees that are higher than for any other type of towing that i'm aware of. If the towed vehicle reached the tower's storage lot, there's automatically at least one day's storage fee, even if picked up within an hour. If towed on 11:30 p.m. One night and picked up the next day at 12:30 a.m., the citizen may have to pay two days of storage in many cases, as to compare that to the city tow contract, a 24-hour clock is used, and if the car's redeems within four hours of towing there is no storage fee. If a vehicle owner calls and requests the tow from that same p.p.i. Tower, such as my car broke down and what would it cost me to have my car towed from my house to such and such repair shop, they may be quoted, as was reported to me by retriever towing, a price of \$59.50, plus \$4 a mile. Rates for this type of tow are competitive, because the person who requests it can take his business elsewhere if the price is too high. However according to that same tower, the p.p.i. rate for this car would be \$105 for hookup, \$15 for dispatch, regardless of the time of day, \$35 for tow dollies, plus \$4 a mile. It appears that the tower's subsidized the loss leader competitive rates with the unregulated p.p.i. Rates charged to a captive clientele. The changes proposed in this ordinance have resulted from 10 years of my conversations with p.p.i. towers, aggrieved citizens, property owners, apartment managers, and police, and many hours of searching the Oregon revised statutes for answers to citizen's problems. I've studied national tow industry publications and federal code sections to obtain perspective on towing in other areas of the country, and to understand the impact of certain deregulation efforts. Over the years i've had many informal discussions with various local towers about why the p.p.i. rates are higher than other rates. I've repeatedly asked the towers to provide information that would justify the great disparate, because I was so frequently asked this question by citizens, however no tower has been willing to provide this information. Subsequently the rates proposed in the draft administrative rules that attend this ordinance are the result of reviewing all registered rates, comparison of a national survey of municipal rates, comparison to our own municipal contract rates, and discussion with one of the industry representatives to the towing board

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of review. I've offered to meet with the members of the industry prior to adoption of the administrative rules for another attempt to at reaching some agreement on rates. According to an email from one of the highest volume towers, he's willing to accept all of the rates, except the hookups for class a or passenger vehicles and class b, medium-duty vehicles. Following the original rollout of the first draft of this ordinance in october, the owner of retriever towing sent a list requesting 12 changes to the draft. Of those eight were incorporated into the next draft. At every step suggestions that were practical have been adopted. On november 5, the public hearing was held to gather comment from interested parties. Testimony was given by 17 citizens, towers and others and written comments from five additional persons were read into the record. The ordinance you're considering tonight establishes a framework for better regulation. Changes have been made to clarify certain authorities, better comply with state law, and provide an expanded appeal capability for p.p.i. towers. In addition, five administrative rules have been drafted, giving specific instructions and detailing implementation. Then I have a brief list of the -- sort of the most important changes that have been made or proposed. Regulation of rates. In the current regulations the city only has authority to require towers to register their rates. The new code will allow the city to set these rates. And I have some examples that I can just touch on briefly of citizen incidents. Mr. Harris was charged \$695 for the tow of his semi-tractor from an inadequately marked lot. The tower insisted on cash payment in the exact amount, and instructed mr. Harris to meet him at an abandoned gas station to pick up his vehicle. Miss kirk parked in the vacant lot next to an out of business restaurant. She saw a tow truck backing up to her vehicle and walked over to the driver as he was looking at the car. Although he had attached no equipment to her car, she had to pay him \$95 before he would allow her to leave. Visitors have often stated that they will not return to visit Portland after being towed due to a misunderstanding of where they could park. One couple from british columbia cut their vacation short by a week because the tow consumed all the cash they were carrying. Registration of towing accounts. As part of the permit application, towers will be required to provide a list of property accounts with contact information for the person who has authorized the tower. This will allow for more thorough investigation of complaints and better compliance. And some examples are the tavern in which the tower had a patrol contract had changed hands six months earlier. But the tow driver towed the customer's car even after he was told they no longer had a contract. A credit union which had contracted with a tower to patrol their lot had closed and the building was empty with a large for lease sign, nevertheless the tower towed the car and refused to release unless paid \$232. We've added a definition of a p.p.i. Police tow. This type of tow has been added to ensure proper handling of tows later found to be stolen or for any reason p.p.i. has an interest in the vehicle. This gives us a way to outline exactly how the tower should handle the vehicle and what sorts of information should be provided to the police bureau. Predatory towing. We've added a definition, and a prohibition for predatory towing practices. An example of this is the neighbors reported seeing this tow truck parked halfway down the block from an empty former chinese restaurant. The tower would watch a citizen park their car and then rush in to begin the hookup before the person could return. When a citizen stopped them in the process of hookup, or even before equipment was attached, the tower required them to pay \$95. And in attendance to that very situation, we've added a better definition of drop fees. This is to better establish the rule defining of when a tower is actually in possession of a vehicle and therefore entitled to charge a fee. In the cases when the vehicle owner returns before the vehicle has left the lot. Provisions for signs. To provide more objective measurable standards for posting signs and to clarify the text and visibility of warning signs. Provision is also made for the tower to submit alternative proposals if normal compliance isn't possible for some reason. This is to prevent vandalism to their -- excuse me -- to prevent vandalism to their signs, towers often post them 10 or 15 feet above the ground on a pole. They are safe, but unreadable. A lot had signs in almost every

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slot, except that they were so low that the cars that were authorized to park there blocked them from view. We've added a provision to prohibit kickbacks. This is to prohibit the practice of offering gratuities or kickbacks in order to obtain towing accounts. The examples of this would be a cash bounty for towing or paving or striping the parking lot. This provision was actually suggested by retriever towing. Apartment complexes. To begin regulating towing from apartment complexes with more than 10 spaces to park. This is actually based on the state definition of what is a parking facility, and it exempts anything that has 10 or fewer spaces. Since the beginning of november, i've received 10 phone calls from citizens complaining of being towed from an apartment complex. At this time i'm unable to help them. Many are low-income folks, some are not native english speakers. Many are faced with a choice of between paying their rent or redeeming their vehicle. Patrol contracts. In the current ordinance, there is no provision for patrol contracts. What i'm proposing actually provides explicit criteria for authorization for a tower to patrol and tow on their own authority. If this type of arrangement is to be allowed, which by the way is not allowed in the states of Washington or california, there needs to be specific guidelines to prevent the possible abuse of this free-form power by commission-paid tow drivers. Tom contracts say nothing more than xyz towing can come in to this lot at any time and remove any vehicle. No beginning or ending dates, no consideration of changes in ownership, no policy on refunds or releases. Some towers are even towing otherwise legally parked vehicles simply because they have expired license tags. State law does not empower them in this area. We've added a provision to -- in the remedy section -- to allow for a directed refund. To provide remedies for citizens' losses when violations occur. This will provide the option that we've not had up to now of requiring a refund without assessing a civil penalty as well. Many of the changes that were made were intended to bring the code better into conformity with state laws, to ensure that the city's towing regulations are in close agreement. Two examples of this are the notification to police of the intent to tow prior to towing. And assisting with transportation for vehicle owners stranded by towing. Data collection. We don't currently have a system that provides for efficient search or investigation of towing records for p.p.i. tows. This is to provide the means of collecting and storing all the information about p.p.i. tows for -- tows for future access, investigation of complaints and accurate billing. This would compare it well with the municipal contract that I described about the tow desk managing the towing database. The current system makes no provision for efficient accurate retrieval of information after a tow has been purged from the law enforcement data system. Having this information collected in the tow desk database will allow for verifiable of city service fees and make it easier for citizens to find vehicles that have been towed and aid in police investigation. A data services fee of \$12 is compensation to the private dispatch contractor and will be collected and passed through from every vehicle that is redeemed. This amount will never exceed the fee bid by the dispatch contractor when applying for the municipal contract, and the tower will not pay this fee unless it has been collected from the citizen. The city service fee is to provide funding for this regulatory program. Heretofore there's been no funding because of this because of a state prohibition against a fee for the permit for p.p.i. towing. A fee of \$5 per redeemed tow will be collected on redeemed vehicles and passed through to the city. This fee will not be paid by the tower unless it is collected. While there have been accusations that these changes to the p.p.i. Code are simply money-grabbing, greedy city officials, consider this -- since the beginning of this regulatory program in 1998 there has been no funding for it. Based on the towers' unsubstantiated estimates of towed vehicles that are redeemed, this modest service fee will result in considerably less than \$50,000 a year. The addition of a p.p.i. appeals board, while the towers have always had and will continue to have the ability to appeal to the code hearings officer any enforcement actions taken by the towing coordinator or the director of the license bureau. The establishment of a p.p.i. appeals board will provide the means of protest of administrative rules which may be adopted by

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the director. The board will be an ad hoc committee of three, appointed by the commissioner. A member of the general public, a member of an agency, and a representative selected by the towers. Decisions by this body will be also appealable to the code hearings officer. In conclusion, there was a recent piece in the "Portland tribune" in which a prominent member of the towing industry opined that the only reason the city is interested in improving this is greed. They cite only 40 citizen complaints this year out of their estimate of 9,000 tows. However, that estimated number of tows, which is unverifiable today without a hand search of 334 days of chronological paper records, includes a large percentage of tows from apartment complexes, an area that the city has never regulated. Because until now apartments have been exempt, we've never collected data about how many complaints were turned away. In addition, since this issue has received press attention, i've had several calls from citizens saying that they've never filed a complaint because they were intimidated by the towers. If one is a single mother with little money and no clout, there's a tendency to take the abuse and move on. The article states that 136 of 422 complaints since 1996 were invalid. This is not accurate. Some were closed because the citizen never returned the completed form. Some turned out to be apartment complex tows. Some were potentially valid, but the current code was too weak to provide any remedy. Some were entered as for information only because there was no way to substantiate either side of the conflict. We've never contended that it was a huge volume of complaints insisting further regulation, rather than that egregious nature of many complaints demanded better protection of the citizens. There's been considerable effort by the towers to arouse property owners with threats that the city is somehow crippling their ability. This is not the intention of these changes. In fact, several amendments have been made at the request of property owners to ensure their needs can still be made without undue exposure to them. It's always been my philosophy regarding p.p.i. towing that if a property has proper, easily understood warning signs, so that no person parks there by mistake, I no problem with the tow. That being said, even if a citizen parks where she shouldn't, they shouldn't be subject to intimidation, abuse, ridicule or overcharging. It's very challenging to protect the needs of towers and the parking public. This document is our best effort to accomplish that end with all experience, knowledge and diplomatic skills brought to bear. I believe this ordinance represents a positive step to relieve what has been called a threat to the livability of Portland. I appreciate your consideration. Thank you.

