



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **21ST DAY OF JANUARY, 2004** AT 9:30 A.M.

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

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

Item No. 49 was pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
<p>39 Request of Todd J. Kurylowicz to address Council regarding social consciousness (Communication)</p>	PLACED ON FILE
<p>40 Request of Glenn Warren to address Council regarding closed door on the community (Communication)</p>	PLACED ON FILE
<p>41 Request of Professor Sam Oakland to address Council regarding last chance to save Pioneer Post Office (Communication)</p>	PLACED ON FILE
TIME CERTAIN	
<p>42 TIME CERTAIN: 9:30 AM – Accept the report on Homeownership in the City of Portland for Program Years 2001-2002 and 2002-2003 (Report introduced by Mayor Katz; Previous Agenda 5)</p> <p>Motion to accept the report: Moved by Commissioner Francesconi and seconded by Commissioner Leonard.</p> <p>(Y-4)</p>	ACCEPTED
CONSENT AGENDA – NO DISCUSSION	
<p>43 Accept proposal of Stacy and Witbeck, Inc. for the Portland Streetcar from Portland State University to the South Waterfront Area RiverPlace Extension Phase 3A for an estimated amount of \$9,911,069 (Purchasing Report - RFP No. 102328)</p> <p>(Y-4)</p>	ACCEPTED PREPARE CONTRACT

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<p>44 Accept bid of Stellar J. Corporation for the South Airport Basin Phase II project for the estimated amount of \$1,472,605 for schedule A and Westech Construction, Inc. for the estimated amount of \$773,383 for schedule B (Purchasing Report - Bid No. 101650) (Y-4)</p>	<p align="center">ACCEPTED PREPARE CONTRACT</p>
<p align="center">Mayor Vera Katz</p>	
<p>*45 Pay claim of Mr. Khalil Zonoozy (Ordinance) (Y-4)</p>	<p align="center">178145</p>
<p>*46 Pay claim of Mr. Tony Nguyen (Ordinance) (Y-4)</p>	<p align="center">178146</p>
<p>*47 Apply for an Office of Domestic Preparedness FY 2003 Urban Area Security Initiative Grant to train and equip First Responders (Ordinance) (Y-4)</p>	<p align="center">178147</p>
<p>*48 Change the salary range of the Nonrepresented classification of Alarm Program Coordinator (Ordinance) (Y-4)</p>	<p align="center">178148</p>
<p align="center">Commissioner Jim Francesconi</p>	
<p>*49 Authorize an increase in nuisance abatement civil penalty amount for violation of street tree and other public tree regulations (Ordinance; amend Code Sections 20.40.170, 20.40.180, 20.40.185, 20.40.190 and 20.40.195)</p>	<p align="center">REFERRED TO COMMISSIONER OF PUBLIC UTILITIES</p>
<p>*50 Amend agreement with Oregon Department of Transportation to provide for the Pacific Highway I-5 Interstate Bridge to NE Oregon St, I-5 Preservation, Project (Ordinance; amend Contract No. 51417) (Y-4)</p>	<p align="center">178149</p>
<p>*51 Authorize agreement with Union Pacific Railroad Company and authorize payment for Bybee Bridge Replacement Project (Ordinance) (Y-4)</p>	<p align="center">178150</p>
<p>*52 Amend contract with Lloyd District Transportation Management Association in the amount of \$75,000 to provide a variety of transportation-related services to the Lloyd District (Ordinance; amend Contract No. 34380) (Y-4)</p>	<p align="center">178151</p>
<p align="center">Commissioner Dan Saltzman</p>	

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<p>*53 Approve settlement with Qwest Communications, Inc. regarding the Alder Basin Relief and Reconstruction Phase 4, Ladd's Addition project (Ordinance) (Y-4)</p>	<p>178152</p>
<p>REGULAR AGENDA</p>	
<p>Mayor Vera Katz</p>	
<p>54 Adopt the Five-Year General Fund Financial Forecast upon which the FY 2004-05 Budget shall be based (Resolution) (Y-4)</p>	<p>36197</p>
<p>*55 Accept a \$498,724 grant from the U.S. Department of Justice, Office of Justice Programs, Office on Violence Against Women (Ordinance) (Y-4)</p>	<p>178153</p>
<p>*56 Create a new classification of Watershed Pipeline Specialist and establish an interim compensation rate for this classification (Previous Agenda 32) (Y-4)</p>	<p>178154</p>
<p>Commissioner Jim Francesconi</p>	
<p>*57 Authorize contract with Stacy and Witbeck, Inc. and provide for payment for construction of the Portland Streetcar RiverPlace Extension Project (Ordinance) (Y-4)</p>	<p>178155</p>
<p>Commissioner Dan Saltzman</p>	
<p>*58 Authorize a subcontract agreement with Drake University to accept \$9,000 to support the work of the Portland-Multnomah Food Policy Council (Ordinance) (Y-4)</p>	<p>178156</p>

At 10:54 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 21ST DAY OF JANUARY, 2004 AT 6:00 P.M.

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

Commissioner Saltzman arrived at 6:03 p.m.

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

<p>59 TIME CERTAIN: 6:00 PM – Establish Time, Place and Manner regulation of establishments that sell and serve alcoholic beverages, adopt implementation guidelines and policies (Ordinance introduced by Commissioner Leonard; adopt Code Chapter 14B.120)</p> <p>Motion to amend language of Exhibit A, 14B.120.040 A, 2: Gaveled down by Mayor Katz after no objections.</p> <p>Motion to amend language of Exhibit A, 14B.120.040 A, 3: Gaveled down by Mayor Katz after no objections.</p> <p>Motion to amend language of Exhibit A, 14B.120.020 E: Gaveled down by Mayor Katz after no objections.</p> <p>Motion to amend language of Exhibit A, 14B.120.020 B, 3: Gaveled down by Mayor Katz after no objections.</p> <p>Motion to amend language of Exhibit A, 14B.120.020 B, 2: Gaveled down by Mayor Katz after no objections.</p> <p>Motion to amend language of directive f and add “Portland City Council”: Gaveled down by Mayor Katz after no objections.</p>	<p>Disposition:</p> <p>CONTINUED TO JANUARY 28, 2004 AT 2:00 PM AS AMENDED</p>
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At 9:37 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.

JANUARY 21, 2004 9:30 AM

[Roll call]

Katz: Commissioner Sten is on personal business. He's on leave of absence for maternity leave. All right. Let's take 39, communications.

Item 39.

Kurylowicz: My name is todd kurylowicz, resident of Portland. Here's my belated martin luther king quote. Somehow this madness must cease. I speak as a child of god and brother to the suffering poor of vietnam. I speak for those whose land is being laid waste whose homes are being destroyed, whose culture is being subverted. I speak for the poor of america paying the double price of smashed hopes at home. I speak as a citizen of the world. For the world as it stands aghast at the path we have taken. I speak as one who loves america to the leaders of our own nation. The great initiative in this war is ours, the initiative to stop it must be ours. This is a message of the great buddhist leaders of vietnam. Recently one of them read these words and I quote, each day of the war goes on the hatred increases in the heart of the vietnamese and the hearts of those of humanitarian instinct. The americans are forcing even their friends into becoming their enemies. It is curious that the americans who calculate so carefully on the possibilities of military victory do not realize in the process they are incurring deep psychological and appellate call defeat. The image of america will never be the image of freedom and democracy but the image of violence and militarism. Unquote. I'd like to place pray -- note he's on the sidewalk. Expressing his first amendment rights. Peacefully. It's called inciting a riot. The police. The same day. The police are on the street. Demonstrators on the sidewalk, a public right of way. Peaceful protest. We'll pause it right there and glen will be up next to finish the video. Thank you.

Item 40.

Glenn Warren: My name is glenn, i'm a resident of Portland, citizen of earth. I'll trying try to make this quickly.

Warren: Ok. We're going to watch the rest of this video.

Warren: She's saying "peace."

Warren: Two cans of pepper spray. This is when bush visited. There's our city attorney, these two officers that are standing here with him will walk down the street and do something disgusting. Peaceful protest, everyone just meandering about. This happens to be a friend of ours, and you all are familiar with this person as well. I imagine that this is a message that you're trying to send to us. Here is another man getting jumped, and as you will see, after he is handcuffed, the police begin to elbow him in the ribs.

Warren: Watch the elbows.

Warren: What you can't see is what's happening to amber at this point as well. She's getting thrown against the vehicle and roughed up quite a bit. Closed doors. Let me read a quote, you can correct this quote if it's inaccurate. This is from the mayor. "i was lucky to have the opportunity to see what was going on around the country with reverend martin luther king jr., says Katz. That sense of injustice made up my mind I was going to participate in my community to make my community more humane and at peace. These are the kinds of things that we would like to avoid, and this is what opening up to the community means, is speaking to us. We have tried and tried and

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tried to get civil rights and our voices heard, and according to you -- as you can see, this is what it escalates to. This officer pulls up and in the heat of it all, is ready to whip out her gun. This could have gotten much, much more serious. You're the commissioner, police commissioner of this city. Correct? What kind of responsibility are you going to take for this?

Katz: Thank you. Let's keep going. Item 41.

Item 41.

Katz: Sam, come on up.

Sam Oakland: My name is sam oakland, i'm a visiting professor of law at the mark hatfield school of government at Portland state university. Presently just about to teach a new course called blind justice, blind lawyers. In case any of you want to come up. Rather struck by the film in may of 1970, when police rioted and beat up students at Portland state, I filed a federal lawsuit, dexter oakland versus tactical squad and the police bureau and the city of Portland, a consent decree one year later. Supposedly there was a new code of how to behave. 30 years later, 34 years later, we're here. Pioneer post office will be being visited by bulldozers within 30 days, and the city can stop it.

As my wife says, city can stop it. The city's powerful. The city can just do it. The city needs to do it, and it has to do it within the next 30 days. There is a process under u.s. Code 16470 that says protection means local review process under state or local law for proposed demolition or change it's to or other action that may affect historic properties designated pursuant to the subsection. You can stop the bulldozers from taking out the beaver pond and putting a hole in the building, and keeping the eviction of the pioneer post office. We can keep our post office, we can stop the building of the five-car parking lot for judges, and the city can do it. All it has to do is have the city engineer say, look at the law, let's have the local review, let's do it now. Please stop the bulldozers.

Please save the pioneer post office. Please save our city's building. Thank you.

Katz: I do have consent to have commissioner Francesconi respond since we don't usually do that? Go ahead.

Francesconi: We've -- the city's denied the permit to do the work. So now it's up to the federal government. They can appeal it to the council, or they can request a planning process. But hopefully now the g.s.a. Will respond. We've written a letter telling them that, and they haven't responded.

Oakland: They may not respond. They may just bring the bulldozers in.

Francesconi: Well, I think the rules that need to apply to everyone, including the g.s.a., say that there needs to be a permit.

Oakland: I think the city should ask for a stop order until local review process under the law is completed. And I would like the city to ask for that stop order.

Francesconi: We'll consult with the city attorney.

Oakland: Thank you.

Katz: I was going to recommend that if you did that, take one step further and consult with the city attorney.

Oakland: Come up and take my place, blind lawyers, blind justice.

Katz: All right, everybody. Thank you. Consent calendar, any items to be taken off consent calendar?

Moore: We have a request from commissioner Francesconi's office to remove 49.

Francesconi: Just going to bring it back.

Katz: Ok. 49. Any other item? Roll call on consent agenda.

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

Katz: Mayor votes aye. [gavel pounded] 49.

Item 49.

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Katz: Ok. Any objections to -- do you want to return it back to your office? Any objections, hearing none, so ordered. [gavel pounded] time certain.

Item 42.

Kevin Montgomery-Smith, Chair Homeownership Advisory Council : Hello, mayor. Members of city council. My name is kevin montgomery smith, i've served as the chair of the homeownership advisory committee for hcdc, and to my right is john miller, he's the executive director of host and he'll be serving as the chair for the coming year. The committee is a homeownership advisory committee. Every year we produce one report, and that's homeownership in the city of Portland. The report has been an attempt to monitor the homeownership programs of the city, and homeownership programs that the city partners with, either the county or another entity, the state being one with the new 2004 program that came about last year. There's a great deal of information in here, but john is going to speak to the two most relevant points that the key findings of the report this year. There was an attempt this year to put on more market information as well, so that it went to a little bit of a broader audience, but with that I just want to turn it over to john to talk about the key points that the report found.

John Miller, HOST: Thank you. Within the report -- first I recommend that you look at the report, a ton of effort went in by city staffs and members of the committee, and there's a lot of great information here. Some of the things that we focused on, one of the things we'd like to do is conduct in the coming year a review of the literature on minority homeownership for the purpose of identifying the best strategies to close the gaps. Portland still has about a 20% gap between minority homeownership and white homeownership and we need to close that. We also as many of you know, we recently lost the single family tax abatement, and one of the charges we'd like to take on is making sure that that is reinstated, doing what we can do to get the tax abatement reinstated for the housing opportunities around the city. Also we recognize that the effort is -- goes far beyond just what the city does, so another thing the homeownership advisory committee is going to do in the future is look at all the efforts of many entities and such as host, fanny mae, such as Portland housing center, etc., to see how not only what the city is doing, but other entities are doing to address the minority homeownership issues and ownership issues overall. So at this point we ask you to accept the report.

Katz: Did you want to add anything?

Montgomery-Smith: I would like to mention by name, because they did do a phenomenal job, but shelly hack and susan coon, and barbara sack was the lead on this, and then also the -- and I think I said this in the beginning, but this has been accepted by the housing community development commission, and all the work that the commissioners on hcdc put into this as well.

Katz: Thank you. Questions by the council?

Francesconi: I have a couple questions. One is, and i'm not blaming you folks for this, but how was the ball dropped on this, the loss of the tax exemption program? This doesn't make any sense to me.

Montgomery-Smith: If you want to, go ahead, john.

Miller: Actually, the -- my understanding, the city approved the tax abatement and went to the legislature. The legislature, it got bogged down in session by a couple of special interests bills that were tacked on to the bill that would have allowed the abatement to go forward. Because of those tack-ons, it died in committee, it did not make it out of committee.

Montgomery-Smith: It was a subdivision issue in tualatin of one woman's properties.

Katz: It got caught into that one woman's --

Miller: Oregonians for action.

Francesconi: There's a lot of bills to track, but were we paying -- we being our city lobbyist, were we watching this and tracking this.

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Katz: Yes.

Montgomery-Smith: A lot of people were watching it.

Francesconi: I've talked to the realtors about this, i've talked to margaret carter about this, she's taken the lead on this, but whatever we can do to help on this, ha this has to be a high priority of our legislative agenda. So let us know what we can do to help. The second question is, again, i'm not blaming you folks per se, but on the issue of minority, the lag in minority homeownership, this is something I think was in the report last year. This is something we've known about for a while. How come we don't yet have any more specific tragedies and we need another year to address it? It doesn't seem right to me.

Montgomery-Smith: It was a decision by hcdc to do an auditor review. It was the opinion of several of the commissioners that there was an awful lot of information out there that might not speak to Portland specifically, but that does speak to strategies. As you know, hcdc is not an implementation organization. We are kind of a review body, and when hoac in the original document suggested doing a localized study about why this is happening, where the issues really are, and it was an issue of funding, we did not, hcdc could not authorize the funding to do a localized study, so the idea of doing a review and looking at strategies is something that came up. The initial reason why the report came into existence was to report on advances that other agencies and other city organizations, state and county partners, were making. It's not the duty of hcdc or the hoac committee to put forward these ideas, it's to report on them, unfortunately.

Francesconi: Well, somebody needs to take the lead on this.

Montgomery-Smith: You're right.

Francesconi: I think you're well positioned to do it, so i'm glad you're doing it now. What's the time line on this? We're not going to -- it's not going to be another year from now we're going to get this report, is it?

Miller: The next report?

Francesconi: The report on this particular strategy. On increasing minority homeownership. When will we get that?

Miller: At your pleasure, I -- in other words, we would ask you to -- at this point it would be a year from now, and we would report back as to what changes have been made. If you would like a report back, you can certainly request that of the committee.

Francesconi: I think as your report raises, we're at a point where we may have rising interest rates, and we can't wait a year for the interest rates to rise to create a further barrier. So is three months a realistic time frame? To get a report back?

Montgomery-Smith: We can speak pretty freely, because we're not the staff that's doing the work. Absolutely.

Katz: We'll ask the staff.

Montgomery-Smith: No, the thing about it is, we were -- one of the things we're in the middle of doing is looking at the strategic objectives of hcdc for the hoac committee to produce more than one report a year I don't think is asking too much. And it would be something that we could take forward in executive committee at hcdc and get back to you on.

Francesconi: Is the private sector bankers engaged in this, because I have a feeling we could come up with some short-term strategies pretty quickly. By engaging the banking community. Maybe they're already involved.

Montgomery-Smith: Some are involved. We continue to talk about membership of hoac and the finance committee continues to come up and who can play the best role.

Miller: Actually, that was a topic of our last meeting. Membership was one of the topics, and we definitely realize the need to include bankers and home builders within the committee, and so we're doing outreach right now to get both of those more strongly represented. There are other

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organizations, african-american alliance for homeownership, that we've asked, cheryl roberts to join the committee, she's the chair of that. So we're trying to broaden the committee in order to address the specific issue of minority homeownership.

Francesconi: That would be terrific if you could do that. And if the report could have short-term actions, long-term actions of course the roll of the city, the role of the private sector, the role of lending institutions, role of home builders, if it could -- so that particular charges, and therefore if you involve those that we're going to end up asking people to do things.

Montgomery-Smith: I think that's really interesting. Who on your staff could we go to to kind of pick your brain on those ideas, because i'm sure somebody back there wrote all that down.

Francesconi: Me.

Montgomery-Smith : And if I could say one more thing about the takes abatement, the issue on this tax abatement was dropped, and we do have to revisit that and get that tax abatement back for the homeownership opportunities opportunity zones. The other issue is that authorization for other tax abatement programs will be coming up, and to continue to monitor those on the city and stateside as well. And with all the partners that are involved. We've asked staff to put together a list of what the time frame is on each one of the tax abatement authorities, and how they're going to be going back to the state, and would just ask that you continue to watch those as well.

Francesconi: Thank you.

Katz: All right. Let's bring staff up. Do you want -- if it's staff driven --

Leonard: It's not staff driven.

Katz: Fine. Go ahead.

Leonard: Thank you. I just want to make a couple observations, and then if you'd like to comment on them, would I appreciate that. This report and some of the questions I just heard are an example of how frustrating it is for a lot of Portlanders to look at the kind of business that we do. We read a report like this amongst items that stand out to me is, in your report, that the local median sales price -- excuse me. In the Portland area, 46.6% of the homes sold in the area are affordable to families earning the median income. This ranking is based on the local median sales price of \$167,000 and a median family income of \$57,200. The Portland metro area's rank on this index has moved from 24th least affordable housing buying market in 2001 in the third quarter to 31s least affordable 2002 first quarter. That means people are having a harder and harder time being able to afford buying a house. But there's a little glimmer of hope on page 5 of your report. You say, homeownership opportunities are increasing because of new infill construction on small vacant lots and conversion of single family houses from rentals to owner occupied units. That was before the council eliminated the ability to build on small lots. Small houses. Now, I can't help but be struck by the fact that we're concerned that minorities, and it's been pointed out african-americans are having a harder and harder time, in fact a number of african-americans that are able to buy houses in this city are decreasing. They have to move out. I can't help but be struck by the fact when we had a debate in this chamber on this issue of affordability, it wasn't an african-american that testified. Or in the audience. It was observed by me and my staff that opposed the ability to build these small houses. So when we're talking about affordability for houses, it's great to accept a report and say the things that sound good, it's quite a different thing to look at neighbors in the face and say, you know what? The issue here is affordability, and it's affordability for people who can't afford to buy houses in this community, and we have to do hard things to try to implement what you're recommending here. And until we do that, reports like this gather dust on the shelf. And it's just frustrating to me. If you want to make a comment on that, i'd be interested, but that's just an observation.

Barbara Sack: I'm barbara sack, I work at the planning bureau. I'm one of the staff to hoac. The planning bureau I think is always looking for ways to encourage infill on existing city lots.

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Katz: That's -- that was another issue.

Leonard: It's the exact same issue.