Leonard: Thank you, marian.

Katz: Questions by the council? Council 1234 do you have a panel or just --

Leonard: No. We have a representative from the police bureau here.

Debra Hogan, Manager, Records Division, Portland Police Bureau: Good evening, mayor Katz and council. My name is Deborah Hogan and I manage the records division in the Portland police bureau, also sit on the towing board of review representing the police bureau. I'm also the connecting point between police officers and anything regarding towing. I'm here tonight to voice the police bureau's support for this ordinance, regulating private property impounds. While I won't be commenting on any dollar amounts of fees, the bureau is strongly in support of the regulation of p.p.i.'s and penalties for failures to abide by them. We also support the ordinance setting consistent fees for services. Marian Gaylord has talked about the various entities that contact her regarding complaints about p.p.i.'s. I deal with another group -- police officers that have complaints about p.p.i.'s. I regularly receive complaints, passed on to Marian, if they're a problem that can be addressed by her. Many times that's a very big if many. Many of the problems I hear about are not addressed by existing code or can't be enforced if they are. Private property impound practices have long been a major area of concern for police officers. They're very frustrated at having to stand by and are not able to do anything about abuses that are reported to them or that they may even witness themselves. And more and more the problems are situations where tow drivers have become

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confrontational with citizens or even the police officers themselves. There's little existing regulation and what is there has no teeth. I often find myself explaining to police officers that while we have recourse on violation of city tows, we have little or none on the p.p.i.'s. I won't go into a list of examples, but I have one memorable incident. It occurred at a fast-food restaurant where the assistant manager of the fast-food restaurant had called police because she was trying to stop a tower from towing a customer's car. The man had been in the -- in the restaurant, eating dinner, the assistant manager actually served the man herself. She knew he had been a customer, and the tower was insisting he wasn't a customer. She even got the manager of the business on the phone, who again requested that the tower not take the car, but the police officer had to stand by while they did actually tow the car. Despite what I've said, I do believe that most of the towers in Portland are honest business people trying to make a living. Many p.p.i.'s are justified and carried out according to state law and city code. The problem is that when one goes awry, there's nothing that the citizen or even the police can do. This ordinance fills that void by adding due process for when things go wrong, for both the tower and complainant. I find myself surprised at much of the opposition to this ordinance, because as long as the towing is being done properly, there's nothing to fear. It's a benefit to the tower to see the abusers penalized for not doing so. It's only a problem for the violators. I've heard comments in recent news stories complaining about the onerous 19 or 20 pages of regulations this ordinance lays on the tow companies, but as Marian pointed out most of these rules are in the code or state law. The changes that if this ordinance is passed, it would enable the city to be able to enforce them. The regulations are not outrageous. They're basic issues such as clearly marking lots, setting consistent fees without the ability to add an annoyance fee, record keeping and other ordinary administrative processes. At the recent public hearing and in newspaper reports I've also heard complaints from the towing industry that the regulation is in part taking place for the convenience of the police bureau. I'm not completely sure what that means. But I guess I would seem like a convenience to be able to give citizens and officers recourse when they believe a tower has acted inappropriately. I've also heard comments that this convenience factor applies to the requirement that the p.p.i. be funneled through the tow dispatch contractor. To do the work the police bureau records division should be doing. Yes, there is a definite advantage for the police bureau if this ordinance passes, but it's not so to allow the records staff to sit back and eat bon-bons instead of recording. The division has many responsibilities, besides processing tows. We prepare reports and other documents for the district attorney, so he can prosecute the cases that come to their -- them to prosecute. We make crime data and do data entry of information into police data systems and do a number of other high-priority functions. We've lost nearly 16,000 hours of employee work time due to layoffs caused by budget cuts in the past three years. It's made it difficult for us to do even our most basic functions. Passing this ordinance is a critical step toward automating the report of tows to the police bureau. Currently tows must be taken manually and copied down by hand by a clerk in the records division before it can be entered into the statewide system. Passing this ordinance will ultimately allow us to be able to have these reports electronically transferred to us. This is not a convenience. It's an important efficiency that will benefit both the police and citizens. The other advantage to this ordinance for police is the record keeping capabilities. Currently the records of these impounds purged from all of our systems after a few days, and that is because the way the state system is set up. Having these impounds processed through the tow dispatcher will enable the maintenance of records that can be valuable to police. My 28 years with the bureau, there have been many, many occasions where I've been asked to research and locate information that is connected to a tow, including private tows. And often there's been nothing we can do but search through thousands of handwritten tows looking for the information. The police bureau urges you to pass this ordinance. Thank you.

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Katz: Questions? If not, hang around until the end of the hearing. Let's start with public testimony.

Moore: Coming up three at a time.

Katz: You have about three minutes each.

Al Elkins, Oregon Tow Truck Association: Thank you. Mayor Katz, members of the commission commissioners, i'm al elkins, representing the Oregon tow truck association. First of all, i'd like to thank council members, the towing coordinator, and city attorney's office for the number of hours they spent with myself and others these last few months going over these various drafts that we've had before us, and now the -- the final ordinance. As director of the association for the state of Oregon, I am looking at the big picture, and we were fortunate to have at the first hearing michael mcgovern, attorney from tennessee, who testified before the towing coordinator and her staff, and he wanted me to read this statement today that we are in the process of examining carefully the proposed ordinance and the accompanying administrative rule, and we are intent on making sure that the -- these documents follow to the letter of the federal statutes regarding federal preemption. As part of this process, we will continue our dialogue with the city attorney's office and the towing coordinator regarding appropriate new requirements and the federal statutes. He too would like to thank the city attorney's office and also towing coordinator for the time they put in with him. That concludes that portion of my testimony. And i'd be glad to answer any questions.

Katz: Questions? Ok, go ahead.

Steve Preston, Sergeant's Towing: Mayor Katz, commissioners, my name is steve preston, the president of sergeant's towing in Portland. I'm also the current chairman of the board of the Oregon tow truck association and one of two industry elected representatives on the city of Portland tow board, which i've been a member of for about 12 years. Marian started out her testimony tonight by calling members of the towing industry players. I can assure you that we're not playing a game. We are business owners and we are trying to run a business. There are a number of concerns that the Oregon tow truck association and towers have in regards to this contract. The Oregon tow truck association would prefer if this was tabled for this evening and to allow us time to talk with the city attorney about what al mentioned earlier about we believe a number of the rules in this ordinance may violate the federal law about the city's and county's ability to regulate towing in areas other than price and safety. If that's not possible tonight, i'd like to address a few of the specific items in the ordinance that I believe need to be changed. Starting out with section 7.24.013, I recommend that the written cancellations notice be amended to reflect that it be sent to the city auditor's office rather than the towing coordinator. The reason for this is that most of the impound towers in the city of Portland have police contracts. The city police contract right now does require that we have 30-day cancellation notice given to the city auditor's office. This requirement would require us to have two sets of insurance certificates, one notice to the auditor's office, one notice to the towing coordinator. I believe it's redundant and certainly the auditor's office can notify the towing coordinator in the event our insurance gets canceled. It's just a simple change. Section 7.24.014 makes a statement that if a vehicle is occupied by a person or persons, or any animal, the vehicle shall not be towed. We don't have a problem with the part of not towing cars with persons in it. We're currently not doing that anyways. The animal exclusion i've asked the towing coordinator just yesterday why this clause is in here? Her response to me was she didn't know. She doesn't know why it's in there. The only reason that I can -- that I can summarize is that it's possibly for the safety of the animal. I believe that towing a car down the road on the back of a tow truck puts no more stress or burden on the animal inside the vehicle than it does if a person is driving that car down the road. If this section stays in this current ordinance, it will be a get out of jail free card for any person that wants to park their car in the city of Portland, to park wherever they want without

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fear of having their car towed, whether it be a parakeet or a gerbil or a cat or a dog, whatever. Towers are already taking responsibility for vehicles that we --

Katz: Let me interrupt. How much longer are your recommendations going to be on changes?

Preston: I have two other issues.

Katz: Is it all right?

Preston: Ok, i'm sorry.

Katz: Go ahead.

Preston: I believe that it will be taken advantage of if it's not removed.

Leonard: I have an amendment on that. Doesn't go quite as far as you want, but an amendment.

Preston: And I do have a copy of the amendment from earlier today, but I still believe that it will require us to not be able to tow the vehicle, call for animal control, wait for them, and in the meantime the person can get back to their car and move it before it gets towed.

Katz: Keep going.

Preston: I ask that the requirement for the towers to notify tow desk rather than the police bureau be removed. This requirement requires us to contact one of our competitors, one of the 29 companies registered to do tows in the Portland, gerlock towing is the owner of tow desk. They do impounds. This ordinance would require me to call one of my competitors and tell them where i'm towing my cars from, where my private business, and how many cars i'm getting from that business. I don't understand it.

Katz: I'm sorry, I missed that. Say something more about the tow desk.

Preston: Tow desk is a company that is owned by gerlock towing.

Katz: Ok.

Preston: Gerlock towing is a registered impound company in the city of Portland, and they do impounds. I can assure you that if I had that police -- tow desk contract, or if gary from retriever towing had that tow desk contract, neither one of us would feel comfortable calling their office and telling them where our best accounts are. This is private business.

Katz: Ok.

Preston: On top of that, the requirement adds \$12 of expense to the citizen's tow bill for the simple necessity of us calling a third-party agency to report tows to the police. Right now we report it to the police directly, they give us an instant tow vehicle, when we release the vehicle it gets reported to the police. There's no reason for this at all, other than a simple database -- [interruption in broadcast] -- we see there may be a dog or cat or something in there. We secure the vehicle inside the building, out of the rain, out of the hot sun, if it's in the middle of the summer, and then we call animal control and tell them we've impounded an a vehicle with an animal in it we ask them to pick it up and take it to the shelter until the owner can control it. They come to our office, our spot, sometimes it takes them an hour or two hours. And they come down and remove the animal from the vehicle. You know, they're trained to do that. And then put them in the animal control wagon and take it back to the shelter until the owner can pick it up. If we do tow a car with the animal in it, the owner of the car is right down there to pick up that car before animal control shows up. They're not inconvenienced at all. They have their animal back and their car at the same time.

Saltzman: Ok.

Katz: Did you testify on some of these items? Some of them make common sense.

Preston: I did.

Katz: Ok, you did at the proper hearing?

Preston: I didn't at the public hearing, but I did through written testimony to some of the commissioners, as well as to marian gaylord's office.

Katz: Ok, thank you.

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Francesconi: I heard you say that you don't agree that there needs to be regulations, and I heard the legal opinion, but do you agree that -- you know, some of the stories that were told here -- and it's difficult to legislate with stories, but some of the stories that you heard here today, do you agree that some of that is happening in the industry and there's a problem that does need to be fixed?

Preston: Unfortunately, I do. I believe that there are a number of things in this ordinance that make perfect sense that may stop some of the people from abusing the system like in the industry. There are people out there that take advantage of the laws, and my belief is it doesn't matter how many regulations there are, people will try and take advantage of them, those few companies.

Francesconi: I didn't hear you dispute kind of the price issues. Have those been worked out?

Preston: No, because it's not addressed specifically in here, this just states that the city has the ability to regulate us. We're not disputing that they do. We just ask that those when those prices get set, that they're fair and reasonable to the towing company and that we're allowed to offer input into setting those prices.

Francesconi: Well, I think you heard the towing coordinator say that there's been a reluctance on some to share data, you know, about what it costs, and what the industry -- factors making up the towing. So if that opportunity is provided, are you going to share all the financial records?

Preston: Yes, we will. If the opportunity's provided, we will be happy to share with them our cost to operate a business.

*******:** We have already.

*******:** Yeah, in some cases we have already.

Leonard: That's disputed by the towing coordinator.

Preston: I realize that. I had a conversation --

Leonard: I'm not asking a lot of questions, because I probably know more than that would be -- would not be fair for me to ask, that you're saying that i've repeatedly checked out, but, I mean, I think that these regulations that we're looking at here are the result of a lot of compromise and listening and take taking into account the issues you've raised on the one hand, but on the other I think it clearly needs to be stated that we don't put debtors in jail and people who have their cars towed should have some rights.

Preston: I agree with you.

Leonard: And what i'm -- what i've heard from some of the emails and messages is that I appreciate you saying that now, because that's not come through from some of the communications you sent.

Preston: We believe that people should not be taken advantage of, just because they've made a mistake and parked their car illegally.

Leonard: That's the point. It's not that they -- it's not that they aren't wrong, it's that they shouldn't be taken advantage of if they did something wrong. There's a balancing act you have to enter into it. I've worked with marian a lot on these rules, and I think she's found a balance.

Preston: Well, I agree with that statement. It's just that this ordinance, the first draft of this ordinance, was given to us with little or no notice prior to it being introduced in the newspaper, and it really caught us by surprise, and we, in the industry, were under the impression that we were going to be -- marian gaylord has been telling us for years that before this issue comes up, that we will have an opportunity to address the issues and offer input before it came out. Then with the short notice, it came out in the newspaper, and we had no opportunity to offer input, except for at the very, very last minute. And that was one of our issues.

Katz: All right. We'll have an opportunity, marian, some of the recommendations that were mentioned sound reasonable. There may be a reason why they --

Leonard: I hope before anybody makes up their mind, that they listen to marian --

Katz: We always do. We ask staff to come back and talk to us. Thank you.

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Gary Coe, Speed's Super Tow: Good evening, mayor Katz and commissioners. My name is Gary Coe, the owner of Retriever Towing. Several times in Marian's -- much longer than we have conversation with you, she mentioned our company, or me, and I'd just like to tell you that possibly none of those horror stories that she told had anything to do with our company. As a matter of fact, she recently provided me with a list of all of the complaints that she's received so far this year, which was 40, and eight were from our company out of about 4200 tows. That's about .2 of 1%. I think eight complaints that we didn't resolve ourselves is a pretty darn good record. 28 years ago my father and I started Retriever, specifically in addition to Speed's Towing, specifically to focus on serving the Portland police and private property owners, which we recognized was a very different customer with very different needs. Business and apartment complexes regularly deal with uncaring people who steal the use of their space and ignore the signs, the warning signs, that are -- that are everywhere, and -- and they just park any place they want. Over 10 years ago the council adopted the current title 724 that has to do with the current, in-place, private impound ordinance, a law livable for the industry, but has resulted in less than 50 formal complaints a year over the last seven years that Marian has provided us records for. That's less than a half of 1%. Please understand that the total -- these total complaints -- that that is not the total complaints. There are many issues we've solved ourselves, willingly, and so it's only those that generally we have turned down or the people haven't given us an opportunity that end up in Marian's lap. I must admit that I've become hardened after hearing many lies having to deal with vehicle owners. Everybody has a story to tell and often it is emotionally charged and in error. For the last four years, many of the towers have invested in digital cameras, and this has been a great tool to solve disagreements. Typically a customer will come in and ask why was my car towed, it was a fire lane. Says I wasn't parked in a fire lane. We bring the picture up on our computer, and say, is this your car? Well, yes, it is. How much do I owe you? That solves the controversy. With less than a half of 1% of complaints to the city, we believe that an expanded ordinance covering impounds is simply not necessary and the current draft is way overkill. We respectfully request a no vote on this ordinance. However, if at least the three of you do vote yes, there are three items in the ordinance itself, not the administrative rules, three items in the ordinance itself, that I ask that you consider. And I have a handout here. And it's very brief. The first --

Katz: Is it all right for the council to extend the testimony? Ok.

Coe: The first is throughout the first page of the ordinance, and several places else in the ordinance, it talks about the director of the bureau of licenses. It puts a lot of power and in the director, and our fear is that power will be transferred right down to the towing coordinator. The towing coordinator has two companies that she's vehemently opposed to, and will use this ordinance to put them out of business. And after tonight's discussions, I might even be a third. In the fifth draft of the ordinance that we have, it mentions a -- an appeals board. I believe that we need either the current towing board of review or a board established to create and adopt the administrative rules we're talking about. And interested parties being commercial property owners that have the biggest problem with unwanted cars, citizen at large, and it can easily be somebody who has -- has been one of Marian's complaint recipients. Certainly somebody from the towing industry and somebody from the city. And I'm not saying just for, but I'm saying at least representation from those various factions. The second is -- and the reason why is it puts too much power in one person's hand to have the current ordinance say director, director, director. Number two is Steve already mentioned this, there's a place that says you can be suspended for up to 14 days for any violation.

Katz: We have that one. Move on.

Coe: Ok. The current ordinance that's now in place says substantial and has a definition of substantial, and we ought to adopt that. Last one is that there's a line, even in the current -- the fifth

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draft that says or parking lot registration has been denied, and that's in the last appeals section, and that needs to be removed.

Katz: Ok, thank you. Questions?

Saltzman: On that last one, aren't you limiting the last amendment you're suggesting? Doesn't that limit your ability to appeal?

Coe: No.

Saltzman: I'm not sure what the intent is of that last one.

Coe: It's language that must have been referring to the registration of all properties in a previous draft, because there is nothing in the current ordinance draft or in the administrative rules about parking lot registration, other than giving -- providing to the towing coordinator a list of the patrol lots. But there is no lot registration, so that line should be deleted.

Katz: Ok.

Coe: One last thing that I'd like to say, and that is there are currently 24 towers -- marian provided this list -- registered to do private impounds, and as of 2:00 this afternoon, to my knowledge, only two of us were informed of the time and place of this meeting.

Katz: Thank you. Ok.

Katz: Jason, why don't you start.

Jason Reynolds, Oregon Consumer League: Ok. My name is Jason Reynolds with the Oregon consumer league. I'm here because I get a surprising number of complaints, even though I start off there's nothing I can do to help you. From apartment dwellers and mobile home people. There are not very many parking spaces and their vehicles of relatives, family and friends frequently get towed. An example, a woman gives her coworker a lift home, the woman says come up and see the baby. They're there for 10 minutes, the car's towed before they come back. The woman had to give up the car and had trouble getting to work. These are minimum wage people, people that can't afford to replace a vehicle. I go pick up for church on Sundays a woman with cancer and a balance disorder. The signs have gone up all over the place about towing. This is a company that cruises. I used to park the car in the lot, go to her apartment, and walk her to my car to go to church. I can't do that anymore. If she can't -- if I wait in the parking lot, if she can't make it, I'm not leaving that car there with the sign saying towing, towing, towing, to go get her. For the last two weeks, I've not taken her to church. I've gotten calls from business owners so angry about exploring doing business in Oregon when their car's been towed over dinner, that two of these companies refused to do business in Oregon, one went back to Seattle and the Oregon to Southern California and said I'll never do business in your state. We've lost jobs and money and investment money over these kinds of things. I can give you names and addresses if you want to follow up on that particular thing. This industry is unregulated. Half of the adult population lives in apartments and mobile homes. And to not have it regulated, it operates as well as the mutual fund industry and many other things we've seen, that without regulation it doesn't function at all. I strongly support these rules. It's the only protection that have the city is going to have. Thanks.

Katz: Thanks.