Katz: The point -- what we had to deal with was not the affordable housing, it was a zoning, it was a comprehensive plan issue. I think what you raise is legitimate, and I think how we -- what tools we use, and how we increase wages so people can afford to buy homes. Now, let me go after the report for a second. You didn't -- I couldn't find anything in the report that stated that in fact in the city of Portland we're doing much better in homeownership than we were a couple years ago. It's not in the report. Or if it's in the report, you need to show it to me. All right? If I recall correctly, because I track the american survey on homeownership, and the numbers have continued to go up slightly, but have continued to go up, so there is some good news. Yes?

Sack: Yes.

Katz: Ok. Fine. Now, what's missing in here too is the annual years and the changes over the period of five to 10 years. And to track to see if we in fact gentry identified parts of the city, people moved to other places, maybe where homeownership is at a lower cost, whether it's Washington county or the boonies or clark county, to see if in fact we maintain minority homeownership or provide opportunities for minority homeownership in other places. You haven't done that either.

Beth Kaye, Bureau of Housing and Community Development: We compared the homeownership rates --

Katz: Identify yourself for the record.

Kaye: My name is beth kaye, i'm lead staff for the housing community development commission and I work at the bureau of housing and community development. Our homeownership programs in the city occur predominantly in two bureaus. The bureau of housing and community development and at p.d.c. and the programs are somewhat different in each. On the -- with the bureau of housing, looking more at homeownership opportunities for low-income people and at the income side of the equation, and p.d.c. Looking at other homeownership opportunities, so that's the general array of programs. All of our programs really are marginal to the larger market, and the larger market has been steadily increasing homeownership costs. And also increasing -- different product outside of the city core. In this report, we did look at homeownership rates in Washington county, and --

Katz: I meant, you can't -- if you do a snapshot only of the current year and in fact you're four years behind the schedule, you're not getting a snapshot of trends.

Kaye: That's true.

Katz: And what you need to do is begin to look at trends. Are we seeing any trends, what are they? People move around. I know gary keeps talking about the fact that we may be losing population for some groups because they move to find different neighborhoods for either better schools, or for affordable housing. So i'm not criticizing, i'm just saying that I think next time you need to kind of view the broader picture of trend lines and then where people move, we'll be able to see, for example, if in Washington or clark county the trends of minority homeownership has gone up or the last five or 10 years. That's an indication that something's happening. Snapshot of 2000 census alone isn't going to do it.

Montgomery-Smith: We actually asked that question at the end of last year's -- mike saba, mike had actually looked at the population trends of the african-american family especially to take a look at whether or not they were being priced out of larger sides homes and moving into Washington county or into clark county, and didn't see any significant movement. And that was based on sales records and a lot of stuff from the realty community. It wasn't that we weren't looking at that, it just that it really didn't show us anything. I understand what you're saying about looking at longer trend lines too.

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Katz: Ok. I made my point. All right. Anybody else want to testify? Roll call. Motion to accept the report. Do I hear a motion?

Francesconi: So moved.

Leonard: Second.

Katz: Roll call.

Francesconi: The reason, you know, i've tried to put some urgency on the minority homeownership is actually the good work you've already done from p.d.c. On these charts that I have in front of me that were part of the housing study done by p.d.c. And there were two pages that I pulled out. And the issue isn't -- the issue is jobs for many of our low-income citizens. But it's also wealth creation for many of our low-income citizens. And this chart I have in front of me talks about homeownership, it says, homeownership equals wealth creation. And there's a chart that shows how much people own in assets. In 1989. And the owners have the average in Portland is \$139,000 worth of net worth. For renters, it's \$2,700. In 2001, the owners' net worth has gone up to \$171,000. The renters' net worth is \$4,800. And then the next chart shows the purchasing power. And what available mortgage rates are available for different classes within Portland. And it shows that the available mortgage for whites is \$250,000, for blacks it's \$135,000 for hispanics, \$126,000. And asians, \$207,000. So it's that gap in the ability of available mortgage which leads directly to the smaller homeownership numbers, which leads directly to less wealth accumulation, which leads to poverty, which leads to passing it on, which leads to a divided city. So that's the reason for the urgency on this. And it seems to me that the key is how are we going to either come up a down payment that allows the mortgage to be smaller or some guarantees on the mortgage. So i'm not sure we need a year-long national study, frankly, to get at this. This is not complicated for my view. Maybe complicated for me, but I don't believe it's complicated for you. So that's what we have to do. And it's going to take a community effort to address it. Thank you for all you've done in the past to raise these issues. Aye.

Leonard: I think the mayor raised a good point about trending, but I think they are addressed in one of the portions I read on page 18 of the report under affordability that says that in a one-year period, Portland has become less affordable. When I ran for office to this position, I had the opportunity to pick anywhere in the city to go door-to-door. So I chose to pick the neighborhood I grew up in, irvington. And I was born in that neighborhood in 1952, moved out 20 years later. In the era that I lived there, it was a predominantly african-american community. Including the street I lived on. As I crisscrossed the neighborhood I grew up in, I was struck by the lack of african-americans except people that I had grown up with who had inherited the house from their parents, or were living with their parents. So that was about as much analysis as I needed from seventh to 15th, from fremont to broadway, that chunk is predominantly white middle class people who have bought beautiful houses and I applaud that, but the result has been that people, including my own parents, I might add, who at one time could afford to live there, cannot today. My dad could not have afforded to buy the house I grew up in today. All things being equal. You can't ignore that. When we have opportunities and with all due respect to the bureau of planning, you did recommend to eliminate small lots in this city. And that came to pass. So you can't disconnect and try to categorize something and not connect it to the impact it had on people of poorer means. They have less opportunities as a result of that action to buy houses in the city of Portland. That is the bottom line. So when we take a report like this, I -- it means something to me. And I think we need to do hard things to implement your recommendations. And I appreciate it. And I am committed to doing the hard things it takes to create opportunities for people to buy houses in this city that are affordable, even if it means angering some of the new wave of people who have moved into traditionally lower income areas. Aye.

Saltzman: Appreciate your work. Aye.

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Katz: Thank you. I do too, i'm sorry the commissioner Sten isn't here, because there are strategies and he's the expert on them and trying to keep people in their homes by subsidizing some of the costs and the programs that are available. But I would like for you to kind of step back when you do these reports to really take a look at trends and see if there are some significant trends. As we invest in communities, there is elements of gentrification, and we made a commitment that we would try to address that issue and whether we're successful or not, we're going to know in a couple of years over a period of time how much change is actually been created. But people make decisions to sell their homes and get a fairly decent price for it, move and maybe buy another home somewhere else. And without that data, we just don't know what's happening. Thank you. Aye. [gavel pounded] ok. 54.

Item 54.

Katz: Ok. Who's going to -- what you're going to hear is a five-year forecast. What we've asked the bureaus to do is go beyond the 1.1% reduction and as we've asked the bureaus to take a look at it, I guarantee you that it isn't going to be across the board, and that there will be some changes. But for the purposes of the five-year forecast, we need to identify what the gap is and how do we translate it. There -- this forecast may be a floating forecast, but for at least for now, this is what we have. So let me turn it over to our staff.

Drew Barden: My name is drew barden, i'm an economist in financial planning. You have a resolution before you that simply asks for acceptance of the five-year financial forecast and the basic fact that there is an -- at least a \$2.8 million gap and that we will need to cut current appropriation levels in order to balance the budget and balance it for the coming five-year period.

Katz: Ok. Questions by the council.

Francesconi: We've been through this. I'm not going to ask you detailed questions. But -- maybe it's not even appropriate now, but do you want to summarize for the public, and if you don't want to, why the difference, why the drop in revenue?

Katz: Why don't do you that. That's a good idea. Summarize what's gone up and what's gone down.

Barden: The numbers that came in from calendar 2003 which are now coming in that are available show that 2003 was absolutely in terms of the last three years, the worst year for the regional economy and for the Oregon economy. And the result is that the recession continues to depress the cyclical revenues, or the elastic revenues such as business license and transient lodgings are way down from their 1999-2000 peaks, and either not growing or growing very slowly, and in addition, we've now had three years of very weak assessed value growth, which is depressed property tax revenue growth, and the result is that the basic result is that the large revenue classes are not growing as assumed in the previous forecast because the recession is in this area taking longer in terms of trying to work out of it, which would result in a more normal types of revenue growth. In addition on franchise fees, the last couple of years we had help from large rate increases. Two years ago those were reversed, and the rate increases that occurred in energy this year were quite -- were lower than we had forecast because they were reduced in terms of their hearing process down in salem. So we also have now weak franchise fee growth. We will make some of that back up for the current year because we have had a pretty good cold snap, but that's kind of a one-time event, it's not something you count on year in and year out. So the basic answer is that the recession continues to be tough on this regional economy, and that continues to reduce revenue growth below kind of what you'd expect under normal times. And we're continually having to address that even though we're reasonably conservative with our revenue forecast.

Francesconi: Thank you.

Katz: The c.p.i. that you forecasted is 2.4%, it is now, if I recall, under -- we have a cap of 2. Correct? So we'll be able to lower everything with the c.p.i. and capture some one-time --

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Barden: I think we have a little bit of a plus that's developing there. All the data that's come in through december, which came in this month for the west coast cities, but not yet for Portland, which doesn't come out until third week of february, shows that c.p.i. Escalation rates for the year end of december all appear to be right around 2%, 1.9, a couple of cities are over, but they're in california. So I think that we probably are looking at a cola that is a 2% floor with the exception that the police contract isn't resolved, and we don't know where we are yet on that. And that's a fairly large exception considering the size, the relative size and the general fund. But I think that we will pick up several hundred thousand dollars of ongoing room with a lower cola than is in the forecast.

Katz: From the salary savings.

Barden: Yes.

Katz: That's what I thought.

Saltzman: When do we know which cola do we use?

Barden: The Portland salem c.p.i.w. Will be published, usually published in the third week of february. At that point we'll know exactly whether the cola is somewhere near 2.4% or it came in around 2%.

Saltzman: That's the figure we use?

Barden: That's the figure we use. December to december, or second half to second half of cpiw for Portland-salem.

Katz: That's the easy one. We always look for those first.

Leonard: You said the assessed value increase was less than what you thought it would be? What is it?

Barden: The assessed value increase last year was about 2.4% versus an assumption of around 2.9 or --

Leonard: How does 3.9 help us if we're capped at 3?

Barden: We're capped on -- at 3 on existing properties, but new construction comes on the tax rolls uncapped so to speak. In other words, it adds levy capacity because new construction generally --

Leonard: New construction was based on what construction --

Barden: Occurred outside of urban renewal. That's been very, very weak. There are a lot of cranes operating, but if you look at where they are, they're in ohsu, and they're down in the river district. There isn't the big crane downtown outside of -- say, an option three urban renewal district, or something like that. There's a lot of infill new home construction, but that's not where the big money is. The big money in the large commercial projects in terms of aiding general fund property tax revenue growth. And that's been quite muted. The other thing was the large increase in compression that occurred this year. The compression rate went up almost a full percentage point, which cost the general fund a million 4 ongoing in property tax revenues. Hopefully we'll get better assessed value growth and that will take some of the pressure off the compression.

Leonard: So we are right at \$10?

Barden: It's hard to say exactly where we are in terms of capacity, but we are generally right around \$10 per thousand of real market value, and there is very little capacity left in the system this year except on properties which have high real market value relative to assessed taxable assessed value. Those -- the properties that are most -- the types of properties that most fit that description oddly enough right now are commercial, where the ratio of assessed value to real market value is about 56% countywide. The disturbing data that I got this year is that the residential sector is very close to the break point, where all of the capacity available on residential properties is being used by local government. And all of the capacity that's available on large industrial and corporate personnel is maxed out.

Leonard: What's the city's combined rate now?

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Barden: The city's combined rate between ppd & r and the general fund, is about \$7.54 or something like that. And urban renewal is about \$1.30, and the two local option levies are 70-some-odd cents.

Leonard: So that's \$9.54 just for the city?

Barden: On taxable assessed value.

Leonard: Oh, i'm sorry.

Barden: That would translate into a lower -- if there were a tax rate average tax rate on real market value, that would come down, but there are no tax rates on real market value anymore. Tax rates are all on taxable assessed value. I'm not sure what a real market value tax rate means in this system. Except as when you look at property by property and see what it is on a property tax bill relative to that particular bill.

Katz: Let me flag another thing i'm going to push. You don't need to answer now because i'm not going to like your answer, so i'll push you even harder which you don't really want, but I want you to take a look at your reserve fund as a percentage of net revenues. You are above 10%, we'll probably cut a little more, so there may be some shavings on that figure.

Barden: That's possible, but we need to see the nondiscretionary side.

Katz: That's fine. I just wanted -- I wanted you to know that I noticed this, and I know that you guard that with your life and I appreciate it, but when I see numbers higher than 10%, and knowing there will be additional cuts, I push.

Barden: The forecast does use excess reserves and until later in the forecast period cope with the fire station coming online, and in the fifth year of the forecast, it is like 10.0%.

Katz: Ok.

Barden: But it does come up a little bit, you're right.

Katz: I saw that. Jennifer, do you want to -- ok. Any other questions? So we -- this is kind of the official forecast, but for budget purposes, we've asked the bureaus to look at a 2.5% reduction, and then we'll be able to make adjustments across some bureaus, because there will be some bureaus that will not be further reduced, other than c.p.i. on external materials or even internal as we make some major changes, organizational changes. Let me just let the -- i've lost a quorum. Oh, this is a resolution. Let me just tell the council that i'll be meeting with you the very beginning of next week and share with you what my thinking is about how I handle the budget for this year. I haven't made up my mind yet, and I need to talk with you about it. All right. Roll call.

Francesconi: This report and this testimony shows the link between the good economy that produces good paying jobs, and important city services like police, fire, and parks. And the business income tax, for example, is down about \$10 million over the last five years, it shows a steeper drop than that, but that's because of a technical adjustment in how we've calculated. But \$10 million is a lot. That's the sharpest drop in any of the funds. And so we do have some continued work to do with the private sector. To continue to position Portland well for the economic recovery. But, drew, thank you for your work. And thank you for coming on board. Aye.

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

Katz: All right. There will be further discussion as I said with the council, starting early next week. Your deadline for new ideas has gone and passed, I appreciate the bureau managers and the commissioners who have brought them in, and we'll proceed with what we have in addition to some of the other things that we'll be talking about. Aye. [gavel pounded] all right. 55.

Item 55.

Katz: Come on up. Good morning. You can all introduce yourselves.

Annette Kemp, Portland Police Bureau: Annette kemp. I'm with the bureau.

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Andy Neal, Multnomah County: Andy neil with Multnomah county's domestic violence coordinator's office.

Mylee McClusky, Women's Strength: Mylee McClusky with the city of Portland women's strength.

Jay Drum, Portland Police Bureau: Jay drum, family services division Portland police bureau.

Katz: Jay, are you going to talk?

Drum: Just briefly. Basically this is a grant to encourage arrest policy issued by the battered women's justice program that's also run by the department of justice. The good news out of all this is we will be able to hire three more advocates to address a void that we had when the grant ran out in 2002. This is part of the team that did the grant application, and along with the three advocates, this will also fulfill a position for a sergeant to run the grant objectives.

Katz: Let me flag something to you that i'm thinking about, I just talked to harry and just flag this, I don't want it to come as a surprise to you, there's a part of the world that has made a decision, and I don't know if we as a city can do that without legislative approval, is to give our police officers the ability for doing a restraint orders at the door. If in fact they can't go beyond that for one reason or another. So I want you to think about that, because if we can do it, i'd like to call you together and get your best thinking about whether this is something that we ought to pursue. I think it is something we ought to pursue, but again, whether we have the legislative authority or not is really the question.

Drum: I know it's been successful in some other states.

Katz: This was actually -- I just got the email from west general -- western australia, so if other states are doing it, that's even better. Again, whether we have the authority or not or if -- and if people are in doubt we just push the envelope a little bit.

Drum: I'll look up some of the history.

Katz: Excellent.

Drum: I think it's Washington, d.c., but i'm not positive.

Katz: Not quite a state yet, but -- all right. Would you -- and let me know when you do that, send it on to me and i'll send it on to dave and the chief.

Saltzman: I wanted somebody to explain exactly --

Katz: I'm sorry. I interrupted him.

Drum: This grant will be in the ideas -- let me have --

Katz: Identify yourself for the record.

McClusky: My name is mylee mcclusky, I was one of the individuals that helped write the this grant, and basically what this grant was based on was a program that we had done previous on a previous grant, and it was a pilot project actually one that ended up starting a trend not only in Oregon, but also across the nation, so it was a closely watched program. And what this program is based upon is, we would end up, whenever an officer responded to an incident, regardless if it raised to a crime, if there was probable cause for a crime, they would generate a report. This report would be called a special report. And so even if there was no arrest, even if it did not raise to a level of a crime. This grant teams up an officer and an advocate to take a look at the special report and prioritize them based on a number of indicators. And I stay away from necessarily -- there's so much mixed research regarding that. But such thing as his 30, domestic violence history, how many times have the police been called, weapons involved, children involved, so a number of factors that we would take a look at. And what would -- the officer and the advocate would then provide follow-up to this report, contacting many -- both -- actually many times the survivor and also whoever was at the home, including the primary aggressor, the perpetrator. We would provide a number of services, including different resources, ongoing case management, also we would then if there were other calls, we would also continue to respond to that family. And basically it teamed

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up the thing that is important about this grant is it teams up a community-based advocates, so, difference n. This grant from volunteers of america and rafael house, with the city of Portland, with an officer. And so we're able to offer a continuum of resources depending on the needs of the family and the safety concerns.

Katz: Ok. I have another question. In the work that you normally do on your normal day-to-day, are you -- are you tracking the homicides that you think are related to domestic violence? I think the answer is yes, but the next question i'm not sure what the answer is, and are you going back historically to see whether there were previous calls or things we missed, or did we drop the ball, or what were the indicators for us to be even more vigilant? Could somebody --

Drum: Can I address that?

Katz: Grab the mike.

Drum: Chiquita rawlings who was part of this team and my captain are at a fatality review meeting right now, and it's a long the same concept that we use in reviewing fatalities of children, and it's to review the facts of the case, as well as we can, see if there was any place we could do to improve the intervention process and to help the victim, and to avoid the lethality that the situation rose to.

Katz: Will you go back to each one of those homicides and flag how many calls we received through 9-1-1?

Drum: We can do that. That's what they're doing today on a specific case that occurred this year.

Katz: Ok. I guess what I wanted is to have it done on all of the homicide cases to see if we're missing -- what are we missing? If the goal is the minute that a red flag pops up we intervene so that there is no violent death involved, then we need to know what's been happening between maybe the first call and the homicide.

Drum: And we'll do that. And what they can do is look at the current cases and at your request --

Katz: I know chiquita will do it, but I would appreciate if there was some report that would come back to us.

*****: Ok.

Katz: Thank you. Do you want to say anything? Does anybody else want to testify? All right. Roll call.

Francesconi: Thank you for your work in getting the grant. That was terrific. And actually the mayor's question and request was very appropriate. Given the increase in the murder rates and given the direct link to domestic violence, she's doing the right thing. So will you. Aye.

Leonard: Thank you. Aye.

Saltzman: Congratulations. Keep up the good work. Aye.

Katz: This is a substantial grant, it's half a million dollars. So don't waste a penny of it, use it wisely. And make sure that you get back to us so if we need -- if the idea I just shared with you makes any sense, that may be one route, there may be others that we need to think creatively. Aye. [gavel pounded] item 56.

Item 56.

Katz: Anybody want to testify on this one? Roll call.

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

Katz: Mayor votes aye. [gavel pounded] 57.

Item 57.

Katz: Good morning, vicky.

Vicky Diede, Office of Transportation: Good morning. Vicky diede with the office of transportation. I am the city's project manager for Portland streetcar. The ordinance before you this morning will authorize the contract to construct the riverplace extension of Portland streetcar. It's about .6 mile addition to the system from the current Portland state university terminus across southwest harrison, it includes a new harrison street connector from naito down to river park way,

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and then the new terminus will be on southwest river park way right near the d.e.a. Building and the marriott hotel. The contract is with stacy and witbeck, for approximately \$9.9 million. Our minority woman-owned and emerging small business participation is at 17.9%, which is versus an aspirational goal of 16%. And that will include work for trucking, flagging, saw cutting, landscaping, signals, and street lights. For the schedule, over the next two to three months there will be public utility relocation work, and then that will be followed by the rail electrical and civil work and service will start in early 2005. I would be happy to answer any questions you may have.