Steve Miller: Hi. I'm Steve Miller, private citizen from Northeast Portland. Hello, Mayor Katz, and council members. Thank you for this opportunity to address you. First off, I applaud council member Leonard's efforts to work an issue as contentious as Portland's towing regulations. My specific concern with the tow industry is with the poor manner which I have witnessed the company's handling of motorcycles. Tow trucks are designed to handle cars, and they do that task well, with minimal damage to the vehicle. The tow drivers have adapted their tools at hand to allow them to also lift and remove motorcycles. Unfortunately, unlike towing transporting automobiles, transporting motorcycles is not done without damage. The manner utilized is to cinch strap the motorcycle and lift it with the truck's hydraulic arm as the now suspended motorcycle is pulled

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closer to a separate line to minimize swinging. While this does minimize the damage, it does not eliminate it and subsequently the straps holding the motorcycle are allowed to chew into the paint, the plastic body panels, seats and saddlebags of the motorcycle, all the way to the company tow yard. This is unacceptable. And if the tower is unable to reasonably assure that damage will not occur, they should not be allowed to make a tow of this fashion. This last summer during the blues festival, my motorcycle was damaged in this fashion, and my repeated calls to the tow company in question were ignored. This would institute breach number two. Additionally, I was overcharged by their calendar day method of charging for storage. My motorcycle was towed at 9:00 p.m., and on top of the gate fee to have the on-duty attendant release my motorcycle to me just 12 hours later, I was billed for two days of storage. This should also be unacceptable. Barring filing suit against the tow company, it was easier for me to eat my losses than to deal with them further. An outcome I'm sure they count on. My experience with the tow companies has always been negative, and for that reason I'm appreciative that you're taking this regulation review seriously. In closing, I hope that you will ban their towing any vehicle they cannot assure will not be damaged in their handling on it, and I hope you rein in their egregious billing practices. Thank you very much.

Katz: Thank you.

John Weigant: My name is John Weigant. Commissioner Leonard, I appreciate you bringing this before us, because I think it's an important one. I'll skip most of my background material which is before you, simply to say that I recommend that you adopt this ordinance now with minor amendments. If you decide not to exercise the emergency clause, I think at a minimum you should bring this back in six months because this ordinance still has several technical flaws that should be read. I'm a former city planner, and so I know how to read code. I'm also a software person, and I read city code like I read a computer code, looking for errors and flaws. I've been abused by the current system, and nothing under this code before you will address my abuse. I don't have time to tell you both my story and my recommendations. My recommendations for immediate amendment are as follows -- the definition for tow desk. Insert after tow company, the language, or other private or government agency, and change the following -- the word following and to and/or. The added language enables, but does not require the city to itself become the tow desk. Since the police bureau is already handling a substantial amount of effort and costs, it makes sense to offer the whole job to them if they want it. Whoever becomes the tow desk is going to make a pile of money under this code. The city needs the money. The tow company, I don't believe, does. Likewise a taxi company, or other agency or other government with 24/7 dispatching capabilities are able to bid on this contract. My second recommendation is to substitute the word in paragraph 24 16, condition j, acceptance of payment, to substitute the word of fees for the word for towing and storage. That is we should be able to accept credit cards or cash payment for r.e.s towing, for any of the fees because the towing and storage are just two of the fees being addressed under this. I heard at the Oregon hearing that said some people were unable to retrieve their vehicles at the lot by paying the r.e.s fee because they didn't have the cash and the tow company would not accept a credit card. A credit card imprint device is a very inexpensive piece of equipment to add to a tow truck. I also recommend starting rework on this code now because of major sources of abuse. I was abused, not by the tow company, but by the parking lot owner. And the parking lot owners are not regulated at all under this code.

Katz: Just to interrupt, Karla, how many people are going to be testifying?

Moore: We have about nine more.

Katz: All right.

Leonard: We have to wrap it up real quick.

Katz: We can read it.

Weigant: Yeah. And that's all additional written testimony.

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Katz: Thank you.

Leonard: A couple questions for you, I think.

Weigant: Ok. I think i've said all I need to say. Thank you.

Francesconi: I don't have a question for you, but your testimony makes me have to raise an issue that I was thinking about earlier. I guess it's for the lawyer, might be for the staff. What we're getting into now is administrative rules. I mean, people are asking us to amend administrative rules, not the ordinance. And, you know, now we're getting into great detail on administrative rules as opposed to having others do that. Do we have the power to do it here?

Nancy Ayers, Sr. Deputy City Attorney: The administrative rules have not been finalized or adopted yet. As I understand they're going to be worked on following passage of this ordinance. So I don't think that it's appropriate for council to attempt to amend rules that even finalized yet. Obviously you can amend the ordinance that's before you, but --

Weigant: Both of my amendments were a reference to the code itself.

Francesconi: But later, we don't need to do it now, that helps me a lot, a great deal. When you come back, maybe you need to talk to us a little bit about the process by which you're going to get input on the administrative rules and give us some feel for that.

Katz: Let me replay my legislative history. In the legislature, the rules sometimes were more critical than the law, and we had a lot of issues with the rules extending far beyond the legislation and legislators began to get into the rules issue. And so if -- under our system, the rules are designed by the bureaus themselves -- commissioner Francesconi, I was giving a little bit of legislative -- no, no. I would like the opportunity, after we get through the ordinance, to make some comments or have you comment on the rules since we aren't going to be adopting the rules tonight, but the rules are really critical in how the operation proceeds. And I heard some issues in the rules that make a little bit of sense to me. So I would like the opportunity to have a conversation about that.

Leonard: Correct me if i'm wrong, I think exhibit one that we're looking at is the ordinance. Those aren't the rules. We're not amending the rules. I think there's some misunderstanding that --

Katz: Exhibit one is ordinance itself.

Leonard: Is the ordinance. So the amendment proposed, the gentleman is correct, is to the ordinance itself.

Katz: What were you referencing --

Francesconi: Now i'm really confused.

Katz: That's confusing.

Leonard: I think you confused yourself.

Francesconi: But in response to my question, I thought somebody said they were administrative rules.

Leonard: But they're not adopted yet. But they're not before us.

Francesconi: And --

Gaylord: Until we have the ordinance approved, the authority is not there to create the administrative rule.

Francesconi: Ok. An example would be, one of the issues that's raised here, substantial violation versus violation on the 14 days.

Leonard: That's in the ordinance.

Francesconi: Yeah, I know, but is there going to be an administrative rule that clarifies what that means? Or do we amend it here?

Gaylord: I'll tell you frankly, I was surprised, learning that there was not -- it was not my intention to change that language from the substantial issue. That's what was in the current code and --

Katz: Ok. We'll get to the language. It is not --

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Leonard: -- in the form of exhibit one.

Katz: We'll get the opportunity to deal with that.

Leonard: I was intrigued by your suggestion on the tow desk. I wanted to get what you said right. Tow desk means private tow dispatching, the private tow dispatching company, or public agency or other private company? There's what you said?

Weigant: Yes, or other governmental or private agency.

Leonard: Or governmental or private agency.

Katz: We're going to go back to each one of those. There were three folks who came in with some amendments that I think deserve a little conversation. Ok. Thank you. Karla?

Katz: Somebody grab the mic and start.

*******:** Hi. Thank you for hearing what I have to say.

Katz: Yourself for the record.

Jean Lowther: I'm sorry. I'm Jean Lowther. First of all, I would like to say, number one, I am a single parent with three children. I have lived in apartment complexes, large and small, and am currently living in a medium-sized apartment complex for the last 20 years. Also in addition to that, for the last 22 years, I have been involved and have worked in the towing industry as a dispatcher and tow truck driver. So this is kind of a realm for me in all areas, because I'm hearing a lot of different things. First of all, I wanted to make sure that I said that, because as far as wages and things like that, I'm right there with the rest of them when it comes to being in mobile home parks and that sort of thing. You do what you can do. Anyway, in addition to being -- living in this apartment complex, I have assigned parking. I have my own spot. And when I come home from 10 or 12-hour day, or depending on whatever else I'm doing, I expect to come home, since I pay my rent faithfully every month, and for that space, I expect to be able to park in that space whenever I come in. I have come home and found that there was someone parked in my spot. I have gone to different neighbors and asked them if they owned this vehicle. No, they did not. My lot is properly posted, in numerous places, as well as the entrances. There's no reason why this person should be in my spot. It has a number above the spot. It should be towed. However, it has not been, and I've been fortunate enough to find the person that had it. In addition to that, every complex that I ever lived in, I have had to sign a rental agreement, and it can be with a management company, it could have been with a private person who owns that building. I have had it lined out for me that what my responsibilities were, what I was entitled to. I had to have a decent working and legal vehicle that could operate on the road to be parked in that facility. If not it needed to be removed. That's stated on the back of my rental agreement. In addition to that, I am, as the person who rents that property, I am responsible for my visitors, for the people that come to my residence, and to make sure that they park where they are appropriately supposed to park. That is my responsibility. I signed that agreement. And so far I've adhered to those rules and responsibilities because that is what you're supposed to do.

Katz: Your time is up. Do you want to make another quick --

Lowther: Yes. The other thing I wanted to mention was in addition to being a tow truck driver and dispatcher, there's been a lot of stories that have gone on about things that have happened. What has not been mentioned, and a lot of you don't hear about, or don't want to hear about, as of March -- Mother's Day a year ago, 2002, I was doing a release at a tow yard for a customer who was supposedly the owner of that vehicle. He was not the owner of that vehicle. I was attacked in the yard because I would not allow that person to take the vehicle, and in addition to that I carried bruises for three weeks. He almost ran over me, as he stole the car out of the lot, and drove away. I didn't provoke him. I just simply told him he couldn't have what was not rightfully his. In addition to that, earlier this year, there was a tow driver that was doing a job at an apartment complex, who was almost beaten to death by five people who consumed while he was trying to remove an illegally

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parked vehicle. Those are things you don't hear about. He wasn't provoking. He was there doing what he was sent there to do. He never had a chance to open his mouth.

Katz: Thank you.

Bob Wilson: Good evening. My name is bob wilson. I work for newhouse and hutchins towing. I'm on the towing board of review as a member of the industry. Along with steve. And we're not one of the major players in this thing, as marian calls them, we're -- we do do it, though, because most all towing companies diet as a service to their customers. Several things about this ordinance concern me. First, this came about with no letters, faxes, or email contact with the towers, giving them the opportunity to address the concerns that this ordinance attempts to control. Secondly, state law and the legal system gives adequate protection to citizens. And to the best of my knowledge, no p.p.i. tower has been the subject of a state attorney general consumer affairs investigation or investigation by any legal arm of the city or the county. The database that will be created to deal with the five complaints per 1,000 private property impounds will cost each citizen \$17 more than they now pay. \$12 to tow desk and \$5 city fee. If there's approximately 10,000 private property impounds per year, and only 60% of them picked up, that the citizens will still pay \$102,000 more than they're paying right now. Who was towed from where may be of interest to divorce attorneys, but not the general public. I would also question while private company is better at record keeping than the police bureau. I have a question about section 723013, paragraph h, subsection four, asking us to name the city as additional insured, as we have no contract with the city, what are we insuring the city against? You know, all these towers, most of them, good, honest, hard-working people, have been painted with the same brush. And like all businesses, some are better than others. I know like politicians. So I think creating a new level of overseers and inspectors is not good government.