Katz: After a meeting that I ran yesterday on minority contracting and contracts with all of our partners in the region, I was -- it -- I was very interested in the part of the contract that dealt with that here.

Diede: Yes.

Katz: And have you worked with the individual who's responsible for reaching those goals?

Diede: Yes. You mean in the bureau of purchases or our contractor's staff?

Katz: On the contractor's staff with the -- with stacy witbeck.

Diede: It's faye birch. Many of us in transportation have worked with her.

Katz: It is faye. I can talk to her later about it.

Diede: Yes. And angela pack, who we work with at the bureau of purchases, and she's indicated she's been very pleased.

Katz: In the previous -- this is probably a question I ought to ask faye -- in the previous contracts that you've let out, do you see the same subcontractors bidding on these jobs, and have you been able to get any prime contractor -- that would be all subcontractors.

Diede: They're all subcontractors. I don't know. The streetcar contract is a little different than just a street job. So we tend to see some different people involved. But I was looking true the -- through the list, and there -- the flagging contractor I recognized the name as well as --

Katz: What are you looking -- which page --

Diede: It's just my own piece of paper I have with me. A couple of names ring a bell with me that i've seen them on other contractors, but the rest look pretty new.

Katz: Let me ask you another, are you familiar with how they operate or any of it -- are think of -- do think of -- any of them have a desire to become primary contractors?

Diede: I don't know.

Katz: But that would be what faye would --

Diede: Yes.

Katz: Ok.

Diede: And the bureau of purchases, and the people who work on these different programs I think have got a pretty good handle on that.

Katz: Ok. Thank you.

Diede: You're welcome.

Leonard: I have a question. Yesterday we talked about the streetcar that goes from the pearl to p.s.u., and I learned something that I hadn't known, that there's quite a subsidy from the city to the tune of about \$900,000 to operate that. Is this run going to require such a subsidy?

Diede: Back in october of this year, both the city council and the tri-met board approved an intergovernmental agreement between the city and tri-met for their continued participation in helping us operate and maintain the system. We estimate it's going to cost about between 550 to \$600,000 additional funds to run from Portland state down to riverplace. Of that, tri-met will provide \$400,000. On the sponsorship and fare side, that's not going to be a big increase because we already have all the cars we need and they're sponsored, but there will be stops to sponsor, so that could be some place between 10 and \$15,000 a year, and the balance of it would be from pdot,

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the normal resources we've used for that being the parking meter revenues from the river district, and the parking fine revenues.

Leonard: So you are saying it's going to require a subsidy of about from 550 to \$600,000, but tri-met will pay \$400,000 of that?

Diede: M-hmm.

Leonard: And pdot will have to come up with the other 150 to \$200,000?

Diede: Yes.

Leonard: As I recall our discussion yesterday, we had no such agreement with tri-met as this one appears to have.

Diede: Well, for the existing phase?

Leonard: Yes.

Diede: The existing phase, tri-met also participates in the operation and maintenance costs and they agreed to pay two-thirds of our annual maintenance costs up to a max makeup of \$1.6 million. So they pay us every year \$1.6 million.

Leonard: They do.

Diede: Yes.

Leonard: So it's -- is it the same kind of financial relationship as envisioned here?

Diede: Yes.

Leonard: So we would compare the 150 to \$200,000 deficit here with the \$900,000 deficit in that run.

Diede: Yes.

Leonard: And --

Diede: And i'm not sure, there might be a little overlap between those two numbers, but it's close.

Leonard: And have we explored ways in which to fund that \$200,000 that doesn't require subsidy from pdot?

Diede: We are currently having discussions about incremental revenue sources for the streetcar. As --

Leonard: For the ongoing --

Diede: For the ongoing operations and maintenance. A year in and year out cost to run it. Because as you recall, there will be another increment in the monies needed to run it as we go to gibbs, to hook up with the tram as part of the whole south waterfront development. So through this process we're looking at different things that we can do.

Leonard: Are we discussing with the developers who -- if the experience there reflects the experience that we were told about yesterday, their property values will increase because of the streetcar. We were discussing what the developers having them pay that 150 to \$200,000 subsidy, ongoing costs.

Diede: If you go back to the terms and conditions of the local improvement district petition, it specifically indicates that the assessment is for capital, and then calls for us not to assess them for ongoing operations and maintenance.

Leonard: You're talking about in the pearl?

Diede: I'm talking about the existing system. The l.i.d.'s that we have --

Leonard: The existing system. You're talking about this system that we're talking about, has there been discussion with the developers who are -- have not yet built anything that they pay whatever the operating deficit is on the theory that as we heard yesterday, it -- that streetcar increases the property values?

Diede: We have not. It's not to say that we won't, but there are some issues involved with equity between the various phases of the project, and spec takings on the property owners. But it's -- we're not taking anything off the table right now.

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Leonard: It doesn't sound like you focus order that.

Diede: At the moment we just -- we have a list of things and we're going and looking at what it might take to bring in additional revenues.

Leonard: Would I suggest at a time when we're having to cut budgets, that subsidizing a streetcar is not the -- probably the highest priority the city has, particularly if it benefits economically those who are served by it, their property values increase. It just seems fair to me they should pay for the cost of the operation. If there is an additional cost that couldn't covered -- isn't covered by tri-met or fare payers, i'm not quite getting why we aren't being pretty vigorous in trying to negotiate an agreement where those property owners would pay the cost.

Diede: The -- they're paying approximately -- if you look at the system as a whole from Portland state down to riverplace, approximately 17% of the capital costs in the project, I think you add it up and it's close to \$13 million.

Leonard: I'm not talking about that. I'm talking about the ongoing operation.

Diede: I know. I would like to point out that, you know, some of the activities that pdot took before we started up the operation of the existing system is that one we have extended the meter district into the river district.

Leonard: The what?

Diede: The meter district, on-street meters. We increased the meter rates from like 80 cents an hour to \$1.00 an hour on the short-term and the two-hour rates, and there was a concurrent increase on longer term rates. And then we worked with Multnomah county also to increase the fines, parking fines from \$12 to \$16. And then --

Leonard: Have we discussed that? I understand that, that goes into a fund that be accused anywhere in the city?

Diede: I understand.

Leonard: So what happens is if we use those increased revenues to benefit just that project, that there are other projects no that don't get done around town. I'm just trying to figure out in my mind how to justify subsidizing a project that economically benefits those served by the project at the expense of the rest of the city. There seems to be a disconnect.

Diede: I understand. And we will continue to look at ways to fund this.

Leonard: I would appreciate it if you would add to your list sitting down and negotiate what the -- with the property owners and the developers paying the ongoing maintenance costs of whatever that might be, so it doesn't come out of pdot.

Diede: Ok.

Leonard: Thanks.

Saltzman: You said the operational maintenance costs, the additional operational and maintenance costs for the extension is \$560,000?

Diede: About -- almost \$600,000, yeah.

Saltzman: That's the total cost, that's not subsidy.

Diede: That's the total cost. And tri-met will pay \$400,000 of that.

Saltzman: And what is our -- the existing line is about 1.4 miles?

Diede: The existing line is end-to-end 2.4 miles.

Saltzman: What's the o & m cost?

Diede: About \$2.64 million for the existing line from good sam hospital down to Portland state. The primary cost to running the system of course is people. The operators and the superintendents and the mechanics and our car leaner and our managers.

Saltzman: I guess what i'm trying to figure out, I don't know, coming to some sense of how the incremental cost of going .6 of a mile is \$600,000 more in primarily labor cost.

Diede: Well, you're talking --

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Saltzman: What will be the additional run time, probably two minutes?

Diede: Oh, it's longer than that. I think it's six or seven minutes. From place to place.

Saltzman: From Portland state to the new --

Diede: Yes.

Saltzman: That's where it adds up?

Diede: Yes. That will be the new terminus.

Saltzman: My other question was on the construction contract itself, any changes to the contract amount are governed by our current city policies, so if there's a change in contract amount of -- it is 10% or more, it will come back to council?

Diede: I think that's correct. I don't know remember exactly what the number is.

Saltzman: It is all per city contract?

Diede: Absolutely.

Saltzman: Ok.

Katz: Further questions by the council? Vicky, yesterday I asked the question, I just want to make sure that I got -- I think I got the right answer, but let me ask the question, the issue with the fare has been -- fares have been resolved?

Diede: Yes. We've done a couple of things. One, we found a way to modify the fare box so we can take dollar bills and \$5 bills. In addition to that, we do -- we hire some students from Portland state on a sporadic basis to do some surveying of people to see what kind of fare instruments they're using or not. And then additionally our superintendents again on a sporadic basis, so you can't predict it, will ride the northwest loop, which is the only place where it is fared. And they again check for fare instruments, and if someone doesn't have a fare, we ask them to leave at the next stop.

Katz: What are you finding on when it goes beyond the fareless square?

Diede: Let's see if I get this right. I think -- most of the people have tri-met instruments. Either a monthly pass, or a transfer, or some people have streetcar only fares, that's like \$75 a year and the people who just use the streetcar, they use that. I believe that we've gone from I think it was around 16 or 17% of people who did not have fares down to less than 10. And we'll keep up that kind of survey. It's not a lot of money, but I think last year the -- it add up to \$80,000 to the whole pot of money for --

Katz: That's a lot of money. Ok. Not a lot of money relative, but it is --

Diede: If you equate to it something else, yeah.

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

Francesconi: A couple of things. First, just on the contract itself, it's really important that we get this as soon as we can to riverplace for the benefiting of connecting this just to the river in and of itself, but also setting the stage for south waterfront, which we have certain time frames to meet. And we have to get there. Because thus far, the streetcar has been more important as a development tool than as a transportation tool, and this is very, very important. But it leaves me to -- before I get there, the second except is, it is important now, given the -- what we just heard before on the lingering economic effects on our -- not only our budget, but on our citizens, that we use major infrastructure investments to try to employ our own folks. Especially people who haven't had opportunities. So there's this whole effort at south waterfront, and mayor, your staff was there, but i'm not sure you're aware of this, but I convened a group also with fred hansen and with bruce warner, the head of odot, to look at our construction projects not only the streetcar, but the mall extension, light rail and the mall, light rail on 205, to see -- and then there's delta park and the widening of delta park at odot, how we can have a more coordinated attempt on work force efforts with all of these projects, and south waterfront actually should be included. So we have one policy of p.d.c. policy, but also a city policy. And so we're moving on this to -- and stacy witbeck and the

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work they did with -- on interstate light rail is one of the real models. So we're fortunate to have this contractor and we're going to use this work to do that. But bringing this all together, mayor, with you is something that we need to do. The third point is, we're all so -- we were very entrepreneurial in creating the streetcar, and all these questions raised by commissioner Leonard and commissioner Saltzman up here are very good, because now we're going from kind of a start-up to how do you integrate it in the system. And although it is a development tool primarily, and therefore appropriate for the city to make some investments, as it becomes more of a transportation device and more of a circulator that goes to the east side, then it becomes more of a transportation system and we've already begun those conversations as I indicated yesterday, with tri-met. Because in addition to property owners, it's tri-met, you know, who needs to be paying this. And what didn't come out yesterday is tri-met already is paying a lot. And we should have had you here for this discussion, we being pdot should have had you here, vicky, yesterday, because I think some confusion was created. But having said all that, in a meeting before yesterday, before all this came up, that I had with congressman Blumenauer and Hank Ashford and Rick Gustafson in Hank's office, I raised the issue as, as we're talking about the east side, we have to reevaluate what the private sector is contributing to this thing. And I requested that last week. And the issues can the private sector contribute more, because we're going to need more to figure out how to make this loop. There is a big hole when we start talking about the east side. So I asked for the capital and the operating to be looked at. Rick, I don't know if he got that word yet back to the streetcar board, but I wanted that done last week, and it is appropriate that we evaluate now that it's up and running, now that we know more of the benefits on the property side, what the capital should be and what the operating should be. And we step back and analyze it. And that's good. We learn from things. But the -- but what is good is we know this does work to increase housing, and revenue, which does also go to the city, doesn't go to pdot, so there's another issue there too. But how do we then extend it to the east side is going to be the real challenge, but first let's get it to riverplace and to south waterfront. So thank you for all your work. Aye.

Leonard: I don't want to be misunderstood to be a curmudgeon and not get how important these kinds of development tools are, as I've said before on similar discussions, I have fought for tax abatements and tax increment financing when others have run from them. And I get how important those tools are but there is a perception that exists that we might go a little too far in our desire to create development by allowing subsidies, abatements and in this case subsidy of a streetcar that maybe isn't required given the economic value we're creating for those that have developing down there, that -- which I have absolutely applaud. I don't take away from that. But I think for me the issue is, we heard yesterday that pdot is I believe it was \$5 million short a year for maintenance, even with the new revenue from the state. These two subsidies together just for the streetcar amount to over a million dollars. That's 20% of what they need just to maintain current roadways in the city. So all I'm suggesting is we have to pry or ties everything we're spending and figure out other ways to cover those costs in order to free up those dollars to fix potholes that if we don't fix, end up costing more if you don't do it earlier. And I just think we need to be real vigorous in negotiating agreements like this with the private sector to have them pay for what they benefit from. Aye.

Saltzman: Aye.

Katz: Let me piggyback commissioner Francesconi on the work force. I chaired the fair contracting task force on all of the agencies that we had signed an agreement many years ago, to try to identify where we need to go on technical assistance. And the issue was to what extent do we need to focus in on technical assistance for minority women-owned emerging small business, for specific projects, like this one, versus what do we need to provide for technical assistance for those subcontractors who have aspirations to become prime contractors. Because with all due respect,

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that's where the big money is. And so what do we need to do to make sure that we're addressing the needs of a lot of these subcontractors, but not necessarily addressing their needs to become prime contractors. And so we had a very nice brainstorming session, and I came up with an idea that I got to test out to see if it hopefully the council might want to adopt it to take a look at providing additional resources to help minority and women-owned businesses. We talk a lot about it, but when you look, as we did, how much money is actually being spent, it's a pittance, compared to what the port of Portland has been sending on their mentorship programs. So we've got a lot of work to do not only to identify the best tools, but to figure out how we finance it. So thank you for all your work that's done. We had a spirited discussion yesterday, we talked about subsidizing streetcar, subsidizing the auto, and we can go on and make those kinds of improvements toll the extent we're able to do it here as far as subsidizing the auto, that's a whole other conversation. Aye. [gavel pounded] all right. 58.

Item 58.

Saltzman: This is accepting a \$9,000 grant rather small in the scheme of things, but significant because it's the first grant that the food policy council, the city and county food policy council has received. You recall earlier this winter the council approved the food policy council's ambitions agenda for supporting local agriculture, and assuring local residents have access to safe and whole some food. At that time we also encouraged the council to be aggressive in identifying new funding sources to support their work. And they've clearly listened to us. They applied for and have received a \$9,000 grant from drake university which through an arrangement with the u.s. Department of agriculture, drake university supports food policy councils, drake university is in iowa, by the way, supports food policy councils -- [laughter] I don't know if anybody knows where drake is. Although I did, through watching all the iowa caucus and seeing all the drake university professors being tapped for their political expertise over the last week. Anyway, they support food policy council work throughout the country and while the amount is small, it does allow our food policy council to hire an intern, to conduct outreach to local farmers. And I think those demonstrate the food policy council's aggressiveness in pursuing not only their agenda and ideas, but also funding of their work. I want to congratulate food policy council member betty azume who worked to identify this funding source and led the effort to obtain the funds, and also matt with the office of sustainable development, who -- whose fine staff also worked to make this grant a reality.

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

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

Katz: Mayor votes aye. [gavel pounded] everybody, we have a 6:00 p.m. Hearing that probably will go for a while. Commissioner leonard, what do you think?

Leonard: Uh-huh.

Katz: So don't make evening plans. We stand adjourned until 6:00. [gavel pounded]

At 10:54 a.m., Council recessed.

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6:00 PM

Katz: The Council will come to order. [roll]

Katz: Mayor's present. Commissioner Sten is on personal leave, he's taking parental leave. Alright. Let's read item 59.

Item 59.

Katz: I'm going to turn this over to Commissioner Leonard in just a second. I just want to let everyone know we will not be voting on this today. It's not an emergency ordinance. We'll be taking amendments on it until it's in a form that the Council can approve. I just want everyone to know if you're waiting here tonight for our vote, it probably will not happen on anything but amendments. Alright, Commissioner Leonard.

Leonard: Thank you and thank you everybody for coming. This ordinance that deals with establishments that sell alcohol has been in the making for a little over a year. The draft we are considering tonight is actually in its 20 iteration and we have a number of amendments in addition to that. And the reason it has taken this long is we want this to be right. We want this to be fair—not just to the neighborhoods but the businesses that could potentially be the subject of some enforcement action. And we want to make sure everybody was listened to. I can tell you that in the last 12 months I have listened to a lot of people and a lot of interests. And what we have before us tonight, I think, is a balanced, well thought out reasoned proposal to help deal with a problem that exists, not pervasively, but does exist in neighborhoods throughout the city, and that is establishments that sell alcohol that have customers who misbehave then in the neighborhoods adjoining those establishments that they purchased their alcohol in or consumed their alcohol in. The purpose of this ordinance is not to take a hammer to deal with that. It's to provide a process by which we bring into compliance those misbehaving establishments, so if we have three documented incidents in a month of some kind of misbehavior on the part of those establishments, then the office of neighborhood involvement through the crime prevention specialists will be empowered to go to that establishment and negotiate a good neighbor agreement as they have in the past, only with a new provision. The new provision will be is if that good neighbor agreement wasn't complied with, which was voluntary in the past, then the city will be empowered to take corrective action, up to and including causing the establishment to close at a time that we think will help alleviate the problems that had emanated from that establishment. Within that process I believe we've established enough checks and balances to make this process a fair one, understanding that fairness also includes neighbors be able to live in their homes peacefully and without disruption from people who misbehave either after consuming or purchasing alcohol at an establishment in their neighborhood. I believe the process it out of balance right now. I believe the process favors those misbehaving establishments who have liquor control licenses that the bar is set so high to cause the problems to stop. What ends up happening is the neighbors get stuck with living with the problem they shouldn't have to live with. We have a great land use control system in this state. It causes there to be a line drawn around the city of Portland outside of which you cannot build houses. That's good. One of the concerns that arises out of our land control system is that we're having more and more people live in the same amount of space. As we increase population, and people begin engaging in behaviors that disrupt neighborhoods, we're going to see problems, I think, increase, so we need tools like this to deal with establishments that are not following the rules of behavior and not being good neighbors in the neighborhood that they exist in. I know we're going to hear some vehement opposition to this tonight. I sympathize and empathize with that, but I have to say I think we've established enough controls and checks and balances so that any

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enforcement action will be fair. But the message should be that there will be enforcement action. Thank you.

Katz: Ok. A formal presentation by staff?

Leonard: There is.

Katz: Come on up. One of the things that I want you to address is the nuisance activity, is it particularly limited to the establishment or does it include the parking lot associated or homes closely aligned to the nuisance facility, premise? Do you follow my question? Because I can give you example after example. [inaudible] ok, go ahead and do it, but when you get to that, why don't you expand on it.

Jimmy Brown, Director, Office of Neighborhood Involvement: Good evening, mayor Katz, members of city council. My name is jimmy brown, director of the office of neighborhood involvement. I'm pleased to have the opportunity to make a few opening remarks to the council regarding the time, place, and manner ordinance. It's been some 25 years since I came before city council to speak on behalf of an ordinance and i'm happy and honored to actually be here today speaking on behalf of this. The ordinance is the result of over two years of work, research and discussion that was initiated by neighbors and their concerns to address the issues of problem liquor licenses and the ability of neighbors to address livability issues within their community. The office of neighborhood involvement does not come up here alone. We have as part of our partnership Portland police bureau, to my right we have the assistant chief, mark hendricks, the crime prevention program manager, john laws, and other members from Portland police bureau that have worked on this. In addition, I want to thank chief foxworth, assistant chief grubs, captain cliff patterson and their staff for their work on this ordinance. I want to thank ben walters, ruth spetter and linda law from the city attorney's office. Also kevin king, amy cammack, marcia dennis and crime prevention staff for their work on this ordinance as well. I'd like to share for a moment with the council a perspective of mine based on over 20 years of work in the criminal justice system. As you know, I spent a good deal of time working with the individuals in the criminal justice system to try to take responsibility for their behavior and its impact on society. I want to be clear as we present this ordinance that the vast majority of the licensees operate well within the law and provide a benefit to the community. What we're talking about is a very small number of licenses who will be impacted by this ordinance. These licenses are those whose operations negatively impact neighbors, but also the normal process is ineffective. I've heard the frustration that neighbors have had with the current state system and the inability of the state, and in some cases the city, to adequately address the chronic livability issues that arise from a problem outlet. I believe that this ordinance is an ordinance that, one, is fair by giving business an opportunity to engage work with neighbors and the city to address the valid concerns and to work toward a mutual solution. However, my experience tells me that there needs to be appropriate consequences for those businesses that operate outside of the rules, especially if it impacts others. This ordinance provides a level of accountability by business to be good on their word with neighbors. As I mentioned earlier to commissioner leonard, this is about neighborhood livability. This is a process that -- has engaged neighbor residents, it has engaged business, it has engaged the law enforcement community, it has engaged social service agencies, it has engaged all of those concerned about the livability of this city. Thank you.

Jim Ferraris, Assistant Chief of Police: Thank you. Good evening, mayor Katz, and commissioners. I'm jim ferraris, assistant chief of police, here representing chief derek foxworth. I'm pleased to be here to discuss the ordinance. It brings together the community, businesses, the office of neighborhood involvement, and police. To effectively work together to solve neighborhood nuisance problems. The time, place and manner ordinance that comes before you tonight is an example of community policing in its truest form. We're pleased to be part of this

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ordinance, because it assists with the police bureau's commitment to re-energizing community policing in Portland. Community policing is about police working closely with the community, nurturing partnerships and solving problems. It's about bringing resources together in order to take a holistic approach to addressing crime and livability issues. It's about community members deciding to participate and play a part in their own livability. And finally, it's about building a sense of belonging and an ownership in neighborhoods. Community policing must be part of everything we do. Livability issues like noise, property, crimes, drugs, prostitution, and the like, deeply affect people's day-to-day lives. The time, place and manner ordinance addresses these livability issues by involving the community, the police, office of neighborhood involvement, businesses, and other agencies. It gives community members an opportunity, but most of all it gives them a voice in what's going on in their own neighborhoods. It also gives police an additional tool in addressing chronic problems. Police often feel frustrated in only providing an enforcement component that truly doesn't affect the root issue at hand. And often these issues turn into chronic nuisances that result in wasting police resources on a daily or even weekly basis. In addition to art hendricks, you're going to hear from officer john laws, a liquor investigator, speaking about the mechanics of this ordinance. And captain cliff madison and commander jensen are present to field questions you may have resulting from this ordinance. As you'll hear it's comprehensive, fair, a well-rounded approach to assist all parties. It encourages partnerships, it helps solve problems that affect Portlanders where they live, and most of all it's community policing at its best and it brings together people to find solutions to problems. Thank you for your time.

Katz: Ok. Let's bring up art and john. And, cliff, did you come up with them?

Leonard: And we have brent person, the point person.

Katz: Don't move. After we hear from them, as they review the ordinance, then we'll ask the questions. So don't move.

Art Hendricks, Office of Neighborhood Involvement: Good evening, mayor, members of council. My name is art hendricks. I'm the crime prevention program manager with the office of neighborhood involvement. And I will walk through the time, place and manner ordinance, the procedures, the guidelines and answer any questions that you have. Officer john laws will assist in talking about the time, place and manner ordinance. I want to thank the Portland police bureau, chief foxworth, and his command staff for their hard work over the past year. I special want to thank officer laws and officer paul wickersham. We've had a long partnership since we've been involved in liquor licensing and I want to applaud their work. As I go through, I want to give council kind of an overview of how we got here. It's important to give a context and recognize those committed neighbors who worked with the office of neighborhood involvement in helping us to get focused on this ordinance. We will talk about what we believe the impact of this ordinance, as well as go over the procedural guidelines. First and foremost, you've heard from commissioner leonard and jimmy brown. We believe that the time, place and manner ordinance really can provide an avenue for neighbors to address livability concerns, consistent with best practices relative to community policing, and I think we've all heard of the broken windows theory, but one of the things that often gets talked about is the ability not only for city or state resources to address issues, but also that collective effort within the neighborhood. So it provides an avenue that right now neighbors have expressed it shut at a state level. We also find that the ordinance provides an opportunity for coordination between the licensees, neighbors, police, crime prevention staff, and other city resources as we've heard. I think most importantly, what we've heard from neighbors is the need that regardless of where the complaint goes, whether that complaint goes to the noise officer or the crime prevention staff or the police bureau, that they would like all the partners sitting down at the table reviewing the complaints and beginning to come up with a reasonable solution to address the issues. We believe we've done that with the time, place and manner ordinance. Lastly,

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we've had concerns again about the fairness and we believe that's sufficient enough due process is involved in the process. How did we get here? Really the time, place and manner ordinance, commissioner Leonard talked about this being a year process, but prior to that advisory group was formed in 2000 at the direction of commissioner Saltzman. This was really a result of some changes that happened in 1999 with the state legislature, which city council as a result of the changes, particularly to Oregon state statute, which shortened the length of time in which local municipalities had an opportunity to provide input and recommendations as required by state law. That change in the law was a dramatic shift, because prior to that it has been, I think, the policy of the council, as well as office of neighborhood involvement, the police bureau, and even olcc, to try to get neighbors and licensees to problem-solve as new licenses come in through the form of a good neighbor agreement. Because of the state statute change this has seriously impinged on the ability to get adequate good neighbor agreements upfront, but even before then council has heard a number of cases where there has been concerns from neighbors about chronic license outlets that have caused problems within neighborhoods. We formed a liquor license advisory group made up of neighborhood and small business representatives to look at the code to begin to identify what we could do as a result of these state changes, and identify a process that would help neighbors try to address the concerns that they had. The group met for over 18 months and came up with a set of recommendations, which we don't have copies, but will be provided on our website tomorrow. There is a number of recommendations, both to the state and to the city, one of which was the time, place and manner statute. The advisory group recommending that we adopt time, place and manner rules. About that time commissioner Leonard was elected and we were assigned to commissioner Leonard, and in meeting with commissioner Leonard he too had said he had heard a lot of concerns by neighbors around problem bars. Commissioner Leonard directed us to begin to start drafting language, and for the past year, a year and one day to the date, we began the process of really looking at and crafting a process of developing this ordinance. We've already met to really come up with a process that both officer laws and I will discuss in a minute. I want to say a lot of work has looked at other city and state ordinances around the country. So one of the challenges is because of the current state laws, localities don't have the authority that the state has, but there are other cities around the country that do have similar ordinances of this type. So if we look at the time, place and manner ordinance, Seattle has a very similar ordinance that gives that city the ability to address, as commissioner Leonard says, misbehaving bars. What I'd like to do, I'd like to have officer laws give you an idea of the scope of the problem and to talk about their role in the licensing process.

John Laws, Portland Police Bureau: Good evening, mayor, commissioners. I'm John Laws. I've had the pleasure of serving citizens of the city of Portland and the police bureau for nearly 23 years now. Tonight I'm going to talk about some of the history of how we've dealt with these liquor license problem locations. Give you a current scope of the problem, and talk briefly about the willingness and accident of the liquor licensees in dealing with these problems. Up until year 2000, the city council directly, as many of you know, made recommendations to the olcc on individual liquor license recommendations. Unfavorable city recommendations historically often resulted in a license being denied by the olcc. The city developed alcohol impact areas that allowed a negative recommendation on a liquor license based on the proven pattern of alcohol-related problems in the area. A change occurred with the attorney general's opinion to the olcc, that they must not simply rely on the city's recommendations, but must weigh the facts under the Oregon advised statutes, guidelines for them, and make a separate determination. This has resulted in very few licenses being denied by our recommendations. This is, in fact, made much -- pretty much useless, our city's alcohol impact areas, as a tool to deal with these problems, as it has relied on the historical pattern of the olcc following our recommendations. The city has continued to use the tactic of unfavorable

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recommendations on liquor licenses to the olcc at problem locations. We've informed neighbors of their ability to go testify before the commission, before the decision was made on the license. Now the process often drags out and some lasting as long as a year. Our citizenry have gone and testified before the olcc, and often come away from the process frustrated with bureaucracy, and have failed to really deal with the problem. The olcc commissioners have expressed frustration at neighbors coming and testifying and complaining about local issues before them that don't meet their statutory criteria for denying a license. And it's ended up in frustration for all. In the scope of the problem, before you is a map that shows the -- it's calls from through the bureau of emergency communications for the last four months of 2003, including there's thousands of calls that are depicted here by the color coding with red obviously being the most in the squares. These calls included assaults, disturbances, drunks, intoxicated persons, fights, harassments, liquor problems, noise calls, shots fired calls. These were just citywide calls as displayed there. Over the top, in the blue dots, you can see all the liquor licensed establishments. The purpose of this map is to show that there is in fact a correlation between locations of these liquor license establishments and these types of calls that are placed in this ordinance. Next slide, please. Zooming into a little smaller area, the city core area, you can still see the red being the highest concentrations of these types of calls, and the blue dots where the liquor license establishments are, makes that clear. As of december 2003 there were 1961 liquor license establishments within the city of Portland. Of these we identified about 50, or about 2.5%, during 2003 as problem locations of one type or another. These problems were usually related to a pattern of violent criminal activity, drug dealing or neighborhood livability issues. The olcc and police bureau have had a good working relationship in dealing with major criminal issues at many of these locations, but about 20 of these problem locations were based on minor criminal and neighborhood livability issues, which would have fallen under the time, place and manner ordinance. We have done a less than adequate job in this last year, that i've been in the job, in resolving these livability problems at these locations. In addressing these issues, intervention meetings were usually set up with the liquor licensees and the problems were discussed with the intent of trying to solve the problem. Based on our prior experiences, most owners showed the willingness and ability to try to take reasonable corrective action once issues are raised. But about 10% of these problem locations, the licensees either lacked the willingness or the ability to correct the problems. If this ordinance were passed, the intervention meetings would continue. Those licensees that were unwilling to correct the problem would have more reason to try to resolve the issue. The few establishments that still lack the willingness or ability to take corrective action would probably end up going before a codes hearing officer. If in the hearing the city proves the issue, the codes hearings officer may impose a reasonable limitation on the business. This ordinance would give the city a good tool of dealing with these problems and make us more responsive to our citizens. Do you have any questions?

Katz: Are you finished with the description? Ok, go ahead.

Hendricks: So as officer laws has stated, we've looked at a lot of information, looked at a lot of -- a lot of data that's been provided by the Portland police bureau. We've looked at historical data. So this next slide shows that since 1980, based on the records that we have with the bureau of licenses, Portland police bureau, these are the number of livability cases over time. So essentially, in looking at the records from the bureau of licenses, over a 20-year period there have been about 269 cases that we can identify that came to council at one point or another for council to hear on in terms of problem bars or problem outlets. And of those 269, about 70 of those were cases that primarily were livability concerns that would fall under the time, place and manner. So what this shows is really sort of a time sequence of how many cases came to council prior to 2000, and you can see that in 1992 we probably had about seven cases. So we're really looking at a handful of cases that involve the types of concerns, the types of nuisance activity, and again prior to 2000 council had the

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ability to help use its ability to problem-solve with the police and crime prevention. I also want to say that as we crafted this ordinance, a couple of things that we identified in terms of an impact analysis, first off we -- we developed this ordinance by using existing resources. Not by adding resources. So the key for us was that as we discussed with the Portland police bureau command staff, was how could we address these issues, not saying we needed more city resources to address the issue, but how could we utilize existing staff, police bureau staff, crime prevention staff. And we identified a multi-disciplinary approach, that essentially we had all the pieces, but that the information that relative to liquor licenses was disparate in different parts of the city, and so we identified the need to come up with a multi-disciplinary approach, very similar to how the police bureau deals with child abuse cases, where they have a multi-disciplinary team made up of police officers, as well as community providers that really look and try to identify the issue. So consistent with that, we believe that the stakeholders in this process are all those people who are around about livability, as well as have a process from the complaint side, as well as from the licenses side. The liquor license team would consist of the noise control officer, the drugs and vice division, the liquor license specialist, crime prevention staff, and in some cases would -- would engage with neighbors to really identify what the issues are. They are the first point of contact. So essentially they'll be the repository of information. So as officer laws showed you the number of 9-1-1 calls, there's a lot of information that we would collect, and have this team begin to look at what are the issues that have been identified. Our role will be to provide ongoing sustainable communication with -- between agencies, but as well as with the licensees. And it will be the primary mechanism to review complaints. The key to this process is going to be documentation and substantiation of the complaints. So as we look at that, it's important that as we go through the process, that we have a high standard of documentation, not only from neighbors, but also from police as well as other city resources. The role of the liquor license team will be to use progressive steps to resolve issues. So while the ordinance lays out a process we've been developing administrative rules that will look at using the existing tools, such as good neighbor agreements. To look at what other resources can be brought to bear in terms of resolving the issue. So we're really trying to use a problem-solving approach. A key aspect of that is going to be the work of the crime prevention staff and their ability to work with the licensees and neighbors. The liquor license team will develop the abatement plans and make recommendations to the chief of police and the director of the office of neighborhood involvement. The way the ordinance works, it's crafted similar to the chronic nuisance ordinance. If we receive three complaints within a 30-day period, basically those complaints, whether they come to the drugs and vice division, to the crime prevention staff, senior neighborhood officers, we will review complaints as they come in, and if they're sufficient enough information a notice will be sent to the licensee describing the date and the time and an exact statement of the type of nuisance activity. That licensee will have 10 days to respond in writing, and begin to provide proposals of how they can abate the issues that have been identified. The types of nuisance activity -- and I want to get to your question, mayor -- the types of nuisance activity are listed there. They consist of noise complaints, both unlawful sound-producing equipment, as well as patron noise, disorderly conduct, offensive littering. We're primarily looking at things such as urination and defecation, those are the primary complaints we hear about, offensive littering. Unlawful use of beverages in public property or right-of-way. Interference with vehicle, ingress, egress. One of the complaints we hear consistently from neighbors is certain operations overwhelm the capacity of the naked, and what you'll find is that there's a routine pattern where they're not able to get into their driveways or drive down the street in some instances. Alcohol beverage violations in the parks, tied specifically back to the location, and then a discharge of firearms. I want to say in working with the city attorney's office and working with the police bureau, we had a long list of nuisance types of activities that people wanted to include, and we had some discussion to make sure that we're not

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replicating the chronic nuisance ordinance, that we have that as a tool, and that the time, place and manner ordinance is really more an intermediate step, and again identified to address that nuisance activity. At each step of the process the liquor license team will be evaluating complaints, so again I talked about different types of documentation. One of the concerns we have heard is that what about that one neighbor that seems to just want to just have complaints because they have a particular issue with a type of establishment or what about competing interests within the neighborhood? We have developed, as part of the -- your exhibit b, which -- criteria by which we would look at evaluating each complaint. So this criteria would be contextual factors, if you will, looking at things such as what's the severity of the infraction, how long has the licensee been in operation. One of the concerns we've heard from folks is that, you know, they have a bar in the neighborhood that's -- people have loved for 25 years, and what happens is a new development that comes in and all of a sudden the folks who move into that development start complaining about the bar where there have been no complaints. So one of the things that we want to factor in is what are those -- what are those other factors, such as the existing crime and livability issues. Is there a repeated pattern of violations to olcc or to the police bureau that they've been able to document or other activities. What has been the responsiveness of the licensee? In many cases it's the licensee who's calling the police. It's the licensee who's reporting the activity. In those cases we -- those are not the types of operators that we're concerned about. It's the operators that really, when these complaints are brought forward, they don't take action or often will ignore and try and say it's not their problem. Respective to neighbors providing documentation, one of the things that we have provided is some criteria that neighbors will need to provide factual documentation, evidence of times, dates, and the type of information, and they're going to need to be able to provide for us that these activities do in fact have impacted the quality of life in the neighborhood. So for that one individual, they may have a complaint, but they're going to need to have other corroborating neighbors and really have sufficient documentation. They'll have to demonstrate that the issues are ongoing. We all know that there are times, seasonally, particularly in the summertime, where we start to get complaints because of, you know, restaurants, you know, having outside seating. When we look at those types of complaints, no other time during the year are there those complaints, and again as officer laws talked about, what is the willingness of that operator? But it's important that we're not just reacting to something that might just be a one-time blip in terms of what's happening within the neighborhood. And I think lastly, what we have decided, is that neighbors really are going to need to be prepared to provide testimony to the code hearings office. We've had some discussion about -- about that standard, and it's our feeling that this is an opportunity for neighbors to make their case in a quasi judicial process about the types of impacts, and that as a city and as city staff we will support them, but in many instances it's the neighbors who will be able to provide the type of information relative to the impact. In terms of decision-making authority, one of the things that the police bureau brought up is that in some instances the police bureau receives complaints that really don't impact neighbors. They're establishments that are not in a residential area, they're in an industrial area, but there are significant complaints relative to livability. So what we have developed and -- is a -- really a matrix that if the majority of complaints come to the crime prevention staff, three or more complaints, then the office of neighborhood involvement, the director, would have signatory authority to be able to enter into an abatement plan, as well as go to the code hearings office. If the majority of the complaints were at the police bureau, then it would be the chief of police, but in our analysis we believe that the majority of the complaints that we will receive will be a combination. It will be a combination of police reports, along with neighbors filing complaints to other parts of the city. I want to answer your question, mayor, in terms of specifically in the code, the code does address -- and this is one of the things that we'll need to be looking at -- the code does address that this nuisance activity doesn't just occur on the premise, but

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it can occur related arriving out of the operation. So on page two of the draft ordinance, it states "relating to or arriving out of services provided or operations of the licensed premise." so we have provided a provision, because some of the things that we've heard is that neighbors -- it's not at the establishment, but it's as folks are leaving the establishment, but they can clearly see that folks are coming out of the establishment. And they can tie that back, or officers are called to the scene where there's been a fight, and as they take that police report they weren't called to the establishment, but they were called to close proximity. So, again, the key part of this is that before we even get to an abatement plan we're going to need to evaluate that type of documentation. If we have sufficient enough documentation in the -- and the licensee has responded back, the director and the chief can enter -- or will enter into an enforceable agreement. This abatement plan will specify specific terms and terms of what we believe -- or the director or the chief believes the operator will need to do in terms of being able to mitigate the types of nuisance activities. So if it's noise complaints, when can they do to reduce the noise complaints and the other complaints that are listed? The director and the chief may file a complaint before the codes hearing officer if the licensee fails to submit a timely written response, propose a plan that is acceptable to the chief or the director, or they enter into an abatement plan, but the operations continue to -- we continue to receive complaints after the abatement plan is put in place. So as commissioner Leonard stated, now we will have, along with good neighbor agreements, another provision -- actually the abatement plan is separate from a good neighbor agreement, but what it does provide is the city an abatement plan, the opportunity to, if they do not comply, take them to the codes hearing office for enforcement. If there's sufficient enough evidence to go to a codes hearing office, the office of neighborhood involvement and the Portland police bureau can file a complaint with the codes hearing officer and the codes hearing officer, if they make a determination based on the evidence, can provide remedies that would specify the specific time or hours in which the license can -- licensee can operate, the days and hours in which they can sell alcohol. They can require the licensee to provide adequate security and they can also restrict the activities relative to noise -- noise complaints. In terms of the remedies that have been provided, we received a lot of questions could there be other remedies, such as fines and what not, and based on the city attorney's interpretation of the Oregon state statute, these are the specific remedies that are allowed in o.r.s. Relative to the time, place and manner. I wanted to close and summarize the process. This graph, again, shows that the principle's really that we're operating on is that regardless of what door complaints go through, that whether it's the district officer or the senior neighborhood officer or the drugs and vice division, or whether it's through the neighborhood system, that we will work in a collaborative fashion to review the complaints and to get back to the complainant, as well as the licensee. And that through the process we have developed specific criteria which will determine how we move from one point -- one decision point to the next. We continue to get feedback to make sure it's as objective as possible, that it's as fair as possible. Lastly I want to make clear that we've tried over the past couple of years to work through the current process, to have the neighbors' voiced, and we've been told that many of the things we have listed in the time, place and manner are issues that the state statute and olcc cannot effectively address. That concludes my presentation. If you have any questions --

Katz: I think there will be some questions now, and then some questions later. Let me give you a concrete example, because if you noticed the red area, that's an area where I reside. And we have probably had more of these issues in an area where there are a lot of taverns and a lot of places that serve liquor. So complaints come, let's say, from neighbors -- so you don't have a distance. Usually we talk about 500 feet, 1,000 feet, when we talk about a particular geographic area. So the complaint can come a block away from the establishment. Let's assume that there are -- there's one establishment. Let's assume in some cases, certainly in my neighborhood, there are three or four.