Katz: Thank you.

Deborah Closser: Good evening. My name is deborah closser and i'm with dinky's towing. Much of what I want to address here tonight has already been addressed by the people that have come before me. I would also like -- I would like to say, though, that I did not receive, as mr. Wilson pointed out here, copies of the last two drafts from the city. I got them from mr. Coe and mr. Preston. As far as what the exhibits that are in front of you tonight, i'm sure that every tower in this room would say that there needs to be perhaps a few different regulations to what we have now. What has been written, proposed by one person, it gives them one person to virtually close the doors of a single business. I think mr. Preston addressed the 14-day out of business of what this is saying, and that this needs to be changed. Because the end result of this would be a towing company could have to close its doors and that same company looking to the city of Portland for interfering with business practices. Clearly the point is that no one person should be handed that kind of power and yield this much control over a single industry. And when you move on to -- they discuss rates, and one thing that has not been pointed out, when I spoke with marian some time back, she stated that she'd get her rate information from an industry source, currently posted rates and area rates. And she went to on to say that she'd been asking the towers for information for quite some time. I would disagree with portions of this statement, and the reason being that more than one of us have offered up to give information. I mean, people aren't going to offer their books to marian, but more than one of us are going to work with her on what our insurance is, what our signs cost, those kinds of things. I'm sure that each of you read the information directed to marian from attorney mike mcgovern early on in november. He states, and I quote, in determining such a nonconsequential rate the city must initiate a public rate procedure. To close, obviously the towing industry does need some type of regulation, but what we hold in our hands is exhibit one is not the answer. It's simply an exhibit of a loss of companies, drivers, and our out of jobs and on state aid.

Katz: Thank you.

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Katz: All right. Somebody grab a mic.

Dan Closser: I'm dan closser with dinky's towing. She took what I needed to read out there, but I have a couple points that I would like to bring up. They're saying that the tow bills that the towers have, that average \$235, and a police tow costs the same poor citizen that may not be able to afford to get that car out with penalties of \$250 to \$500, not including the tow bill, I think that's a little outrageous. I don't think our rates are high compared to what the city has when a car goes to seizure world. I think that it's discriminatory, that because you drive an old car, it goes to the tow yard. That's \$112. But if you drive a brand-new car, it goes to seizure world. And I do have a gentleman here in a wheelchair to pay \$375 penalties on top of his tow. Who is taking advantage of the citizen? The tower or the city of Portland? Marian gaylord said the \$5 will not amount to very much, but she's not giving you the whole picture. And that picture is the \$500 fines that she can levy on the tow companies. And she doesn't know anything but \$500. I've had a couple of fines. That gets to adding up pretty quick and getting to hurting a tower. But what you guys propose as far as rates, because she got -- she's going by soft tows, and there again soft tows are a lot different. When you go out there, you got a nice guy that wants to meet you. You don't have a guy that comes to your yard, threatens to kill you. You don't spend 14 hours in emergency, which I did, with two c.a.t. scans, and they didn't know if I had a brain concussion. You don't have to listen -- and marian gaylord doesn't have to listen -- to the guy that calls up on the phone and calls you every name in the book but a white person and talks about how he did your mother. These are nice citizens. But I have had nice citizens come in our yard and say I saw the sign, it's my fault, I was the ignorant one that parked there. It's the ones that think that they can park for five minutes and five minutes add up to an hour. And for every driver that you put on welfare, that's a voter. For every company that you put out of business, that's a voter.

Katz: Thank you.

Jesse Cornett: Mayor Katz, commissioners, my name is jesse cornette. I'm here to emphatically support this ordinance, and I think that the gentleman from retriever towing made it abundantly clear why we need to do this and why it should happen tonight because he's tired of hearing from us. He's tired of the emotional stories about the horror stories and things that happen. I have one and it would be emotional because there are far too many important points to make I think i'll pass. Marian brought up a number of cases that were far worse than the ones I faced. In terms of how many complaints that are will out there, if you look at the number of complaints on private lots compared to the number of complaints in tows overall, jeez, sure, you know, if you're getting towed because you got pulled over for a certain reason, you know, if anything you're going to complain about the police officer ordering you towed. You're not going to complain about the response that you got from the tow company. You have a complete other set of concerns. So the numbers that they're using, you know, if you were to just compare apples to apples, i'm sure they would be much higher. If you consider the fact that a lot of people, even me at the time, I had no idea that there was a complaint process. Nobody knows that there's a complaint process. Hopefully because you're going through this, we will in the future knows there's a complaint process, at least in the immediate future. I know I would sure use it. In the end, you know, I took responsibility for what happened to my car. But some of the -- some of the issues around it were just ridiculous, like, you know, the driver didn't have change, the story goes on. This is an industry -- I mean, these guys are the judges, jury, executioner. They make all the decisions. I think citizens deserve some protection from people who wield this much prior. Provisions allowing for recourse and regulation are long overdue. Also I think this helps balance a really concerning a consistency -- I understand what the gentleman next to me was saying in terms of how -- you know, the comparison between police tows, but, I mean, the base tow price is \$105, the average tow price from a private loss is \$235. If I go to the wrong store, if I go to the bank instead of the wine shop that's closed, an I get towed, they

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can charge me easily over twice as much, and on the average will, as if I get towed driving my car drunk or some other, not considering it going into seizure, but actually going in the same time frame to the tow lot and picking it up. They can charge you twice as much or more. So I saw a lot of the people after the public hearing on this issue, which I unfortunately couldn't make it, complain about how burdensome these issues are. I think that a lot of companies cry wolf any time, you know, this is going to put us out of business, put us out of business. I doubt it will put anyone out of business, but provide a lot of protection to a lot of people. I think that if these companies are really concerned, they should -- can I have one more second?

Katz: No. You have one second. Go ahead.

Cornett: I think this is a step in the right direction. I think for all citizens of Portland. And the visitors should choose to spend their dollars here.

Katz: Thank you.

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

Amy Blumenberg: Good evening. My name is amy blumenberg. Earlier in the day or yesterday submitted a written report of a very troubling incident I had with a retriever towing truck just a few weeks ago, I think it was last month. This is the type of thing I could have just let go and just, you know, gone on with my busy life, but it was so troubling that I thought I should come by and let you know that i'm a very confident person, very capable communicator. It takes a lot to intimidate me. This experience was so upsetting and troubling, that I had trouble sleeping for a few nights. I was really stressed. And I was really concerned for all the people out there who were having similar experiences, who unlike me may not know their rights, may not have the wherewithal to pursue their rights or learn about a formal complaint process, etc. I just wanted to speak briefly about the incident. I ran into a store for some pickup. I did see a customers only sign posted. I thought I was a customer as I was running into the restaurant to pick up my to go order. I came out 10 minutes later and saw a tow truck in the vicinity of my car, not at my car. I called to the driver, hello, hello, can I help you, excuse me, as I walked to the truck. At the point that I was right at the driver's side with his window saying, hello, can I help you, he refused to acknowledge me, turned away from me so he was not looking at me, accelerated his truck in the rear -- backed up, accelerating, nearly hit me, with utter lack of concern for myself personal safety and the fact that I was standing there, and he almost hit me. Once he had his truck in position to block my car, again, I was not hooked up to his car -- to his truck at all, he got out or pulled the window down and I said what are you doing? What are you doing? You nearly hit me. He said he was going to tell me. I said you can't tow me. You're not even hooked up. What's going on? He said, well, you're trespassing, blah, blah, blah, many of the details are in my letter. He continued to go on and on. I finally asked for his supervisor's name and number and asked him to contact his supervisor so I could speak with the supervisor. He refused to give me the supervisor's name and number. I realized the situation was getting increasingly hostile and I needed to remove myself from what was looking to be a dangerous situation. He told me that he would charge me a drop fee. Again, my car was not even hooked up. I knew he couldn't charge me a drop fee, but I handed him my visa, just want to get rid of the situation and I would follow up on monday. He took my visa, and then when I told him I would contest it on monday, he handed it back to me. I offered payment, he refused payment. I finally had to get in my car, which again was not hooked up to his car at this point. I called my husband on my cell phone, as I was asking him what he thought I should do, he attached my car and lifted the car with me in it. I at that point I hung up and called 9-1-1. The police arrived on the scene. The driver, prior to the police arriving, the driver stood my the side of the car so I could not move, I felt very intimidated, I screamed for him to get away from the car, that the police were on the way. Again, really to sum up, if I felt intimidated, upset, and threatened by this situation, I can only imagine how other would have felt.

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Katz: Thank you.

Mitchell Keith: My name is mitchell keith. I was a victim of being pulled over, having my car towed. It went to seizure world. When I went to go pick it up, took me awhile to go through everything downtown here. And then go pay there.

Katz: I'm sorry, we didn't get your name.

Keith: Mitch keith.

Katz: I'm sorry, I wasn't listening.

Keith: I went down there, seemed like the rate they charged me was three times more than any towing company around. And it took me longer to get it out of there because of their operation hours than it would be if it would have got towed anywhere else. I don't see any of the towing companies -- I would have saved myself a lot of headache and a lot of money, and I don't have much money, being on social security and in a chair. Seemed like the city is making out well, and us little guys are getting hurt in the pants. I've been hauled off for being in the handicap if I didn't have my sticker off. Instead of going to tow companies, seizure world seems to get a hold of the nice ones, and if I didn't pay it in time they auctioned it. And monday they make off with all the auctions, what's being done with that?

Katz: Do you have a sticker now? Do you have a sticker on your car now?

Keith: I've always had one.

Katz: Oh, ok. I thought you said you didn't have one.