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What kind of information will a neighbor have to provide you for you to make a connection between either establishment a or establishment b? Unless somebody is sitting there and watching people leave and pass by a residential area, and know that those folks are leaving from establishment a or establishment b, the only way you'd do it is either you're out there at 2:00 in the morning or ask an officer to be out there at 2:00 in the morning, which we did, by the way.

Hendricks: Yeah. I think it's to be a two-part question. I'll give the answer in terms of what neighbors would have to provide and officer laws can provide from the police bureau side. Saturation is an issue, and that's an issue we struggled with in this ordinance. There are areas of the city, such as the hawthorne district, such as in northwest, where you have a number of licensed establishments, and that will be a challenge for neighbors to be able to document that type of activity. What we've found is in your case in northwest is that many people can provide sufficient documentation, that I did see the patron leave this place, and they did x here. And so such as olcc provides neighbor logs, they will need to provide that type of specific documentation. So in the case where, mayor, if you were to say, you know, somebody was stumbling down the block and I think they were drinking at this bar, I don't think we can do a whole lot with that, because we've got five establishments that all serve.

Katz: All right, you answered the question.

Hendricks: All right.

Katz: Let me just say that in one particular area, where we were very successful, we actually had an officer sitting in a car watching the activity, and was able to confirm what we -- what we heard -- not what we even saw at 2:00 in the morning, but what we heard at 2:00 in the morning. So that's an issue I guess regardless of whether we have this form of enforcement or any other form of enforcement.

Hendricks: Right.

Leonard: If I could just add to that point you're making, mayor, one of the things we've done in the last year, as you are aware, is leading up to this, look at who all would be involved in enforcing various provisions, and one of the things we recognized that we needed to do was rewrite what it is that crime prevention specialists do. We envisioned them to be part of that observation process, not going in and enforcing on, but being able to be part of one of the tools that we have to -- are available to help identify problems such as you're describing. So it wouldn't just necessarily at this point have to be just a police officer.

Katz: Ok. John?

Laws: And on the criminal side of that, mayor, to answer your question, if police respond -- part of our liquor team, we're inviting the sno officers, the senior neighborhood officers, a liaison to the precinct, to the district officers, and if an establishment, the may come up before, and say we don't have enough evidence, just to what you say. We think it's this, but it's not sufficiently documented, it may be that the senior neighborhood officer will be coordinating with the district officers and the shifts for that area, and asking them, if you are out on a call, and it's related back to, for instance, they go to take a report of a disturbance, it's documented in the police report, they talk to the people involved, and they say, yeah, we were drinking at this establishment, and we were out, you know, half a block down the street, and there's three establishments there at the location, but the bottom line is the -- the evidence has to come from us, the city so. We're going to have to one way or another show that it comes from a specific establishment. Just that it's in a general area, it's not -- for this ordinance -- we need to actually tie it to the specific establishment.

Katz: Ok.

Francesconi: I have some questions, but I only want to ask a few now, because we have a lot of people who want to testify. But I am unclear on that last point that you just made. First, as a preface, let me say that I think there's a genuine problem out there that we do need to address. This

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was actually my first issue involved in community affairs. We actually lobbied successfully citizens for the chronic nuisance ordinance back in 1985. I was part of that effort. And so I have a couple of questions, though, for now, and then more later. On the question you just raised, you just said, officer, that the evidence has to come from the city, but, art, when you were testifying, you didn't say that.

Lewis: Right.

Francesconi: So i'm unclear on that part, number one. Number two, i'm unclear on who has to substantiate these complaints and how much do they have to be substantiated? On that second point, the reason i'm confused is I have looked at the administrative rules, which we're not voting on, but it says the police may be a part of this. It doesn't require the police to be a part of the liquor teams. And I guess I do have a concern about that.

Hendricks: Go ahead, john.

Lewis: Ok. To answer your question, commissioner, evidence from citizens is absolutely fine, and when I say from the city I mean if it ever went to a codes hearing the presenter of the evidence would be somebody from the city. It would -- so in a sense, we would be showing that evidence. And as any -- like you're in a court, your evidence has weight. And if you had one citizen who was making all the -- you know, the observations and no other citizen, it would probably have less weight, but citizens would -- coming forward, and observations and logs, similar to what we use in drug houses, we use that in getting search warrants for drug houses. So the evidence, we just need to be able to tie the evidence back to the establishment. And it has to be of a level that is high enough that if we go to a hearings officer, that it can't just be, oh, he says maybe this place has a problem. We have to be able to show that it meets the legal standard within the hearings process that it in fact is from this establishment.

Hendricks: Commissioner, yeah, I think, again, I want to be clear, that this is not an ordinance that just relies upon city ordinances. If neighbors have sufficient enough information they can make their case in front of the code hearings office. The city, I think, has a high standard, that before we go -- before a codes hearing office, that in most cases we want to win the case in terms of -- and substantiate what the issues are. I think one of the things that we've talked about is that we also just want to provide an avenue for neighbors to take their concerns and have it heard, and if they can provide sufficient enough evidence, that there will be action taken. Now there may be times, and we do have experiences with neighbors, who believe there's a complaint on their block, but when we go to substantiate that, the fact of the matter is there isn't a big of a complaint or a problem as they think there is. So in terms of the substantiation, that really is going to depend upon how the complaint has come to us, where it came from, and it will be the responsibility of crime prevention and of other staff to really do the substantiation part. So if a neighbor provides us with insufficient documentation, we would say, you know, I believe that you may have a complaint, however there's not a whole a lot we can do as a city based on the evidence that you're presenting. So if there's other types of evidence, if your officer can corroborate that, or if there are other things, then we would begin to see if in fact they are issues.

Katz: I just --

Francesconi: That's all right. On the nature of the problem here -- and again, I believe that there is a problem, from my own experience, and my experience up here, but in listening to you folks document the problem I need a little more. Are we talking -- like, for example, art, you said bars, and then you didn't include stores in the beginning.

Hendricks: Right, right.

Francesconi: So how much is the problem is the bars, how much the stores, for example?

Hendricks: In looking at the historical data there have been cases -- and we can get you that information to you in terms of stores, bars, restaurants, what type. It's any licensee that sells or

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serves alcohol, and we've heard complaints from neighbors relative to stores and the impact of stores and the type of concerns of that. So I think to answer your question around the documentation, exhibit b, the administrative rule, I think specifically what we talk about is when we go in front of the codes hearing officer in terms of making the case. But we hear complaints the whole gamut from neighbors relative to bars, restaurants. And again, it's not so much whether it's a bar, it's a tavern. It really comes down to the operator and the manager and how they manage that and whether or not they're able to manage the issues.

Francesconi: How many problem establishments are out there?

Hendricks: Currently on the information that we have currently, we believe under the time, place and manner ordinance, there would probably be three or four establishments currently. And again, within the course of a year, about 20. But that's -- that's my estimation. You're going to hear from neighbors who may in fact say it's a bigger problem. One of the things I heard when I started 3 1/2 years ago at a neighborhood that really caused me a lot of concern was apathy. There are long-time activists in this city who have been dealing with liquor issues for years, and they have said, we have given up hope that anything can happen relative to a problem establishment. And people have in a sense said there's nothing olcc will do, there's nothing the city will do. So that's based on the information that comes to us. Again, we believe there would be about 20. And we believe that about 10% of those would go to a code hearings.

Katz: Let me just ask -- there are 39 people who want to testify? All right. It's going to be long. This is what I'm going to ask you to do if you're willing to do it. We'll start with three minutes. I'll let commissioner Saltzman ask a question in a minute. And then at some point, when I get a sense that we've heard both sides, then we may go to two minutes. Trust me, you can say whatever you need to say and want to say in two minutes as well as three minutes. Commissioner Saltzman?

Saltzman: One of the abatement remedies the code hearings officer has is restricting activities at the establishment to prevent recurrence of the nuisance. I'm interested in what the universe of those types of restrictions might include, and particularly, you know, with respect to strip clubs, how that applies, because, I mean, at least to date that's been found to be constitutionally protected. How would something play out respect to -- I don't know -- neighbors finding condoms in the vicinity of a strip club? Something like that. What are the universe of restrictions?

Laws: Commissioner, a good example -- and which one comes to mind, is for instance we had an establishment that had patio deejay, where it became more of a noise issue in the neighborhood, where an outside patio, they actually had a live deejay with speakers out there and of course the neighbors didn't like all the noise. An example of what they could do would be like no outside music. If it's related back to the original problem of noise, then we could come back, as being the disorder, we could come back and say, it would be very reasonable for the codes hearings officer to limit that establishment to not have outside music. That's what we had in mind. Frankly, the strip club was not even in the thought process for me as being used for that.

Saltzman: So you don't see this ordinance going there in terms of an abatement remedy, saying you can't be a strip club?

Hendricks: That has not been the intent. That's not been the discussion. And no.

Francesconi: It would also be illegal to do that.

*****: Yeah, exactly.

Katz: It would have to meet the requirements of an chronic nuisance ordinance -- all right, let's let -- I want commissioner Leonard to at least share some of the amendments, so that people who testify can understand what the amendments are. I don't think they're terribly complex.

Leonard: They're not. Do we have copies of them for the audience?

*****: There was a stack on the back table.

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Leonard: Ok. These aren't really huge amendments, but i'll read each one. There are six of them. One amendment will read a concise statement setting forth the date and time of nuisance activities and the possible remedies that may be imposed under this chapter by the code hearings officer. Do you want to explain these as I do them, Brent, just briefly?

Brent Canode, Commissioner Leonard's Office: The first amendment is just clarifying, providing some detail. So in the original language we didn't stipulate that you had to put the date and time in the neighborhood log, so this clarifies that point.

Leonard: Second one, a request that the licensee provide a written response within 10 business days, either disputing the occurrence of the nuisance activities or providing specific proposals to abate the nuisance activities and preventing such nuisance activities from reoccurring.

Canode: This just took care of an omission where the time frame for responding was not listed, so it's been recorded as 10 days.

Leonard: Third amendment will read, premises or licensed premises, means a location licensed under o.r.s. 471.001 and includes all enclosed areas at the location used in the business operated at the location, including offices, kitchens, restrooms, storerooms, including all public and private areas where patrons are permitted to be present. Premises or licensed premises includes areas outside of a building that the Oregon liquor control commission has specifically approved for alcoholic beverage service or consumption.

Canode: This is the original language that most of you are familiar with. This ordinance was amended a few weeks back with an exclusion for offpremise licensees over 12,000 square feet. That language was removed yesterday and this replaces it.

Leonard: And removing language that will be struck in the following language is, the director or chief of police determine, based upon past failures by the licensee, over its predecessors to comply with nuisance abatement plans that any abatement plan is likely to fail.

Canode: This was a due process concern. This would have allowed the city to take somebody directly to a codes hearing process and this language is to go through that -- has been struck to go through that process entirely.

Leonard: The fourth amendment would be the effort by the director of the chief of police to develop a nuisance abatement plan when the licensee fails.

Canode: This is the same point.

Leonard: And then we're going to add language in the fifth amendment that says, no later than february 1, 2005, the police bureau will report to council regarding the impact and effectiveness of the time, place and manner ordinance.

Canode: This is just simply provides for a year window for evaluation and review of the impact of the ordinance.

Leonard: And the final ordinance, which actually we just drafted this morning, says the commissioner of public safety shall appoint a committee consisting of seven members representing the Oregon grocers association, neighborhood associations, the small business advisory council, and will be staffed by the office of neighborhood involvement. The committee will be charged with studying the impact of the time, place and manner ordinance and report to the commissioner of public safety periodically.

Katz: And how about to the council?

Canode: Absolutely.

Katz: Ok, add to the council.

Leonard: We did it this morning, and it could probably use some wordsmithing. Why don't you explain the purpose.

Ferraris: One of the concerns we primarily heard from industry representatives as the impact on businesses due to fraudulent claims. So we put an advisory body together with the narrow focus of

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looking at this specific issue. Originally the Oregon restaurant association was a primary player, too, but asked to be removed. That's why they're not located in this language, but that will be the primary function to look at how this is impacting them and if it's being misapplied.

Francesconi: Just briefly, commissioner, on two of these, you know, I appreciate we're trying to do something difficult here because the state is saying that some people in the state that it's their job to regulate this, but I really believe that, you know, on the issue of treating big businesses and small businesses the same, I think that that's something we have to do. So I appreciate it, that you took my suggestion on that. And on the issue of -- because of the -- there's some serious issues here -- the idea of reviewing this in a year so that we look at the consequences on the businesses, on the neighborhoods, is a very important step as well. So thanks.

Katz: Ok. All right, karla, for those who haven't been here, we'll start with your name. You don't need to give us your address. And three minutes. You'll hear a little buzz, and I will let you finish your sentence and then we'll keep going.

Moore: Come up three at a time.

Dwayne Young: Mayor Katz, members of the council, my name is dwayne young. I own at bar at 80th and powell, restaurant and bar, bucket brigade. I'm here testifying in opposition to this, as i'm sure that's a big surprise.

Katz: Talk into the mic. Thank you.

Young: And as I understand it, the olcc does regulate this currently, and the city regulates noise. From what I can here, this is based on alcohol, or the service or sale of alcohol, and again, as I understand it, that's the olcc's job. I am regulated by the olcc currently. I have a letter in my file as a corporation saying that somebody received a d.u.i., for instance, and when I went back and looked at the date of this violation, it was on thanksgiving, it was one of the two days out of the year that i'm closed for business. There's no way somebody could have been drinking at my establishment that day. I have tried for six weeks now to get that letter removed from my file with the olcc. I believe that another layer of bureaucracy, i.e. This ordinance would cause me more difficulty in the future should somebody make a complaint that was not valid. I've heard you speak about the fact that there's going to be checks and balances and committees to look into the validity of a complaint and so on. But that's just resources that are wasted, in my opinion. My resources and yours. The city has limited resources. I think the resources would be better spent elsewhere, maybe even on baseball. Thank you. [laughter]

Katz: Oh, don't go there. Thank you.

Francesconi: You lost me there.

Phillip Ragaway: Mayor Katz and members of council, for the record, i'm phillip ragaway, an establishment in the state of Oregon and doing business in the city of Portland since april 1983. I currently operate four establishments and currently employ 44 hard-working people in the restaurant and bar service industry. Thank you for the opportunity for me to testify on this ordinance. I'm testifying in opposition of this ordinance for three reasons -- one, the current system is working seamlessly and directly between neighborhoods, olcc and the businesses licensed within them as a fair and balanced problem-solving system to enable or create another process to deal with issues between businesses and the community would be an extraordinary waste of resources and city funds in this time of budgetary crisis. In my experience, I see that this proposal will only confuse the current system and make it more challenging for both businesses and neighborhoods to communicate any issues that surface from the impact of restaurants and bars in Portland. There's no reason to add an additional layer of regulation when the current process is not broken. Second, I feel that improving another layer of regulation may lead to my business opting not to expand or further locate in Portland. Restaurants and bars are not the problem. Rather individuals are causing

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the problems. Restricting one restaurant's hours does not solve the problem. It simply sends the individual to another establishment. I've also included a supplemental for you guys to read.

Katz: Thank you.

Yvette Tourangeau: Hello. My name is Yvette tourangeau, currently a server at the producer row cafe. I've been a licensed server with the olcc for five years now. I have three points. That's all. First of all, neighborhood associations, along with the olcc, as some of the people have mentioned already, they do already in fact dictate the time and manner of alcohol sales for local bars by forming contracts called good neighbor agreements. Second, these neighborhood associations manage to do this without putting further strain on city finances within the necessity -- while the necessity of meeting with the hearings officer certainly would. Several of them said that it wouldn't, but it seems that just -- just the paperwork in itself is going to cost money. I can't imagine that -- I can't imagine that to be true. Thirdly, if the ordinance does pass, it is likely that an initiative to repeal it would be put forth, again leading to the city spending money it doesn't have. That's all I have to say.

Katz: Thank you. Go ahead.

Rachel Creager: Hi. My name is rachel creager, I used to manage a bar in the hawthorne area and I want to acknowledge first off that I understand the efforts they've put together to bring this forth to you guys today. I think living in Portland, as all of us do, we do agree that there are issues that need to be addressed. One of my main concerns here is that all of the talk that i've been hearing is that this is about addressing those chronic nuisance bars. But when you take the concept of a chronic nuisance bar and then you turn around and just that any bar will be subject to these if they receive three complaints within 30 days, I don't believe that three complaints within 30 days constitutes a chronic nuisance. I understand that if there are some bars that you guys have received complaints about, or there have been problems with the neighborhood community being able to deal with the owners or the operators of that business effectively over time, I think that's going to come out to be a little bit more than three complaints in 30 days. And the reason I bring this up, sorry, i'm trying to talk quickly, I know my time is limited, when I did manage the bar that I was managing on hawthorne, there was a period where I did receive three complaints in 30 days. One of the complaints was about noise. One of them was about littering. And actually two of them were about littering, but it turned out that all three of those complaints that I received, I didn't get them directly, they went to somebody else who eventually ended up coming back to me, and none of them were actually caused by our bar. They were all caused by neighborhood businesses or neighborhood neighbors, like people that lived down the street. I'm a little concerned that some of these good bars are going to be lumped into this whole idea of a chronic nuisance bar if it only takes three complaints in 30 days. I just think that's way too minimal. I'm also a little concerned with the only 10 days to respond. If there is really is an incident, and it's brought to my attention, it might take me longer than 10 days to go hook up with my employees, figure out what really happened, get an accurate assessment, and then get it back to you guys. I also want to mention that with the whole community policing thing, I do understand that there is a need for this, because I myself have experienced some problem places, but I really do believe that the.

Francesconi: Is effective. It seemed to me earlier that somebody was painting a picture as if the olcc is ineffective. I know of many bars closed or had their hours reduced already just by the olcc doing the job that we're expecting them to do. And they do communicate well with the neighborhoods. I'm a little concerned that this new level will make it a little bit harder for some of the bar owners to have a fair say in what happens. Maybe a little too much power for somebody who's just a little annoyed at one bar being in their neighborhood. Thank you.

Katz: Thank you.

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Bill Perry: Mayor Katz, members of the council, for the record my name is bill perry, director of government relations for the Oregon restaurant association. We represent about 496 establishments inside the city of Portland with an olcc license. We oppose the time, place and manner ordinance in its current form. We as an organization and as an industry believe that restaurants and bars should be active, strong supporters of their community and should obey all laws. This ordinance as it's written goes too far. And we believe that it's not valid under state law. We have met with several members of the city council recently to talk about the nuisance activity. We have yet to be presented with a specific example of a problem or nuisance establishment that hasn't been solved at this point, meaning that the current system has been able to reach a solution with all the examples that we've been presented, which tells me that this -- this ordinance is not necessary and the current system is working. We as an organization do not believe the time, place and manner statute gives local governments the authority to regulate the sale of alcohol. Specific statute in question discusses only abating a nuisance. The examples given to us of nuisances deal with suspected patrons of establishments that have -- that have left an establishment or in some cases left the area of an establishment where it's located. These examples do not demonstrate any -- or do not, however, demonstrate any unlawful activity by the establishment itself or that the establishment actually contributed to the subject of the complaint. None of these examples given where the licensee is actually the subject of the complaint, but the licensee simply engaging in unlawful -- in a lawful business activity. The subject complaint -- the suspected customer affecting a reasonable person. The real problem is a suspected customer offering a real reasonable purpose standard described in the ordinance. Punishing an establishment because of the behavior of a persons while perhaps they have completely no connection to the establishment fails to further the stated purpose of the ordinance. Enforcement of the ordinance is to regulate alcohol-servings. This would far stretch the purpose of the statute of time, place and manner, which was to curb the nuisance activity involving sale or manufacturer of transporting of illegal drugs. This has no legal basis. The last point I would like to make is there's a group in public policy, whether it be elected officials, or business groups, we want to try to do things to encourage business growth. This puts operators at the metro area at a disadvantage. It will only discourage businesses from locating here and do nothing to improve the business climate. This proposed ordinance, as written will prevent operators from hiring needed help.

Katz: Thank you.

Connie Hunt: Hi. My name is connie hunt, the vice-chair of the Oregon restaurant association and am a member of your small business advisory council. While I appreciate the opportunity to testify this morning, my testimony is borne out of frustration. In a time where I was under the impression we were trying to improve the business climate in the city, i'm amazed this ordinance is being read here tonight. The broader business community and specifically the olcc licensees that will directly affect were not included in the discussions. The sbac hasn't been included. This ordinance will add yet another layer of regulations on an overburdened business community, particularly olcc licensees heavily regulated by existing agencies. My work with the sbac, one of the goals has been to assist the city in regulatory reform, to ease the burden on business, not to add more redundant and virtually unnecessary regulations. In 1992, when I was president of a north Portland neighborhood association, I can honestly tell you we had some problem establishments. In 1999, when I was president of the central east side industrial council, we had some problems in that district as well. We used the regulatory tools in existence to remedy those problems. As president of ceic I became aware of the challenges when residents and businesses try to co-exist. When you are done with the olcc licensees, who be the next? The produce guys, the manufacturers, any business whose hours and methods of operation may cause complaints? Where is this proposed ordinance coming from? I know we've heard some information before, but as bill said before, in the last month that i've been

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working on this issue I have not heard one specific establishment named as a problem. As vice-chair of o.r.a., my mission has been to form a partnership with city leaders by being an active participant in matters such as these. If there are current problems, you truly believe cannot be resolved by the regulatory standards in place, call me. Let's get together and work it out. Why not try that approach before we use this broad-brush approach that will negatively impact responsible business partners in this city. When I read the complaint-driven genesis of this process I felt chills at my back. I'm already at the mercy of dissatisfied customers, disgruntled employees or even competitors who have access to complaint-driven agencies. I assure you if any one of you walked today in my shoes, or any olcc licensee represented in this room, this proposed ordinance would die tonight. I really believed my work on the sbac would result in a better understanding of the challenges we business owners face doing business in the city of Portland. What is it going to take to get city leaders to understand proposals like this are the perfect example of what not to do first. One of the remedies of this proposed ordinance struck me as interesting. It's the one about hiring a security guard. The irony of this one is, if I hire a security guard it will not be to protect the community from me, it will be to protect me from the nuisance crimes against my business that are not being resolved by you guys. It's time for the city and business leaders to work together, really work together, on concrete remedies to sustain and grow our economic backbone. It's not the time to add yet one more roadblock to a segment of business that by its mere existence adds a life and vitality to the city of Portland.

Katz: Thank you, connie.

Leonard: I need to correct a couple things. I'm a little sensitive to accusations of not including people's opinions. I did include members of the small business community, their amendments are reflected in what I read tonight. I met with the Oregon -- well, connie, I may not have met with you, but you're not the small business community. There are a number of people that make up the small business community.

Hunt: That was last month. That was this month. You've been working on this for a year.

Leonard: We met with the olcc staff, with the state a.g.'s office to determine the legality of this. Met with members of the Oregon restaurant association, the large grocers, the small grocers, and neighborhoods all over the city. And so i'm -- I just want to make sure that there's not a perception out there that everybody's interest wasn't taken into account.

Katz: Ok, thank you.

Francesconi: Just one question. I understand your legal -- I think I understand your legal position, and clearly understand your policy position. Without giving up those positions, are there any amendments that you want to make to try to improve this from your perspective or do you want to just rest with your legal and policy reasons?

Perry: For the record, bill perry, the restaurant association. Page four of the ordinance that I have under remedies, all you have to do is excluded a and b.

Katz: Ok, thank you.

Leonard: And quite seriously, that's how the negotiations have gone, you know. Compromise is when one side gets its way. You have to sit down and try to figure out how to make those work. There have been those in the business community who have come forward who have brought up legitimate issues that we've then taken out of the draft or in the case of one amendment I read came in this morning that we drafted to address concerns. So those -- that kind of input has not been healthy.

Perry: Can I respond?

Katz: Quickly.

Perry: Well, no, time and place manner is about abatement of nuisances. And the nuisance --

Leonard: In your opinion. I mean, i'm telling you we've met with the state a.g. And olcc --

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Katz: Let's not get into an argument. If there's a legal issue, i'm sure you'll find a way to challenge us. Sir, why don't you go ahead.

Eric Jenson: Mayor Katz, members of council. I'm eric jensen. I live in the kerns neighborhood and on here on behalf of myself and the neighborhood association. Our association strongly implores you to adopt this legislation. We know from personal experience in our neighborhood that the current system is broken, it does not work. As an concrete example of that, I would point out that we have establishments right across the street. Both these establishments entered into good neighbor agreements. We had a change of licensees. The new licensee chose not to abide by the good neighbor agreement that we had that restricted morning sales, which basically took care of the problem we had. The good neighbor that we have, which is the plaid pantry that continues to abide by the agreement, is in effect penalized for being a good neighbor. I mean, this is the situation where no good deed goes unpunished, and we believe that the council must adopt this ordinance, because we have no way of getting these noncomplying establishments to sit down with us, to agree to some reasonable term, where we could restrict sales in the morning or at various times and so forth. So on behalf of our association, we urge you to do this. We're cognizant of the feelings of these other establishments that have been in here and pled with you to not do this, but the current system just does not work. It is broken and we need to replace it.

Katz: Thank you.

Bill Linden: Mayor Katz, members of the commission, my name is bill linden. I'm here tonight representing 7-eleven. And to speak in opposition to this ordinance as currently proposed. I've provided you with some written testimony. I'm going to summarize that. Point number one, we believe that this -- this ordinance is unnecessary, that the current regulatory scheme at the state and local level is more than adequate to address issues that have been brought forward to your attention. For example, olcc, they have clear authority to issue licenses, renew licenses, restrict licenses, suspend them. They also are administering a responsible vendor program with the support of business and local government, which is a blueprint for how licensees can responsibly manage businesses and address livability issues in their communities. Here in the city of Portland, you have a nuisance statute that has the ultimate sanction of revoking a business license for an establishment that can't follow the laws of the state or the city. That is the tool you ought to be using if you've got a problem establishment sprinkled here or there in this city as opposed to the wide net approach of this ordinance, which puts at jeopardy many, many, many responsible businesses that have been operating with all the good intentions and all the good results that you could possibly expect. Secondly, there is significant question about the authority of the city to adopt this ordinance under the time, place and manner statute in the -- in the Oregon revised statutes. There will be -- you'll get your opinion -- your lawyer will have an opinion. Our lawyers have opinions. It's inevitable that this is going to get sorted out in some sort of a challenge if this ordinance is adopted as it's -- as it's written today.

Katz: Let me interrupt you, because I read the rest of it, and they've changed the 12,000 square feet, and knowing your previous history what do you think the number -- the nub of the legal issue really is with regard to the statute?

Linden: Well, I believe, mayor Katz, that there are -- olcc has very clear authority under state law when it comes to licensing establishments to sell or serve alcohol. And I think that -- that this ordinance intrudes on that authority. One example, let's say you have a licensee who has a license from olcc to operate an onpremise establishment that shall be closed at 1:00 a.m. Each morning. Ok, so under your ordinance, you could impose an earlier closing hour on that business. Ok? So now you have a business that has a license without restriction on its closure time of 1:00 a.m., and now you've got a directive from the city that you should close at 11:00 p.m. What is that licensee to do? Which direction should they follow?

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Leonard: One thing they could do is eliminate the nuisance. I mean, the point being that just doesn't happen arbitrarily. There's a process that we go through before we get there.

Katz: Commissioner, let him finish.

Linden: But when you have a remedy, and I have to agree with the previous witness, I think you fix this if you take out the remedies that relate to hours of operation. If you have a remedy such as that, you have -- your presupposing your ability to impose a different requirement on that licensee.

Katz: That's your legal point. Thank you.

Linden: Lastly, and I'll quickly get through this, I think that this will actually deter the current incentives that licensees have to work with their neighborhood associations and with the city to work out the good neighbor agreements that have resolved so many of the issues about livability and how -- and how some of these problems can be addressed. I think this is going to put many of your restaurants and stores in a little bit of a bunker mentality, because it opens up the door to a whole new avenue of attack on their business activity.

Katz: Ok, thank you.

Richard Plainfield: Mayor Katz, members of the council, for the record my name is Richard Plainfield. I own Plainfield's Mayer restaurant and been in business in the city of Portland for 26 years, and I've had a liquor license for all that time, and I feel that the OLCC, over the years, has changed and -- along with the times, and has been flexible in trying to solve problems, and I think going on your own instead of trying to work with the OLCC to make a smoother process, if there are problems, is not the right direction to go. I think if they're in charge of regulating the sale of liquor and the licensees, and if there are some roadblocks to a smooth transition of doing that, I think working with them to make change, to have a smoother process, would be the best way to go, instead of rejecting their authority and saying, we're going to go at it on our own and try our own thing. I think when I first got my license back in 1978, that association -- that OLCC is a totally different group of people than they are today in terms of trying to work and to meet the needs of the public. And I think that's the proper direction to go.

Katz: Thank you. Is anybody here from OLCC?

Leonard: Are you sure you want to get involved in this? [laughter]

Katz: I'd like to hear from them. Maybe when this comes back to us, we'll allow OLCC to testify for a couple of minutes. Thank you.

Bob Ueland: Good evening, Mayor and Commissioners. Bob Ueland, Hollywood Neighborhood Association, president. We, through the years, have had experience with the licensees. We value good and well-run establishments, and for their services to our neighborhood. Obviously the stores and the bars, the restaurants, the lounges, all well-run establishments are of benefit to neighborhoods and contribute to the services that neighbors can enjoy. Bad operations, we've had some, and again what's limited bad operations I guess the fact they were bad operations. They tend to go out of business. However, it is miserable while they're in business, and it's very frustrating to neighborhood associations. The chronic nuisance ordinance, which came in with -- several years ago, it has a high standard, three arrests, and we've never been able to meet that standard, and yet things have happened in the neighborhood which have affected livability out there. This new ordinance, the standard is lowered somewhat, and it's the type of thing that neighborhood associations can participate in. We've done surveillances and done logging of problem locations years ago. And they went out of business on their own, before we could ever get anywhere, because it takes a tremendous amount of case building before the city -- the authorities can do anything. We did manage to get one motel to be closed down under the chronic nuisance ordinance, but that has nothing to do with tonight's discussion, but I'm just saying that was a high standard and people -- we participated then, and I think people in the neighborhoods will continue

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to participate. We don't give up. We just -- this may be one of those things where if we get a problem, we will be able to again do the surveillance, provide the documentation, all those things that are required. I don't think it's going to be unfair. And neighborhood associations I don't think are going to go to work the day after this ordinance is passed, if it is, to try to put some people out of business. Good operations are valued and appreciated in our neighborhoods. So I would -- and I think that business associations, for the most part, do not value having bad operations in their business district. It doesn't bring business to your business district. It hurts business. So that's just a viewpoint from a neighborhood. Thank you.

Katz: Thank you.

Francesconi: Bob, you know, you've been part of a business district, cared about this issue for a long time, care about the neighborhoods. I guess, you know, and i've been involved in trying to log the complaints. I mean, that's how we got started with the drug house ordinance, which that's what it was originally called before it became the nuisance ordinance. What i'm concerned about is how do we substantiate the complaints once they come in? So in other words, having logs is good, but then there has to be a process to substantiate the complaints it seems from my standpoint in order to protect the business establishments.

Ueland: Uh-huh.

Francesconi: Do you have an advice on that?

Ueland: Well, we as neighbors, got two or three -- it's very labor intensive to set up a watch cycle. And I don't know if then you would suggest that maybe an officer would come by every so often to ensure that they're really sitting there, really logging things. I don't know offhand. We haven't had to do that. We simply filled out reams of paper and turned them in and they went through the system. But if that becomes an issue, why, it's going to require some study, I can see that.

Katz: I think that -- I think it's a piggyback on the connect the dots between the complaint and the establishment, that the commissioner was raising. It's going to be -- it will be difficult.

Ueland: Yeah. Your example is a little more extreme than ours. We can sit and watch one establishment, not four of them, but that's what we do.

Katz: Ok, thanks.

Dan Anderson: Good evening, mayor Katz, commissioners. I'm daniel anderson of 2144 northwest flanders. I share the mayor's neighborhood. I appear here tonight as a representative of nwda, the neighborhood association for northwest Portland and the oldest neighborhood association in the city, arguably the most heavily licensed neighborhood association in the city also. We supports the proposed t.p.m. Ordinance and encourages the council to act promptly to adopt the ordinance. In doing so we note that we would not be here tonight but for the singular efforts of commissioner leonard and the staff and we want to take note of that and thank both of them. But as you've probably detected, here in the audience this evening, there are also representatives of the alcohol merchandising industry. And they're certainly suggesting that litigation will possibly follow, likely follow I would submit, but I would submit that it's rather more likely that a more traditional strategy, the why litigate when you can legislate strategy surface in salem shortly after the adoption of this ordinance. And what you may wind up is a bag full of nothing, you know, the appropriateness of this ordinance notwithstanding. And because of this all too likely scenario, i'd frankly like to invite the council to consider a broader strategy for engaging neighborhood alcohol issues by completing an undertaking begun by commissioner Saltzman approximately three years ago with the appointment of the liquor license advisory group. That group labored for, oh, 20 or so months, spent several hours developing a report, which has never been presented to this council. The report included quite a list of recommendations, both to the city and to the olcc. Only one of the 14 presented to the city was a t.p.m. Ordinance. There are 13 more. And they don't -- some of the others may be less vulnerable to the why litigate when you can legislate approach to doing

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business. I would frankly like to encourage you to get a presentation on this, formally accept it, and pursue some of the other suggestions. The merits of the present suggestions, which are I think are considerable, notwithstanding, one of the things that's in that report frankly is a discussion of how profound the disconnect is between citizen views of this issue and regulatory views, both at the city and the olcc. The frequent singular failure of the g.n.a., good neighborhood agreement process to be effective, particularly around enforcement and compliance issues and a variety of other things, which you really ought to take the time to enlighten yourself about. Thank you.

Katz: Thank you, dan.

Bhagyarekha Plainfield: Hello. I'm ms. Plainfield. Good evening to you all. I've been a part of mayor's neighborhood for the last 25, 26 years of business. I would like to say that most businesses try to obey all laws as best as they can and most of them are successful at obeying laws. From the statistics I heard earlier, there are about 20-some establishments, at one point there were mentioned 50, in the entire city, that had some problems. For that, for those many establishment -- problem establishments, you're trying to make ordinance that would cover all the different types of restaurants and bars, who are really complying. With all different legal business issues, on an everyday basis. There are existing olcc and a variety of other business regulating commissions, boards, panels, and variety of different things that business have to answer every day. To answer yet one -- another panel for somebody's complaint is a very, very big burden, another burden to lift. The root of the trouble here is individuals, not the business. Earlier it was continuously brought up that misbehaving establishments -- establishments don't misbehave. It is the individuals who misbehave. And individuals need to be addressed if there needs to be punishments or things to be done, it should be done for the individuals. Why would an establishment be charged so heavily upon something that they have no control over? They cannot tell -- establishment cannot tell a customer, don't be rowdy, don't laugh, don't make noise. There are noise control ordinances, I believe, to take care of that. There's olcc to take care of the liquor, but establishments cannot be misbehaving establishments, people misbehave, and they have to be asked questions to. Honest, hard-working business people, having some neighborhood telling them now you can't be in business, or you can't be doing business in these hours, is just not right. There's liquor control communications who do that sort of a thing. So having to answer another individual -- set of individuals is just very, very hard.

Katz: Thank you.

*******:** Thanks.

Katz: Go ahead.

Peter Fry: My name is peter fry. Actually when I walked in the room I decided I wasn't going to testify, but someone called me forward as an expert witness so i'm here. And I suppose I am sort of an expert witness, as I probably have more experience than anyone in this room in dealing with liquor licenses. And I suppose 10 years ago, or maybe even 18 years ago, myself and bobby boneff were the first people in the state to actually shut down a liquor license called ace high tavern on the central east side. I'm not going to say there's not a problem and I cannot say there's not a problem, because there is a problem. What i'd like to do is briefly describe the two halves to the problem and what I kind of sense is the disconnect here. Half of it is to document a problem. And that is extremely difficult and the city's gone through various processes. Years ago we would actually come before city council on a liquor license and we'd document the issues, and that's gone away. So now a citizen is essentially put into a legal process statewide and has to participate in that process, and I can give you examples in the last two years where we have actually managed to have olcc act in enforcement, and then have the whole thing start over again, because an attorney was able to start the whole process over again. And so the issue of documentation has been a significant problem. On the other hand, when olcc does act, it does have enforcement. And i'm sitting here,

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telling you, that I have successfully, in the inner east side, northeast Portland, shut down and controlled problem establishments through the olcc process. So I don't believe that the enforcement half is a problem. So how you put these two halves together -- and i'm not going to get into a fight with anyone, but it just seems like when you move up to the hearing process, the city's putting in place a very good method for citizens to organize their issues, to present them in a logical fashion, to build a record, a record that would be documented and could go forward into the -- into the next phase. As far as a -- the upper east side, it seems that's something the olcc should do, and i'm asking you to consider how those two halves as a whole so the city could be a partner in enabling its citizens to participate in the state process.

Katz: So you're recommending that we -- I know what you're recommending. I don't want to take time. Ok, thanks.

Fry: Thank you.

Giti Meili: Mayor Katz, members of the council, my name is giti Meili, the owner of the good foot pub and lounge. I'm also the vice-chairman of the kerns neighborhood association. I kind of -- I had something sort of planned here, but then after hearing everybody speak, i'll try to wing it but stay to the point. I'm a firm believer in neighborhood livability, a firm believer in a balance of business and community. And quite frankly my aspirations of moving on with what i'm doing now and continuing with other places in Portland, i'm a little bit nervous seeing this, what's going on, in my exhibit a that I have currently, specifically we have here, underneath noise disturbances, annoys or disturbs a reasonable person of normal sensitivities. It's kind of vague and if I took over a bar that was closed down by an executive order by former chief of police kroeker, and it was a problem bar. We took it over, after it was closed down, and --

Katz: Excuse me, let me interrupt. By executive did you say?

Meili: There was a letter that he sent to the olcc and they closed the bar down. As far as I know, that's something that could still happen if the chief of police was to do that today.

Katz: Go ahead. I don't want to take your time.

Meili: Ok.

Francesconi: The mayor's jealous. She doesn't have that -- [laughter]

Katz: I need to double-check to see if even the chief of police has that power.

Meili: Well, the combination of a noise or disturbs a reasonable person of normal sensitivities, moving on to related to arriving of services provided on or around the operations, and then notice determining that there was reasonable belief that there were three nuisances, it's -- there's a lot of vagueness there that really puts a lot of uncertainty I think in someone like myself and other colleagues that I have in this line of work, that it's kind of a slippery slope.

Francesconi: I'm sorry, I was thinking of something else. I got the noise one. What was the second one?

Meili: Oh, under the nuisance activities, that it's very vague as far as activities arising from your operations. It could be down the block, it could be -- we have legal reasons why if someone drives away and gets in an accident, then we can be responsible, but if they walk two miles down the street and something happens? You know, are we still responsible at that point? Do I have to have a security guard for every customer there and follow them home to make sure they don't do anything wrong? That's my point there. But the thing is, after a year of operating successfully, I received a call from a neighbor saying that since we opened up and -- mind you since we've opened up a restaurant next door opened up, a failed restaurant closed, a new one, a new successful restaurant has opened up, a new coffee shop has opened up across the street, three art studios and a vintage clothing store have all moved into a one-block neighborhood between 28th and 29th and southeast stark. Which I think is great. A year after we opened, I received a call from a neighbor who said, well, since you opened up, drug use, street drinking, prostitution, all these things have increased,

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and, you know, it's your fault. Going through the process of working through the neighborhood association, talking to the people that were complaining, they finally realized, well, I guess you're right, we just blamed it on you because sometimes we can't park in front of our house on a Friday night and we're a little bit upset about it. And it all came down to, well, there was -- we were annoyed because we couldn't park there, we lumped in all these other problems, they said that they called the city, the police department, the olcc to complain about us, which was never our problem to begin with, and, you know, when everything worked out through the neighborhood association, through our good neighbor agreement, you know, found out that there wasn't a problem.