Keith: Apparently they couldn't see it. So where did it go? Seizure world. Where's everything go? That seems to -- any nice car goes there. Anybody else, just regular tow yard. But when it goes there, i'm paying the rates. Seemed like the city could redo their system on that. Make it easier or more affordable to whatever everybody else is paying at the tow yards instead of three times more.

Katz: Thank you. Go ahead.

Mary Ann Kolen: Mayor Katz, commissioners, thank you for taking the time to allow me to speak. I'm here tonight because I do have some short-term and long-term concerns about the ordinance, and the implication -- the implementation of it. My name is mary ann kolen. I'm with harsh investment properties. We are a company in Portland, Oregon, that owns over 34 commercial properties and 12 residential properties with 250 tenants and 1350 residents respectively in this town in the Portland area. Many of our commercial tenants are small, what we call mom and pop, or just small business owners that are struggling to survive in a difficult environment. Parking is very, very important to them. Our residents also pay for the privilege to park. We are concerned in the densely populated areas of this town where most of our projects are that we can provide what we have committed to them that we would provide. We do contractually have an obligation and an ethical obligation to provide parking. Many of our retail projects, the tenants actually have the right to terminate the lease. If we do not provide the parking that we have said that we would provide. We do tow. We have many, many times, we've had a long-term relationship with retriever towing. We have a very strict contract on what they can and cannot do. We post. We make sure it's posted before we tow. And if there's ever been an improper tow, the retriever towing has either refunded part or all of that fee. They have done that without argument if we've ever asked them. I like, marian, do take calls. I make myself available because i'm a property manager to anyone that has a complaint. And I have had complaints. I've never had a complaint about the manner in which they were treated. Nor have I had a complaint that did not -- a complainant that did not admit they were parked where they should not have been parked. I would like to be able to continue to maintain a good neighbor policy. I think that towing is a necessary part of that. We've tried every other method available, and towing is something that we need to be able to access. I am concerned in the short run about if this is implemented, if this ordinance is implemented immediately, what is going

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to happen in the flux, this is a retail time of year, our commercial properties rely on having towing available, so i'm hopeful that short term will be a significant change in the commercial properties. Finally, I want to remind you, and i'm sure you know, that the responsibility for private property lies first and foremost with the landlord. Our ability to promptly respond to the residents and the tenants. Parking concerns are an important part of what we offer. I hope that you will consider this ordinance and our impact by this ordinance. If the towing companies, they're severely restricted, we shall no-no honker have the right ourselves to assist the Portland community in providing the quality of living and working environment that we're currently enjoying. And thank you.

Katz: Thank you.

Leonard: Can ask a question, please? I didn't hear you mention any specifics regarding the ordinance with respect to limiting their ability to serve you.

Kolen: What i'm a little bit concerned about is the reporting aspect of this. If the tower's required to call in to some -- either the police department or some other -- the delay. Anything that would delay our ability to tow. If we -- if we determine that the car needs to be towed, we want to be able to act on it promptly.

Leonard: I do not believe there's anything in the ordinance that creates a delay beyond -- I mean, really what the ordinance does, in essence, is limit the price that can be charged for the tow, which sounds like you're concerned with this as well if you've interceded on behalf of those that have been towed, limits the price for towing and creates some sanctions if tow companies don't abide by the rules.

Kolen: It also regulates -- part of your regulation also, I think, some of the rules, I think, mr. Francesconi had mentioned, i'm not -- i'm getting the impression that part of your -- your -- the ordinance will create situations that may interrupt the flow that has already been there.

Leonard: Well, I don't disagree you've been probably been told that, I don't think that's accurate.

Kolen: Well, and I appreciate that.

Leonard: I've heard some of that. Not very accurate.

*******:** Ok, ok.

Kolen: I do appreciate that. I also -- I am concerned about -- I want to make sure that we call to have old trailers and things towed, for which people will never get, and no one will come and pick them up. That has to be considered in that cost, too.

Katz: Ok.

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

Katz: Anybody else want to testify? All right, marian, come on up. It's hard for us to identify old language/new language, because what we have is not underlined or in brackets or anything. So what I want to do is go over, with the help of the rest of the council, some of the issues that were raised. I may have missed some. And if I missed some, then you need to jump in.

Gaylord: Sure.

Katz: Let's start with the issue of the insurance -- 724013, the issue was whether they have to give the written notice to the towing coordinator since they're already giving that to the auditor. Do you want to chair for a that?

Gaylord: I can't comment too much on that, because that is one of the processes that has been in place, that I inherited. The main reason that I suggested that it be sent to me is, first of all, because of the companies that are not already under contract with the city of Portland and the auditor's office has never expressed any interest in administering that part of it. I have no problem, if the council feels that that's a better way to go. I have no issue with that at all. At this time there's confusion about where those notices should go. There have been times when it was difficult to verify.

Katz: With this language, the notices would go to both places?

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Gaylord: Well, there is a separate requirement. There's insurance required for the municipal contract, and also the requirement for this.

Katz: And some people have contracts under both?

Gaylord: Right.

Katz: And that was, I think, the testimony, that they would have to deliver those -- those insurance contracts to both -- to both places. I don't know if the council feels this is an issue or not.

Francesconi: If you could do -- frankly, I don't care where they go, as long as it's one instead of two.

Gaylord: I truly have no issue with that. I'm perfectly satisfied if the city attorney is satisfied with the language or the way that it's administered, I'm fine with that.

Katz: Ok. So if -- do I get a sense from the council that --

Leonard: Well, Linda has something.

Ayres: The auditor's office typically collects insurance certificates for contracts. Since these aren't contracts, it would be a little unusual, I think, for the auditor's office to be involved in it, but if the auditor's office is willing to perform this function, there's no legal reason why it couldn't do that.

Leonard: I guess I'm wondering, would you get a copy of it, then, or not?

Gaylord: I don't currently. As Nancy saying, the auditor's office manages the insurance that's related to contracts between the city of Portland and a private company. This of course is a completely separate issue. So --

Leonard: I kind of hate taking it out of --

Gaylord: I don't necessarily have a problem if it's -- again, if it satisfies the city attorney's requirements to verify if they have the insurance in place for the city contract. We have other places here where we've tried to make -- to reduce the redundancy, and I don't see any reason that that -- if that also satisfies that requirement.

Katz: What's the council's feeling on this?

Francesconi: Well, you haven't had a chance to talk to the auditor about it, huh?

Gaylord: No.

Francesconi: I think maybe you need a chance to talk to the auditor. Then if you can do it one place.

Leonard: I'm actually interested in the suggestion, partly because of what was raised here by retriever, of the tow desk.

Katz: I'm going to get to that in a second.

Leonard: Ok.

Katz: All right. So I think there's a sense that we'd like at least to explore delivering those contracts to one place as opposed to two. The next one was the animal issue, before we get to the tow desk. Could you talk a little bit about the animal issue?

Gaylord: I will tell you honestly at one point in one of the drafts I had removed that.

Leonard: And I asked her to put it back in.

Gaylord: Commissioner asked for it to go back in. After a discussion with an apartment -- or a property manager, we added additional language that that property manager said satisfied his concerns about it, which was to say that if the vehicle containing an animal was parked in a designated and clearly-marked fire lane or some other kind of safety-restricted area, that they could immediately tow it, but I don't have strong feelings about it one way or another.

Saltzman: It seems to me that having an animal exclusion in there may have the perverse effect of having encouraging animal abuse, because it is like, somebody said, a get out of jail free. Put a dog in your car and you can park anywhere. It sounds like they do have adequate safeguards for animal welfare if that car is towed. I think we should get rid of the animal exclusion.

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Gaylord: If I can make one correction on that. That company does. What I was more concerned about was making sure that if they did tow a vehicle with an animal in it, that we'd outlined some responsible steps for handling it.

Katz: You can do that to protect the animal.

*****: And we have that language in the administrative rules being developed.

Katz: You can do that to protect the animal, but -- all right. So I think there's a sense --

Leonard: I was just trying to stand up for animals.

Katz: Well, we all do. I think -- I think the goal was -- was a valid one, but I think you can get there in another way. All right.

Saltzman: I definitely want to see you have rules requiring them to notify animal welfare after a few hours.

Gaylord: Right. I think that does accomplish it.

Katz: So we're striking -- we're going to strike the language, or any animal, in d.

*****: Ok.

Katz: Is that all right? We have to solve the auditor's things, so we may have to come back to. There's no objections to that, I didn't hear, except anybody from the commissioner who cared, and we appreciate that. [gavel pounding] talk a little bit about 724016. You said that adequate cash must be available is that current language?

Gaylord: No, it is not current language.

Katz: Talk about that. What happens if somebody doesn't have the cash on them?

Gaylord: I think we've got it turned around backwards. This requirement is for the tower to have cash to be able to make change. We are saying that if they're going to accept cash as a payment, they need to be able to make change.

Katz: Sorry. I misunderstood. You're right.

Gaylord: I think mr. Wygant's point was probably well taken when he said that it shouldn't be limited to towing and storage. You know, that was not necessarily the intention, that it should only be limited to those things. I think those standards for what they accept as -- accept as payment method should apply to any fee that might be assessed under this.

Saltzman: That makes sense to me. Should be able to pay for everything.

Leonard: What would we have to say to make it clear that this apply for everything.

Gaylord: Except at least the following methods for payment for fees, or for all fees, or any fee incurred or assessed.

Leonard: For all fees?

Katz: Where would you insert that?

Gaylord: It would be item j, to simply change that sentence. Instead of saying accept at least the following methods of payment for towing and storage, to just to substitute all fees or any fees assessed.

Leonard: For all fees assessed. Ok.

Katz: You have that?

Leonard: Remove towing and storage and insert the words all fees assessed at the end of j.

Katz: All right, you have that. Any objections? Hearing none, so ordered. [gavel pounding]

Saltzman: I'm curious why we only allow visa as opposed to mastercard as a legitimate form of payment.

Gaylord: What came up, was in my research with banks, was this was the most generic thing to say a visa -- this is not telling the towers that they can't accept mastercard, but it is saying that they must at least accept these things. And the debit cards happen to be visa-issued debit cards generally speaking.

Katz: Let's get to the k.l.m., which is the towed -- the tow desk issue.

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Leonard: That's not where that's at.

Gaylord: There were a number of representations made about that that I would like to dispute.

Katz: Ok.

Leonard: It's a few pages before that on 7240 --

Katz: No. It was notifying the local police station of the intent to tow by telephone call to the tow desk prior, notify --

Leonard: We need to redefine tow desk is what i'm proposing.

Katz: Oh. Oh, ok.

Leonard: That's at 724012-1. About three pages before.

Katz: Ok. Tow desk means the private dispatching company contracted with the city of Portland for municipal tow dispatching and data management.

Leonard: I'm interested in changing that to tow desk means private tow dispatching company or other private or government agency.

Francesconi: How does the first part take care of that?

Leonard: For the reason that we would then expand who would be qualified to be the tow dispatcher.

Katz: The testimony was that they were concerned that they would be providing a competitor with that kind of information. So by adding that, you're giving --

Leonard: The ability for like a -- good point was made that the cab companies have 24-hour dispatch centers, that they could potentially be that, or 9-1-1 center as 24-hour people, nonemergency. That's another possibility.

Katz: The tow desk is a --

Gaylord: Let me explain something more about that. The tow desk is actually owned and operated by Oregon dispatch service. They are the company who, yes, they are part of the same corporation that owns gerlock towing. However, they bid and have won several times in a row the contract for doing the municipal towing dispatching. They're very experienced. They do an excellent job. We also have -- I mean, there are a number of safeguards against this idea of them somehow misusing the information that they get.

Katz: That was the point.

Gaylord: Every employee, every person in the tow desk employ is required to sign a confidentiality agreement that says that they're at risk of losing their job and being prosecuted if they ever misuse any of that information. This is something that the police bureau requires and I believe is very satisfied with their performance of this. In addition, there are requirements that segregate that company from gerlock towing. You need to also understand that gerlock towing doesn't really compete with these other companies because they don't do any passenger vehicle tows they do medium-duty and heavy-duty tows. The number of p.p.i. Tows they've done in the last five years could probably be counted union your fingers an tows. They don't do much of this, because they do primarily commercial accounts.

Saltzman: And who puts the contract out to bid?

Gaylord: The tow board does.

Saltzman: The tow board, oh, ok.

Leonard: Did you have something to add?

Deborah Hogan: Yes, I did. Thank you.

Katz: Identify yourself for the record.

Hogan: Deborah hogan, records manager for the police bureau. I just wanted to add that as far as the concern goes about the towers being able to have access to the companies that other towers are towing for, I just wanted to clarify that that information is included in all of our tow reports that are kept in the records division. And the towers regularly and continuously come in under public

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records requests and view that information. And so they have full access to that under public records law as it is already. So it's not access to something they wouldn't already have.

Leonard: So you don't think we need this language to allow us to have some more discretion to --

Hogan: My concern would be, when I was talking about the ability to be able to transfer information electronically to us that is only going to be able to be done through the same operation that is doing the municipal towing.

Leonard: Ok.

*****: So the only that way that works is if it's done --

Francesconi: Is the system working really well the way it is?

Gaylord: You mean as far as the private property impound tows?

Francesconi: Yes.

Gaylord: No, it's not.

Francesconi: No, on the issue of -- I know there. I've been here tonight. [laughter]

Gaylord: I'm losing you apparently.

Francesconi: On the issue of having a contractor do this tow desk. That portion as opposed to a different agency.

Gaylord: Yes, it works very well. I mean, debby can speak to the police bureau satisfaction.

Francesconi: As long as this idea of confidentiality -- maybe you put in an administrative rule that says that. You just make it clear that --

Gaylord: Let me assure the council that will be very easy to audit and monitor because we'll have that record.

Katz: All right. I raised it. It was raised by -- did you -- come on up for a second. I don't want big, long speeches, but clarify if we're wrong, since you raised it.

*****: I would just like to explain to council --

Katz: Identify yourself.

Steve Preston: Steve sergeant from -- steve preston from sergeant's towing.

Leonard: The issue here is whether or not to have the tow desk operated by the private company. That's the issue. Not the \$12.

Preston: The issue is that this is going to require me to contact a competitor of mine and give them private account information about my business, whether they have a confidentiality agreement or not, it makes me uncomfortable to tell them where my best customers are. Now marian's right. The company of gerlock towing that has the contract right now does very few p.p.i.'s, however that contract comes up for bid on a regular basis, and the next time it comes up for bid, my competitor, retriever towing, could very easily get that contract, and I would be calling my worst competitor, or my greatest competitor, I should say, with all of my account information. And i'm uncomfortable doing that. I'm not sure that I would.

Leonard: Marian, do you agree that that's a possibility?

Gaylord: As debbie mentioned, that information is already collected and it is already reviewed by mr. Preston's company, and by retriever towing every month. They send someone up, who hand-searches through all of these tows, and is getting that information already. They know exactly who tows from where and how many.

Katz: So all of that information is -- from what we just understood -- is public information anyway.

Preston: It is public record, but it has to be -- exactly, marian's right, you have to go up to records and do a public records request and pay them a fee to get that information from them. My understanding is, though, that isn't -- won't this information become public record over the internet once it gets funneled through the tow desk, in the similar way that police tows or available on the internet?

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Katz: Let's not have conversations right here.

Gaylord: If I can speak to that, what he's referring to is a summary, a monthly summary, that we post on the bureau of licenses websites, because it is information that's distributed with the monthly towing bulletin. The packet. There is no -- no interest whatsoever in having this information become accessible on the web.

Katz: Ok, thank you. Thank you, steve. All right, on the next page, we had the issue -- oh, hold on. The issue of substantial -- the complaint that the permit could be suspended for up to 14 calendar days for any violation --

Gaylord: I frankly don't have a problem with that. I'm embarrassed to tell you that I didn't think that we'd change that language at all. Whatever the current language is that refers to a substantial violation is fine.

Katz: So I --

Gaylord: I'll tell you if you're interested, in the time i've been the towing coordinator, the only reasons that anyone has ever been suspended were because either they simply didn't respond to a complaint resolution request or they didn't have insurance that was verifiable. We had received information that insurance was -- was canceled. And it was our feeling that if a company doesn't have insurance, then they must not be towing until that's settled.

Katz: Ok. So you have no problem with substituting for any -- the word substantial on that line. Do you have it?

Ayers: Yes.

Katz: Ok, nancy.

Saltzman: The other related issue was the suspension occurring after some due process as opposed to the suspension happening and then having due process.

Gaylord: There again, this is what I inherited, the system that has been in place.

Katz: Talk to us about examples of that. I'm interested in that as well.

Gaylord: As I said, the only suspensions that I have issued for p.p.i. Towers had to do with -- and it was more a threat of suspension than anything else -- to say that please respond in this period of time to avoid the possibility of suspension. In the situation where there was no insurance that was verifiable, they were suspended immediately until we got the information, until we could verify that there was insurance. So they were suspended for a total of about two hours.

Ayres: Council, this also can be addressed in the administrative rules in terms of establishing a more detailed procedure for how this the suspensions and revocations will occur.

Francesconi: Yeah, because you might want to have, you know, other penalties less severe for other things. And it should be a little clarified in the administrative rules, I would think.

Gaylord: I'm fine with working with the city attorney to --

Leonard: On the other hand, if you have information that leads you to believe that somebody is operating a tow truck without insurance, it's nice to act swiftly and --

Francesconi: No. Leave this.

Katz: That's the point.

Francesconi: No, no. Substantial. This should be in the ordinance. I agree.

Leonard: Ok.

Francesconi: I was talking about the little stuff.

Leonard: Ok.

Katz: Is there anything else that anybody wants to raise?

Saltzman: I have one.

Katz: Go ahead.

Saltzman: There was a point -- we have an amendment about creating the board of appeals. It was suggested that the representative from the towing industry be elected by their membership.

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Gaylord: And that was my intention, that they would be, so we can add a specific reference to that if you wish. Either be selected or, you know, however they choose to designate who their representative is going to be, that's fine.

Katz: So let's add the language, selected by the industry.

Ayres: The current amendment reads, in b-1, that the board is appointed by the commissioner in charge of the bureau of licenses. So we would need to restructure this, you know, but, you know, that can be accomplished in --

Leonard: Can't we just say, including one member from the industry, nominated by or selected by the industry?

Ayres: Well, I think it should say -- just be more specific. The commissioner shall appoint the representative in spots two and three and --

Katz: Right. Commissioner will --

*******:** The industry will appoint --

Katz: Commissioner will represent, or representative from the public agency and member from the general public, and the representative from the towing industry will be selected by the industry.

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

Katz: All right.

Ayres: I think that's better code drafting.

Leonard: So you have that language?

Ayres: I can certainly write it.

Leonard: Ok. Some of this confusion may come from the fact that we were using purchasing bureau boilerplate and some of it applied and some of it didn't.

Francesconi: When you create these administrative rules, who you going to run those by? Is it the towing board? Is it this group?

Gaylord: Not the towing board of review. They don't deal with anything to do with this. They're more concerned -- or entirely concerned with the needs of the agencies.

Francesconi: Ok. So when you do the administrative owe the way this is written, this is the appeals arriving from it, but who's the group you're going to talk to about the administrative rules themselves?

Gaylord: I have to tell you that, first of all, this is -- i'm sort of a newbie to this. This is the first ordinance of this sort that I have dealt with this. So what I anticipated to be the process for this was to prepare a draft and then go to work on it. You know, to -- to be dealing with people.

Francesconi: What does that mean, go to work on it?

Gaylord: Well, i'm saying at that point you would distribute the draft to the people who are -- have an interest in it, and then get their input on it. I mean, we had a public hearing as well to collect input, and we've made changes, not all of the changes that they've asked for, but we've made changes every time they've been suggested.

Francesconi: No. I --

Gaylord: It was my thought with the administrative rule that we would -- that we would conduct a meeting and invite anyone with an opinion to come and discuss it and negotiate it.