Katz: Thank you.

Chris Girard: Good evening, Mayor Katz, council members. My name is Chris Girard, president of Plaid Pantries, also a director for the Oregon Neighborhood Store Association, which represents the smaller, mostly independent stores in Portland and the rest of the state. I was glad to hear that the -- one of the amendments is to remove the 12,000-square-foot restriction. I was prepared tonight to go into my Rodney Dangerfield presentation of we don't get no respect and I'm glad to not have to do that. [laughter]

Leonard: I anticipated that.

Girard: I sent you a fax earlier, though, and I do hope you saw my points in that. The second point that we're concerned about is the potential confusion over who is going to be doing the investigatory and the enforcement actions. These are very serious things when you're not so much in Plaid Pantry's case, but in an independent store, when you're changing their license or putting them into an uncompetitive situation with other competitors, it's their livelihood that's on the line. I believe, and I've said in my memo, that I think if this ordinance is passed in some form, that it really should be left to the professionals on handling evidence and discovery and enforcement, and that would be the police bureau, not the dual office of neighborhood involvement, and I believe it says or the police department. I don't know who's going to handle that, but if it's affecting disciplinary enforcement action, I think that's a police function. I appreciate Mr. Jensen's comments that Kerns Neighborhood. Plaid Pantry has many voluntary neighborhood good neighbor agreements. We're almost always able to enter into a good neighbor agreement with every neighborhood which has issues. But I would suggest, without diminishing his pat on the back that there is a solution to the errant licensee, and that is to -- the license that they have was issued contingent on them following what they agreed to, and they aren't doing it. We had meetings with the neighborhood association and both licensees involved, Plaid Pantry and the competitor. They agreed to follow the agreement, and then went right back and didn't follow the agreement. I think this -- the opportunity would -- for them would be to follow up with olcc and point out that they aren't following what they agreed to when they were issued their license. So there are teeth in that. Plaid Pantry has different types of restrictions due to neighborhood problems, street drinking problems in different parts of town, and the restrictions are tailored. We don't like, but there are problems in some neighborhoods that need addressing and I think the liquor commission has the tools to do that. 14 seconds. I appreciate Mr. Hendricks' commitment to validate the complaints, but there are a lot of complaints out there that haven't been validated. They're frankly neighborhood associations, very, very few, who don't want to work with retailers, and I'm concerned that aspect of this ordinance.

Katz: Thank you.

Francesconi: Sir, just one question, because you said -- you said two things that I -- and I could interpret them different ways, so that's why I want to ask you. At the end, you were clear that the olcc could resolve some of this, but if these were professionally investigated, and you made the point of the importance of substantiating these complaints professionally because of the livelihood is at stake, could you support this ordinance?

Girard: You're going to put me on the spot.

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Francesconi: That was my intent.

Girard: Right now there are situations where there isn't due process, and some of the complaints from some citizens, and I understand that citizens have -- their frustrated with problems in some areas, and so they -- they want a solution. I see some things in this ordinance that are good. I like the due process, some of the points in here are more than we have frankly at the liquor commission.

A lot of times we get complaints in and they're taken at face value, an investigation is performed, and the liquor commission comes to us and says, you know, what can you do about it, even after we've taken a lot of steps. So there are pieces of it that I like. But I do -- I think my overall position would have to be, there is enforcement available to the city for current laws that are being broken.

There is -- there's an enforcement mechanism through the olcc, even though it's sometimes cumbersome and slow, but it really needs to be documented, and I think that's the good part of it.

There has to be facts instead of emotion. I understand there's emotion tied when somebody's peeing in your backyard, but there ought to be steps to go through to get the facts --

Leonard: Even the front yard.

Girard: Yes, right. So I don't know if the current system has been worked to its fullest. I've been at all the commission hearings, and what I usually hear from the commission mostly are noise complaints. I think they're geared up to handle criminal activity and alcohol abuse and street drinking, if neighborhoods, such as kerns, come in and make the noise, and i've seen a lot of them testify, but when they come in without facts or a lot of times I see it on a new licensee who hasn't had a chance to prove himself yet, they're kind of ruled, again with all respect to the citizens who have had problems before, they say, well, the fact that there is a licensed premises here is going to create problems. I don't think that's fair to the licensee.

Katz: Thank you.

Girard: I think the system could be -- I think I dodged your question.

Katz: Yes, you did.

Girard: I would rather really push on the enforcement on -- use the hammer that the olcc has with documentation and on specific laws being broken in neighborhoods I think the police and the city can enforce those laws and what's left over, I don't know if we need to create this to handle it frankly.

Katz: Thank you.

Katz: Go ahead.

*******:** Mayor, commissioners, I had some things to say.

Katz: Identify yourself just for the record.

Paul DenHartog: My name is paul denhartog. I was happy to see both sides come forward, because I don't work in a bar, don't have anything to do with any of these businesses, I just date a girl who does and so i'm here. The things that appeal to me about the law is the public urination or the garbage or noise problems, things like that, and i'm imagining this as sort of a mediation process that's envisioned between the neighborhood associations and the businesses themselves and trying to force those two groups to come together. What i'm curious about is whether that's the main goal with this or if there's another goal that i'm just not picking up on. If it's trying to stop people from being in yards, things like that, is it trying to get a bar to have a clean bathroom? Is that the resolution that might come out of, you know, these two groups getting together? I'm fine with cleaner bar bathrooms. If it's noise, does that mean having a sign that says please be quiet as you leave? Is it -- I mean, what -- what would the results be? I think that the neighborhood association person who talked about how, you know, bad businesses kind of go away on their own, all through the problems, i've looked -- that are presented here seem to be the sorts of things that are indicative of a business that's going to fail or be bought by someone else or renovated at some point. You

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know, that's really all I had to say, is just sort of what's -- number one, why? Number two, what could some of the problems -- you know, what are the resolutions for these things? That's all.

Katz: Thank you.

Charles W. Lawrence: Mayor Katz, city council, Charles W. Lawrence, 4430 Southeast Belmont Street. I'm here representing the Sunnyside Neighborhood Association and the Belmont Area Business Association. I'd like to take just a moment on behalf of both of these groups to thank you for the ongoing support and encouragement you give us as volunteers to do what we can do to try to keep our city as livable as possible. I would like to point out one specific situation that brought me here this evening. We are very close to one of our premier parks here in Portland, Laurelhurst Park. And for some time we've had crime issues with the park, and one of the problems we've had are derelict, intoxicated drunks laying around in the park, using the park for a public toilet, and this is in plain sight of the children that use the park, the residents around the park, and our visitors. And recently a service station location, directly across the street, applied for a liquor license, and knowing the history of the problems that we have at the park with the drunk issue, the neighbors, a large group of them, protested to the OLCC not to grant the liquor license. And we feel like we were not listened to or heard. And we're trying to do what we can to, like I say, keep one of our premier parks just as beautiful and livable and such a nice attraction to our city. And I would like to ask the council to consider perhaps a modification of this ordinance that would better address the good establishments that sell liquor in our own neighborhood there are approximately 75 already establishments in the one neighborhood, and why it's necessary -- now I'm speaking personally -- to have a service station be more concerned about selling liquor than gas and petroleum products. This is a very big concern. And all of us that are here tonight that are asking you to try to work with both sides of the issue, and try to protect the integrity of our parks and our city, it would be very much appreciated.

Katz: Thank you.

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

Christine Caruso: For the record, Christine Caruso. Good evening, Mayor Katz and City Council. I'm here representing the Roseway Neighborhood Association tonight. They've asked me to come and speak about this issue. First we'd like to thank Commissioner Leonard and Art Hendricks and their staff for working on this ordinance. We do have an issue in our neighborhood. You might not be familiar with where it is exactly. We're in the middle of sort of the Vietnamese restaurant district, but we have three adult entertainment businesses located a little farther east of that. While we don't have many problems with the established restaurants or the Safeway or the grocery stores or mini marts that sell alcohol, we have one business that has finally closed basically because it was such a bad business that it could no longer continue to operate. We spent at least four years documenting events at this one strip club that ranged from anything of clientele walking down the street drunk, broken bottles on the sidewalks, gang fights inside and outside. We had a knifing. We had a shooting. We had a second weapons violation where a gun was found on a patron. We dutifully recorded all these things, met with our crime specialist person. We sat down with members of the police department. We complained and filed reports with OLCC, who basically told us that the only thing that they could do was help us meet with the owners and establish a voluntary compliance plan. And I stress the word "voluntary." that means they don't really have to do anything. They can just decide to do it. In the process -- this was after the shooting happened -- they finally came forward and decided to do a voluntary compliance plan. In the process of actually meeting with the owners to set this up, that's when the second weapons violation happened, when they found a gun on the client. You know, this is the nature of the stuff that we deal with. It's taken us four years. They finally closed their doors because they just couldn't run a decent business, and they're no longer in operation thankfully, but it was not because the OLCC helped us at all. Thank you.

Katz: Go ahead. Grab the mic so we can hear you.

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Pete Zoltanski: Hi. My name is Pete Zoltanski and I serve my neighborhood association here in support of the legislation. I want to thank Commissioner Leonard and all of the staff that have worked on it. I think it would be an easier thing to move the problem to another agency or, you know, say it's not something that we deal with. So talking to people, it's been my understanding that the OLCC is not an advocate of neighborhood livability or neighborhood associations. When people have tried to get information about problems and concerns, they haven't been forthcoming in providing that, and it's -- it will be -- I think the legislation will provide a way for people to make their lives, their community, a better place. It's something that people can do themselves. It's not about giving the police more tools and more money. It's something that people can -- that they can do themselves and make their home and their community better. So that's my take.

Ron Mitchell: My name is Ron Mitchell. I'm here in opposition of this ordinance. I want to share a recent experience that could develop as a result of this ordinance. I'm the managing partner of a multiple restaurant and nightclub operation in southwest Portland that employs nearly 100 folks. Our operation is in an area considered an evening entertainment district, this district has a mix of hotels, retail stores, apartments, restaurants and bars. One of our neighboring businesses decided that the noise generated by our operation was too excessive for the neighborhood. They eventually filed a lawsuit against our company, and it's taken nearly two years to resolve the suit. The dispute, we eventually prevailed over, but it was at a cost of \$60,000. And I'm sure probably about the same amount on the other side. My point is that all it took was our neighbors' opinion that we were generating too much noise in the form of music, heavy pedestrian traffic at late hours and the weekends. We were forced into a lawsuit after they refused to work with us on voluntary arbitration. They wanted to put us out of business, and they said that repeatedly. I believe this proposal will open the door to many costly lawsuits where no one wins and anyone that dislikes their neighbors, bar or restaurant, has the ability to make it very difficult to sustain a business. Thanks.

Katz: Thank you.

David August: Good evening, Mayor and Commissioners. My name is David August, and I'm president of the Pearl District Neighborhood Association. And I'd like to lay out for you a situation that we're dealing with tonight -- or dealing with over the past few months that basically is a perfect example of why the time, place and manner ordinance should be passed by City Council. We have -- the neighborhood associations have been charged with reviewing the liquor license applications and we're glad to accept that responsibility. But we have been dealing with a problem establishment over the past few months. We compiled a documentation of the problems that we had, forwarded it to the City knowing well that this would not be a cause for OLCC not to renew the license because it didn't fit their criteria of what constitutes approval. So we think it's really important for City Council to be able to back up the neighborhood associations when we get into situations where establishments really have no interest in dealing with the neighborhoods. The Pearl District Neighborhood Association has been doing good neighbor agreements for well over seven or eight years, and this is not something we take lightly. We get tremendous cooperation and work really well and appreciate the operators of establishments in our neighborhood. In fact, this is the first problem we've had in five years to keep things in perspective. This is not something that I envision operators facing that -- you know, every time they do something, they're going to be harassed by a neighborhood association complaint. So from our perspective when an operator refuses to work with a neighborhood association, stands up the neighborhood association after setting up an appointment, basically sticks his nose up at us and says I don't have to do it, I have my license, and not recognizing that a license is really a privilege and not necessarily a right, that the City has to have some kind of enforcement ability to let that operator know that he does have to play by the rules. Sadly a huge amount of time and resources are being expended for a really, really small

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percentage of operators, but the fact is that something has to be in place. There's no escaping a need for having some kind of tools for the city to have to make sure that some people will not be able to operate with impunity. And we strongly urge the city council to pass this ordinance.

Katz: What was the criteria that they couldn't use or ask another way what was the criteria that they used, they couldn't respond to your complaints?

August: Well, we had documented virtually every weekend, spilling out into the streets at 2:30 in the morning, patrons from a particular establishment, and there is no other establishment that was open in that immediate vicinity. This was not establishment a, b, or c, this was --

Katz: This was noise primarily?

August: This was primarily noise, fights, public urination, property damage. When we submitted the documentation to the liquor license specialists, there were digital photos of property damage from the following morning. When we came to -- when the operator finally agreed to meet with us to talk about a neighborhood agreement, he had already had his license renewed. That was in december. That was prior to december 31. We had filed the opposition before november 15.

Katz: So you never got to olcc?

August: We have no idea how that was -- you know, all we know is that the operator had his license renewed.

Katz: But you didn't testify in front of olcc?

August: We were told to file through the city, which is what we did. And we compiled and forwarded all the documentation to the city.

Francesconi: Well, I want to tell you how much time I spent on the paragon five years ago, and to the credit of the paragon, you know, they in the end did the right thing. I'm sorry that this experience has been different.

August: This establishment, unfortunately, right across the street from the paragon. And the paragon, I must say --

Katz: How's that been? Because that was --

August: What? Paragon?

Francesconi: They've been terrific.

August: They have been a great neighbor. They've brought in a manager shortly after we had our issues with them, and the manager became actually involved with our livability committee, and was one of the people that went out and did the good neighbor agreements with the other establishments. He's been a very valued participant in the life of our neighborhood. It's been terrific.

Katz: Thank you.

August: I don't think that's going to happen with the current establishment.

Leonard: I think mr. August raises a point that I hope is heard by the folks that have testified in opposition so far that are worried about what the ordinance can lead to. What you're providing with the paragon is an example of how management does in fact control what occurs on their premises.

August: Absolutely.

Leonard: I know that's the case. I know former mayor bud clark has said the same thing, that proprietors of alcohol establishments do control and should and can control the kinds of behaviors that occur from their customers. So I appreciate you making that point.

August: Yeah. I also want to reiterate, that this is once every five years. This is not an everyday happening. I think most neighborhood associations would take that similar position. It's only when you get to extreme situations, when you need to have this kind of backup to help mitigate the situation.

Katz: Thank you.

Leonard: I appreciate your point. Thank you.

Katz: Go ahead.

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Jim Neill: Good evening, ladies and gentlemen. My name is jim neill, attorney at davis wright tremaine. I've been working in industry, representing bars and hotels, restaurants, hospitality industry for a good many years. I'm very familiar with the problem. I would start out by just reporting on the last matter we just stated, that matter's not gone through the liquor commission process yet. It's still in process. So they haven't given up on mr. August's position. I get to hear the cases -- a lot of these cases are very legitimate positions. You know, these people have legitimate problems. Neighborhood associations and others. But when you have a -- an ordinance of this nature, you could get abuse. And over the years i've seen many cases of what i'll call neighbor abuse. There's a case in part of Portland 10 years ago or so where an african american restaurant was in a white neighborhood, it had opossums thrown on its porch, it complained about noise, the liquor commission went through a process, took about a year and a half. The licensee kept his license, was considered racial, but it cost the licensee effectively his business because of the cost. I've seen cases where a licensee is -- is -- has people come to his -- he has lines outside to get in. The person gets in line, he's had too much to drink from another location, he gets to the front door, the person is not allowed in, he gets angry, gets in a fight, and he's arrested for disorderly conduct. I would guess there are places like that that happen all the time. And he's accused, and under this ordinance, you would be -- you would find fault with his operation, even though he did nothing wrong, because he didn't even let the guy in. I've seen cases where people have fabricated complaints, competitors, they're very sneaky on doing that. They'll use all different kinds of aliases and things of that nature to get the process going. Now I could go on and on. I've seen cases where in grocery stores near parks, where you have maybe four or five grocery stores around the park, and maybe one of them is supplying alcohol to street drinkers, and those street drinkers get alcohol, believe me, somewhere, sometimes near the park, sometimes elsewhere. And those -- well, what happens with the liquor commission? Everybody there's a blanket kind of -- everybody's in trouble, and in a case like this your ordinance will probably target everybody in it, be an investigation for everybody, probably the -- the good guys will get off, but at a big cost. Believe me, a small grocery store can't afford \$10,000 or \$15,000 or \$20,000 in attorney fees. Can't do it.

Katz: Go ahead, one second.

Neill: A number of places will be in trouble. P.g.e. Park, you think you're going to get three noise complaints in a month? Or p.i.r., do you think you can get those? In a second. I would finally just say, one of the people here said a lot of this is the patron's responsibility, and it is. If you know and I know that if a person creates a crime at a location, in many cases he may be arrested, but probably won't -- nothing else will happen to him, but these people, if three of these things happen in a month, the person loses his business, everybody's out of work. It's not fair.

Katz: Thank you, thank you.

Dan Lenzen: Hi. I'm dan lenzen. On my volunteer side for the last 15 years, i've been involved with the downtown retail council, Portland business alliance, rose festival, old town arts and entertainment district, if you remember formally the night lift district in old town, and other public safety committees. On my professional side i'm one of the principals with concept entertainment group. We currently have five liquor licenses, employ 300 people within the Portland city limits. Our group, concept entertainment group, is opposed to the draft ordinance in that it's another layer of enforcement. We feel that other enforcement tools already are in place at this time individually. The chronic nuisance property ordinance and senate bill 126 have been used to regulate problem liquor licenses. We feel the existing enforcement tools can be better utilized than they are currently. And to provide for the desired end which this ordinance proposes to achieve. Additionally, we feel the way the draft ordinance is written could result in the potential abuse of a licensee. It's too vague on the wording and should go back and be reanalyzed really. In previous testimony I did not hear any food and beverage operator were queried or involved, so if that's the

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case i'm concerned the ordinance was created without representation from outlets. If the unfortunate result were to occur and this or a hybrid of this ordinance were to pass, i'd like to personally participate or offer -- offer to participate in the committee to study the time, place and manner. As it's proposed in your amendment number six, as the industry representative on the dispenser side.

Katz: Thank you.

Nancy Hendricks: Hi. Good evening. My name is nancy hendricks, and i'm the president of concordia neighborhood association. I'm also a parent of four and a small business owner. I wanted to thank you all for hearing -- hearing this ordinance this evening. Concordia neighborhood association would like to go on record in support of the time, place and manner. This ordinance, as we understand it, is a tool for neighborhood associations to more effectively address livability and safety issues as it relates to those chronic problems generated by the sale of alcohol. This is not to create problems for those businesses who abide by responsible practices. While concordia doesn't have the number of outlets that other parts of the city have, such as northwest and southeast neighbors, historically concordia has been impacted by problem outlets along 33rd, prior to new seasons and small corner markets selling to underage patrons and most reasonable along alberta. It is not uncommon to have issues with bars and taverns along alberta street spanning multiple neighborhoods. It is common to see public intoxication, public urination and vomiting in yards and parks, accompanied by loud and rowdy behavior. It is common to see trash and experience loud noise from patrons departing locations moving to their vehicles. We too have been partners in several good neighbor agreements with local businesses, and it is an effective tool, but for those other establishments who ignore complaints made directly to them our efforts have been futile. Chris gerardy commented that neighborhood associations are not willing to work with retailers, and that hasn't been my experience in the last two years that i've been working in concordia. We've been very willing to work with retailers, we just need more effective tools to work with them. With respect to current practices being effective often times neighborhood associations are not given adequate response time to respond to new licensees. For oversaturation issues or changes in ownership. Those are notices given by olcc. In closing, I believe it is the social and moral responsibility of businesses that sell liquor to maintain and support the livability and safety issues within their neighborhoods and business districts. It is a constant reminder when we read in headline news of the hundreds of fatalities each year related to alcohol consumption. And so we as a community are responsible to implement measures so not to overburden our police, fire and medical bureaus. One of the resolutions that I was thinking as i'm listening to this testimony tonight was perhaps creating incentives for those businesses that do abide, you know, by the practices, that are responsible businesses in our community, and also perhaps for those establishments that actively participate in neighborhood associations and livability committees.