Francesconi: Listen, i've been very impressed from, you know, the press I read, and then I expect this hearing to be a little different. The fact there's been actually -- I know there's been disagreement, but so much agreement on so much, and really the differences have narrowed substantially. So I think the end product of whatever process you use, given your skill in the industry has been good, but if the purpose -- usually there's a committee, there's a group of people that kind of have input on things like this, and the purpose of that is, then you have everybody in one place, and you can get this kind of feedback, but the other purpose, especially in something like this, where an area hasn't been regulated, you can have people start to get the word out. It's not just

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the words on a piece of paper, but it's how you get the word out to an industry, that behavior has to change. So I don't think we should do this on the fly. But I would think some consideration would be given to creating some kind of committee.

Leonard: Well, that is the city model. At the state, however, agencies regularly promulgate administrative rules and hearings on the rules, and obviously invite people, which I frankly think is not a bad model, and certainly, as marian has done, draft the rules, have a public hearing, take testimony, and then we -- we revise the rules based on the public testimony.

Katz: Yeah. I don't want to go into having those rules appealed to the city council. I think that's a big policy change.

Leonard: And we will work to make sure that didn't happen.

Katz: Yeah.

Francesconi: Where do they get appealed to, then?

Leonard: Where do they get appealed to now? From anywhere.

Gaylord: We've not had administrative rules in this particular program, but what we've set up here was hopefully creating, in this p.p.i. Board of appeals, the body to which they could appeal that, and then those findings could be appealed to the code hearings officer.

Katz: To the code hearings officer.

Ayres: Excuse me. The way this is can you remember drafted, the board of appeals only hears appeals -- shall hear and resolve processes and appeals arriving from adoption of administrative rules. So this would not involve an appeal by a tow contractor penalized -- or a tow --

Gaylord: No. That goes directly to code hearings.

Katz: But the question was, it goes to the code hearing officer.

Ayres: Yes, rather than the council.

Katz: Rather than the council, and I think that's the way we would like to leave it, unless there's a big change in terms of policy. All right. Let me --

Francesconi: But the code officer then -- i'm confused. Let's say a -- let's say somebody doesn't like an administrative rule. Where does the appeal go on the rule itself? Not the violation of the rule. Or is there an appeal?

Ayres: Initially, it would go to this new p.p.i. Board of appeals, and then if a person was aggrieved by the decision made by that board, it would go to the code hearing officer.

Katz: The board shall hear and resolve protests and appeals arriving from adoption of administrative rules by the director. And so it goes to the appeals board, and then there's an appeal to the code hearings officer.

Francesconi: Well, I read that, and I could read it wrong, but I read it that if you violate one of the rules, it goes to this group. No, that goes to the towing group?

Gaylord: Item a is where you're talking about violations of the tow companies. The intention was that the -- everything in item a already exists. That's been the process so far.

Francesconi: Right.

Gaylord: If there was any sort of enforcement action taken, it was appealable to the code hearings officer.

Francesconi: Ok.

Gaylord: Now we're just adding to that.

Francesconi: So b, if you don't like it, the rule itself, you can appeal it. Owe then a code officer sets administrative rule?

Gaylord: There again, our thought is that the p.p.i. Board of appeals would be the first and most natural group to be hearing it. And then if -- you know, we wanted to give them someplace to go after that, so that's why it went to the --

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Francesconi: Well, I guess i'm not interested in the council hearing these appeals, but i'm not interested in one code officer setting administrative rules either.

Katz: It says pursuant to chapter 2210. I don't know what that is.

Ayres: That's the code hearing officer section.

Katz: The section.

Ayres: The alternative would be to simply eliminate c, and then the decision of the p.p.i. Board of appeals would be final, any further review would be --

Katz: I'm not interested in doing that.

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

Gaylord: I can express what my understanding of this is from conversations with the code hearings officer, and that is that if the code hearings officer found that the p.p.i. Board of appeals had acted inappropriately in some way, that it could be sent back for further review. I think that that -- it's my understanding that the code hearings officer would not necessarily be ruling on the content of the code, but on whether the p.p.i. Board acted within its authority, you know, came to a reasonable conclusion, and then, as she said, they would still be able to go to a writ of review that.

Francesconi: Ok. Where i'm at is that we have a problem, we need to fix the problem. I think we can fix the problem by passing this tonight, but what I would prefer, for several reasons, is that a group -- and I don't know what the right designation is, maybe it's this group, except bigger -- be convened to assess some of these things, but that's my preference, but not the commissioner in charge's preference. If i'm speaking myself, then we should just move on and forget this. Another way is maybe you could talk about this and you could bring it separate, away from this.

*******:** Can I ask your question? I'm not sure I understand.

Leonard: I think what he's suggesting in the initial drafting of the administrative rules shall we convene a committee to do that or shall we have you do that and then hold hearings? I'm open to either way.

Gaylord: There's been no established plan for that. We have a draft of administrative rules, but as far as finalizing them, you know, i'm open to any possibility.

Leonard: I have turned a new leaf in my life. I'm all about process.

Katz: Oh, that's what you say.

Leonard: If we have a committee and talk things through, i'm happy.

Katz: Does everybody hear this? Figure out a way. There are all different ways of doing it. You either draft tentative rules and bring people together and review them.

Gaylord: I think that's where we are.

Katz: You talk about principles of rules, draft them, process them again. There's a variety of ways. Let the commissioner and you make a decision, but I think the notion here was that you ought to be more inclusive with the ideas and really hear them out. Not that you'll agree on every point.

Gaylord: Yeah. There truly was no intent to exclude anyone from this process.

Katz: Ok. I need a motion for the amendment. The amendments that we have here.

Ayres: Council, there was one other amendment proposed.

Katz: The auditor?

Ayres: That the additional insured language in 013 h-4 be deleted.

Katz: Say that again.

Ayres: Section 013-h-4.

Leonard: Ok.

*******:** That's writ spells out the requirements of the insurance.

Katz: That's the auditor versus the towing --

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Ayres: No. This is requiring that the city be named as an additional insured on the insurance policy of the that's typical city language for our contractors. This would protect the city in the event we were included in a claim, but it --

Gaylord: That's language that has been there all long. I yield to the city attorney for what's the appropriate kind of language.

Leonard: That's not new. We're not proposing that. That's been there.

Ayres: Well, it's standard city insurance language in city contracts. This isn't exactly a contractual situation. I think it's debatable whether council would want to include this or not. If the city was ever named in a lawsuit as a result of one of these tows, this would protect us in the same manner in which the tower was protected by the insurance company. Typically it doesn't cost anything else, I don't think. Doesn't cost anymore to have the city named. It's just an additional protection.

Francesconi: We should probably -- if it doesn't cost anymore, we should leave it.

Katz: Yeah, I would leave it is as. I saw two hands up. It better be relevant to what we're discussing.

Preston: In regards to the last issue, steve preston with sergeant's towing, item 6 on the very last page of the p.p.i. fee says determination of the -- to the p.p.i. Board of appeals shall be final. That's why I was addressing that there be some other method other than the p.p.i. Board, a committee of three people. That's what you guys were talking about. Section six basically says whatever they decide, it's done. There's no appeals to --

Gaylord: There was a later amendment.

Katz: What?

Gaylord: There was a later amendment. I believe the version that you got has the later amendment that says may be appealed to code hearings officer.

Preston: Oh. Mine says --

Katz: Are you looking at this?

Preston: I'm looking at the copy provided to me by the --

Katz: Yeah.

Preston: That's been changed?

Katz: If you were listening, that was the whole conversation on the code hearings officer. Another hand up there. Yes?

Dan Closser: I have a problem with the code hearings officer hearing complaints. It's a conflict of interest.

Katz: Well, we have code hearing officers hearing land use, a lot of issue. They may be a city employee, but they have -- they are neutral, not biased, and review the facts. So I need a motion to adopt this amendment. The one that you distributed.

Leonard: We made some changes in that.

Katz: With the changes.

Leonard: I mean, we -- you guys are ok towing with dogs, so that's fine.

Katz: This is your amendment. This is your amendment where we had the representative from the towing industry selected by the industry itself, but there's other language, we have to adopt this as amended.

Leonard: Ok.

Katz: Trust me, make a motion.

Leonard: Exhibit one, I move ordinance 1437, exhibit one, as amended.

Katz: Ok. Any objections? Hearing none, so ordered. [gavel pounding] all right, now i'll take a motion -- well, we'll now have an ordinance as amended. Any further conversation, any further discussion?

Leonard: I'd move adoption of the ordinance as amended.

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Katz: All right. Roll call.

Francesconi: Well, I do think that, you know, we don't need to regulate everything, but we do need to regulate this. It was not because of stories we heard, but also just the way that there is -- there isn't competition really in this where somebody else sets the price. So I think for those reasons, this is the right thing to do. And we need to regulate it. I think the rules that we're now passing are good, and are good regulations in that regard. I feel a lot better knowing that we're going to bring together a group of people, because part of this is education and part is making sure we have the details right. And part of it is making sure the good players can influence the not good players. And we have good players and we have some other folks that aren't quite there that need the regulations. And so I appreciate how really I think we've come together here. Not everybody's happy. But I think it's -- it's -- I support it. Aye.

Leonard: Well, in the old west, we used to see signs that said trespassers will be shot, and we've moved beyond that. No, you shouldn't trespass on to somebody's property, but being shot for doing that is probably a little too much. In the same vein, I think probably some of the tow examples we've heard of are a little too much. This isn't about sending a signal to people, it's ok to park in private parking lots that are posted. That is still not ok. We are just going to regulate the amount that's charged for that. And create some protections for people who are towed for doing the wrong thing. We're not -- we're not endorsing doing the wrong thing. We are saying that the punishment should fit the offense. And that's what this is about. Aye. And I also want to thank you marian for outstanding work on this. This is exemplary work.

Saltzman: Aye.

Katz: Let me thank the towing industry that came in with the amendments. They were helpful. And maybe they may make life a little easier for everybody, and also thank marian for this work. We did not resolve the auditor or the -- or the tow desk issue, so let me recommend, we're going to vote on this today as you see we're going through that voting, but i'd like for you to go back and have that conversation with the auditor, and if the auditor feels that that's ok, then come back with another amendment on just that particular section. That mikes me feel better, make sure we've dealt with every issue that the council discussed. Aye. [gavel pounding] thank you, everybody. We stand adjourned.

At 8:19 p.m., Council adjourned.