Katz: Thank you.

George Bruender: My name is george bruender, concordia neighborhood association. I'm co-chair of the land use and livability committee, and i'm speaking on their behalf. We support this ordinance. It could give us the teeth we need in developing good neighbor agreements with unneighborly liquor establishments, and with small stores selling alcohol to minors. It would hopefully also give us quick response time to our complaints. Additionally, we're happy to see the amendment on the year-end evaluation. I think that's very important. One comment in a cursory reading of 14-b, we don't see a mechanism for informing neighborhood associations for the complaints being filed. We don't see a mechanism for informing us about the licensee's response and the abatement plans that have been assessed, and do not see the correlation between that abatement plan and our own good neighbor agreements with the same licensee. We would like that

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a little bit clearer and spelled out. Otherwise this ordinance gives all signs of being good for neighborhoods and for neighborhood residents.

Katz: Thank you.

Greg Griffiths: Thank you, mayor Katz, members of the council. My name is greg griffiths. I'm here on nobody's behalf but mine, and maybe my wife and son. About -- there seems to be some question about whether the current tools that are in play are sufficient to address noise complaints from the citizen' standpoint. If indeed they were sufficient I would not be here. About seven years ago the owner of a restaurant across the street from our home approached us, telling us that he was going to be applying for a liquor license and seeking our assistance. We did give that assistance to him. We worked with him on crafting a good neighbor agreement and we worked in good faith with him, that he would continue to be a vital part of our community and a valued part of our community. About four years ago, that business changed hands. Since then we've had four years of headaches, noise complaints, we've complained to olcc, we've complained to the noise control office here. We've complained to Portland police. We have been told by olcc that our complaints, because they're noise focused, are outside of their scope. And although we've found noise control to be very responsive, they too have limited resources and we've not had any success in regulating the noise coming from this business establishment. In our mind, we hate to think that the only mistake we made was supporting an area business. But that is part of what it looks like. As i'm listening to the comments being made this evening, it strikes me that the one thing that was missing back when we did support the business that came to us, was teeth in the good neighbor agreement that would have made it stick. This ordinance before you seems to suggest that the good neighbor agreements would have teeth, that the agreements that are crafted between ordinary citizens like me, small business owners, neighborhood associations, would have some lasting power and would have actual impact and be worth more than, or at least as much as, the paper they're printed on. I do hope that you will pass this measure, pass this ordinance. If you do not pass this, I would hope that you do walk away from this and continue to realize that noise is directly tied to livability in our city. Thank you.

Katz: Thanks. Go ahead.

Michael Mosomeci: Hello. My name is michael mosomeci and I too live in the same neighborhood as greg and live across the street from the same establishment. I've actually had conversations with the different managers that have come through in the last four years. And the present one seems to have a rather avant-garde approach to dealing with the neighbors and what not. I've lived there for 12 years, and one of the longest-living people in the neighborhood. And she had the opinion that -- that I didn't own the house and I should just leave. And I found that rather offensive, that, you know, my living in this neighborhood and contributing to the neighborhood for quite many some time didn't really mean much to her, and -- I don't know. I just - - I feel that the noise control committee and what not needs some kind of ammunition. In my dealing with them for the last four years, it's kind of like, you know, talking to a paper dragon. They don't really do much. They're very helpful people as far as talking to them on the phone and, you know, coming out and taking notes and running their noise-control devices and figuring out what's going on, but they can't really do much. And olcc doesn't really seem to have much to do with the noise control problem. Thank you.

Katz: Thank you. Good evening.

Tim Pierce: My name is tim pierce. I'm one of the managers of a restaurant down in the northwest side of town. And i'm new to the area, came from a lot of other areas across the united states, and just coming in and thinking that there's other ways of regulating a lot of what's going on with groups of being able to get together, that we can talk about this of other ordinances. The three complaints -- i'm opposed to this ordinance, and also the three complaints is -- is just really

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ludicrous to appoint of where anyone can complain with three complaints and have something done with that. The amount of time that it takes to do this, of responding, and like someone else was saying earlier is just not acceptable. We need more time to be able to go back against complaints and research them if you want to be thorough about it. It could be 30 days or more before we even get that first complaint. If someone complains three times and one's at the first of the month, the middle of the month, and at the end, that first of the month doesn't give you plenty of time to actually be able to respond to these. Let's see here, i'm looking at just also -- just -- i'm just really opposed to just how we -- how this is being taken, and -- and we're turning what's happening from the police department and all the other places that are -- you're saying all these regulatory places are broken. Why don't we fix those instead of turning it over to just our general public to regulate how we'd run our businesses instead of fixing the police department or the -- any of these other places, the olcc and so forth. That's more or less what I have, that we're giving too much responsibility and how it could hurt our businesses to our -- our -- just our regular residents.

Michael Osborn: Mayor Katz, commissioners, my name is michael osborn, understand and i'm here as a frequent patron of Portland licensed establishments, like many of you I enjoy what we have in Portland, in restaurants and in bars, and in the opportunity to purchase beverage alcohol. I'm a moderate consumer of wine, beer and spirits, particularly Oregon's pinot noir. I'm opposed, if it's not obvious, to this time, place and manner ordinance. I think it is anti-business, it's redundant, and equally i'm fearful that it fosters prohibition. Today the olcc employs people in the capacity of moderating and enforcing liquor laws and i've learned this evening about an ordinance obviously in Portland that is to take care of nuisance issues. To that end, I was surprised about the impact. I believe it was mr. Hendricks who told us that there were a little more than 1900 licensed premises in Portland in the city limits, and further that he felt that 20 licensed establishments today would be considered problematic, but only 10% of those would actually make it as far as the process that's been outlined. It hardly seems like that's eventful at that point, with the number -- that number would be two, if we did our math here. That was quite a surprise on impact, hardly evidence that the problem is as chronic as one would be believing. The further issue is the prohibition issue. I'm a fan of the 21st amendment, that is to say i'm well aware that in roughly industry estimates are about a third of americans do not choose to drink beverage alcohol altogether. For whatever reason, that may be. Now the fact of the matter is, if it's an issue limited to complaints from citizens, this could certainly foster complaints from those who are opposed to beverage alcohol for their own personal reasons. It's not clear necessarily that we're taking that into account. The fact is by allowing the city to go through a process on their own through the complaint process, and to limit days and hours of operation, this rings, or at least rhymes with, prohibition, and if it's not citywide, it certainly would be neighborhood specific, and that certainly is not something that we've here in our western states. We've had only one example in Oregon, I believe, and that's no longer a dry city, and that was monmouth. So my concern in summary, is it's anti-business, something you should be well aware of as an issue that's plaguing Portland's economy today, further the issue of redundancy, there are people already in place to manage this, and then the worst issue is it rings of prohibition. Thank you.

Leonard: If I can just add one thing, I want to assure you there are three of us sitting here tonight that are not in favor of prohibition.

Osborn: Thank you. Cheers. [laughter]

Brooks Koenig: Mayor Katz and commissioners, my name is brooks koenig. I live at 2833 southeast harrison street, the hand neighborhood, and i'm here in support of the ordinance. I think indeed you have drafted something that is fair, balanced, it is enforceable, and it does potentially solve a problem, and I think that's what government should be doing, is solving problems rather than saying, oh, just live with it, neighbors. So that's really the -- the essence of it, that I think that

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some of the problems that the bar people have mentioned about lawsuits might be averted by going through this process rather than going through a long legal process. So I think it could bring the merchants and neighbors together and really prevent problems rather than having them deteriorating to the point that indeed it does bring about lawsuits. Thank you.

Brian Hogan: Good evening. My name is Brian Hogan, owner of a mixed-use building. The reason we're all here tonight is because there is no method to deal with these problem establishments. You know, for that reason I urge you to support this ordinance with the idea of revisiting it in a year to see how effective it has been. I've seen -- I've heard plenty of business owners tonight talk against it, but I can't imagine that those are the owners of establishments that are causing the problems or they wouldn't be here. So I don't think there's any reason we can't pass this, come back in a year and see how effective it is. Thank you.

Katz: Did you hear that -- I assume that Mr. Neill is accurate, that that particular licensee has not been yet approved at the Olcc.

Hogan: My understanding is that Mr. Neill won't be representing him anymore, because I use the same law firm that Mr. Neal works at, and there's a conflict, and he can't work with that licensee anymore.

Katz: Ok. Well, whether that's the case or not, but why don't you make sure to see if Olcc has acted on that particular license.

Hogan: I live in old town, and it's a different business.

Katz: Same owner, but different --

Hogan: His license is valid and in effect and a non-issue in this particular establishment.

Katz: Ok, thank you.

Paul Romain: I'm Paul Romain --

Katz: It's all your fault. [laughter] if you let us do our job the way we were doing it for all these years we wouldn't be here tonight. I've been waiting to say this for so long. [laughter]

Romain: I will respond to that. I'll require my time back. When we were here in the previous matter --

Katz: Why don't you identify yourself for the record who so everybody knows who caused chaos in the city of Portland and other municipalities in the state of Oregon.

Romain: It's a good thing I still love you. I'm Paul Romain, an attorney in Portland, and here representing the Oregon beer and wine distributors association, not any individual licensee. My message to you is just -- is fairly simple. You don't have the statutory authority to do what you're doing. Most of you have known me for a long time. I've been in the legislative council, been in the attorney general's office, I was the chief deputy attorney general and practice alcohol beverage control law for about 30 years. Your problem with this is while noble, at least in the noise area, you don't have the authority to do what you're doing. ORS 471.045 provides that the liquor control act is basically paramount to everything. The statute you're relying on, 471.164, was added in 1989, was part of Oregon laws chapter 846, which was a prostitution, drug house bill when you were the speaker. One of the provisions, the last provision of that bill, happened to be O.R.S. 471.164, was not even made a part of chapter ORS 471, it was kept separate. What it did was give you some authority on those particular things, because in that particular bill, chapter 846, they defined nuisance in that bill for the purpose of that bill to be drug houses, prostitution and gambling, I believe, those were the three things. It has nothing to do with what you're trying to do right now. Plus in 1999 we changed the state law. We put in a standard in the law for what noise is, because there was no standard. That's where we had our little disagreement. And we put in a statewide standard that was signed by the governor, passed by both houses, democratic governor, and it fostered the great thing that you were talking about, basically led to a playing field where we could settle the matter, and we are, as some folks have said, the establishment that I have a very, very

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tiny interest in, one of the best players there. We're good neighbors, but we found out what the law was, what the parameters were. The problem with your ordinance is you set up a different standard than what is in state law. And you're not going to be able to do that. If you're getting that advice, which I don't think you are, because I talked to the a.g.'s office just today actually, and they're not specific on it, but they -- at least the ones I talked to, who deal with liquor control, believe I have very valid points on this. The standard is set as far as noise, what that noise standard is, and you -- whether you like it or not -- really have to live within that.

Leonard: Paul, we did talk to the a.g.'s office and the staff at the olcc, and have been assured, and then reassured, that the way we're approaching this, although unique, is allowable under the statute.

Romain: Commissioner Leonard, you know, I've been doing this a long time. And as all lawyers know, we all disagree intentionally really so we can get fees, but I respectfully don't believe that the authority is there. But again, that's something that you will find. I would ask for a very specific legal opinion before you go forward on this. Thank you.

Katz: Well, we'll have -- we'll have a little bit of time.

Francesconi: Paul, I have a couple of questions.

Romain: Sure.

Francesconi: So are you saying that if the -- I'm not saying we would do this, but if the noise disturbance is modified to comply with the definition at the state, then does it make it legal in your view?

Romain: Commissioner Francesconi, from my perspective, that's the only thing I really know about. Unfortunately I became an expert back in 1998, 1999, but in that area, if you have the same standard, I think you have far more flexibility. My problem is with your noise standard.

Francesconi: The noise standard in the ordinance.

Romain: Right. It's different than what is in state law.

Leonard: You're not disagreeing that we can do this, you're just saying to the extent we apply the noise standard differently than what the statute describes, there may be a problem?

Romain: Commissioner Leonard, what I'm saying is, as far as the noise standard, I know you won't run into the objections that I have, you have a separate issue, brought up by Mr. Perry, on whether or not you can restrict with remedy --

Leonard: I thought you were talking about the same issue he was.

Romain: They're two separate issues.

Francesconi: Ok. I have talked to our city attorney, and so there is a serious -- there's a serious legal question, but I think we think we can do this.

Romain: I only raise serious legal questions.

Francesconi: Yeah, but did you hear the "but"? But there is a disagreement. As to whether we can do this or not, because our city attorney does believe we can.

Romain: Ok.

Leonard: And so that you understand, this was not done hastily. Literally, it has been, not just a back burner project, but over the past 12 months, a constant -- I don't know how many hours I've spent on it, and our city attorney spent on it, to make sure all the t's are crossed, all the i's are dotted, and then put in protections to address some of the objections we've heard tonight.

Romain: Yeah. Commissioner Leonard, I'm not saying you haven't done yeoman's work trying to put this together. It's a very difficult issue. Your problem is greater than this. Basically what you're trying to do is something we faced years ago with the Pearl District. It's an incredibly vibrant, wonderful neighborhood, but it's doing something you never had in Oregon, it's bringing a whole bunch of people together with different businesses and stuff. The classic, about two months ago, there was an "Oregonian" article, two or three months ago, that people in the Pearl District were

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complaining because the mail trucks were making noise at 3:00 in the morning. You sit there and go, you moved into a commercial neighborhood, what do you expect? They should expect some reasonableness, and you're trying to find that fine line. You're running into a real hornet's nest, which I know you already know.

Leonard: Yeah, I already know that.

Katz: Ok, thank you.

Cynthia Peek: Mayor Katz, members of council, my name is Cynthia Peek, currently the president of Southeast Neighborhood Coalition, I'm here to speak as a private citizen and as past president of Foster/Powell and to talk about some of the things that happened in Foster/Powell when I was president. I'm very much in support of this ordinance. I've heard opposition to the ordinance tonight, and that the ordinance is not needed. So I want to tell you about the specific -- the impact of a specific business in our neighborhood on our neighbors. First of all, good neighbor agreements have no teeth. There's no validation. They're voluntary. They're not enforceable. We've had long-term residents who lived in a neighborhood across the street from a viable restaurant, they were there for years and years, the restaurant failed, was sold to a bar. The bar was problematic in its location across the street. And the problems didn't abate when they came over. So these neighbors suddenly are dealing with noise, they're dealing with motorcycles, choppers leaving at 2:30 in the morning, unmuffled, they're dealing with fights in the parking lot, broken glass, noise from the live band coming out the door, all hours. They suddenly cannot sleep. Their livability has been affected. Some of the neighbors gave up and moved it took so long to deal with this. We tried to talk with the owners. We tried to get them to engage in a process for good neighbor agreement, and that process could not happen. They wouldn't show up at meetings. They wouldn't return phone calls. Remember, this is all voluntary. We were told by our crime prevention officer that when it came right down to it, OLC, the best we could expect, would be that maybe they wouldn't renew their license next year if enough people complained. That's not a very good short-term solution for people who can't sleep and have had their livability destroyed. Ultimately these people did come to the table. They've become good neighbors since. I've patronized their bar. It's a fun place to go and they're doing a good job. These owners. Who knows how long it will last. Who knows if the staff they hire next will do a good job. We don't have any tools at this time. I think the worst thing is that there's no consequences in a good neighbor agreement. This will give it teeth. If it's flawed, fix it. But we can't live without it. We really need to have this tool. One of the things that the businesses talk about is the burden of the ordinance. I submit that a well-run business will not be affected by this ordinance. Three complaints do not necessarily shut down an ordinance as we've heard someone say. Three complaints generate a problem-solving process. They don't shut it down. They begin the process. They do what we couldn't do -- they bring them to the table. I urge you to pass this ordinance to give these neighbors and others like them a chance to get an effective tool in place. Thank you.

Katz: Thank you.

Karen Matson: Karen Matson. I live 20th and Division next to a very problem bar. I have lived in the neighborhood since 1988. The past owner sewed it, the new owners that have come in have been a problem ever since. I actually had appeared before you, Mayor, and you -- two of the council members in a city hall meeting regarding this bar about eight years ago. They've been a problem ever since. I have worked with the neighborhood association agreement with the Southeast Uplift Well, the police department, with everybody regarding this, and I can only say that I am echoing a lot of the same things that the neighborhood association people have been representing to you today, and that is there is no teeth in a neighborhood association agreement, and this is a start. I think it's great. I think it's long overdue. I think -- I think I have a couple issues being -- with the remedies on this. Some discussion was involved -- brought up about documentation. I actually got

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into that discussion several times with olcc. They don't care about documentation. Their interest is basically to sell alcohol. After a very long time of fighting with them, and I mean years, and I mean years of documenting, with their logs of endless papers, it got to the point where I was just one person making a lot of noise. And they discounted anything that I said. So then my neighbor stepped up to the plate, and there are only three houses on our block, we're across the from the new seasons coming in, and while i'm all for new businesses coming in to our neighborhood, if they can't respect the neighborhood people that are living there, with being able to just sleep at night, I mean i'm not even talk being the fights and the drugs and all the other stuff associated with these, you know, problem bars, just basically sleeping at night. Well, they ended up realizing that I was documenting this with tapes. I started recording, which is very time-consuming, it's very monogamous, hard to be able to do it legally because you can't legally tape visual with -- with audible. You have to be able to get their permission if you tape with their voice -- I mean, I went to an attorney on this whole thing. I'm ready to sue. I'm 20 minutes before your meeting started, I got an email from someone in southeast uplift, I think it was marcia dennis, that said you should go to this meeting, so i'm not prepared, I apologize, but I would like to say all the remedies in this, on page four, were all the remedies that were already done through olcc after five years of constantly complaining to olcc about this, and the problems haven't resolved themselves. If they have their hours shortened, it only means that I get an extra hour of sleep, which i'm all for, trust me an hour of sleep is an hour of sleep that I didn't get before, but the problem is there's no enforcement, there's no -- there's no police. I'm the police patrol. Was that my three minutes?

Katz: Go ahead. Finish your sentence.

Matson: I'm the police patrol, and one of the gentleman, I don't remember his name, was sitting up here, and he said, well, you know, viable documentation, but if it's only coming from one person isn't going to be considered, isn't going to be considered. And quite honestly, after 10 years of putting up with a problem bar, one of the neighbors moved away, he got tired of it, and I got to the point where this is my home, do I have to sell my home and -- and even if I were to sell my home, where's the property value on it? I guess my point is that if one person has the determination to document and keep the ongoing process going, even though everybody says you're just one person you live next to a bar, you should have known that, well, it wasn't like that before, it's only been like this since these owners have taken, so i'm saying thank you for at least considering this to be a start. I would like to see stronger effects for them if they don't comply with these remedies. I don't see anything in the language in here on that. It would be nice if they could lose their license. I don't think fines are effective.

Katz: Thank you.

Louise Cody: My name is louise cody, chair of centennial community association, which is a Portland neighborhood association. And the board, we didn't get to discuss this at our regular monthly neighborhood association meeting, but we discussed it with the board, and they are fully in support of this regulation. One of the that I think is very good about the regulation is that the places responsibility on the store, bar or restaurant for behavior resulting from alcohol sold there. And i'm not talking about 10 miles down or three blocks down, but often we live in a suburban area of the city, and often our establishments have parking lots, and a lot of the problems are caused in the parking lot. And having somebody -- a security person can eliminate all the nuisances that are listed in here, noise, offensive littering, etc., etc., etc. So sometimes a very simple solution for premises, in other words the parking lot, and some of them are very large, are the responsibility of the establishment. So this is a good ordinance for us. We've heard tonight a lot of the industry talking about how it's going to affect and limit their business, or put them out of business, or have neighborhoods or irresponsible residents limit alcohol sales or have an influence on them. I feel for the most part this will not affect bars, restaurants, or small stores that sell if there is not a problem.

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We were already talked about only 20 problem locations. For the most part, the public is not out there lurking to discriminate against their local 7-eleven, restaurant or bar, unless there is a tremendous problem. And usually these establishments who are getting the complaints and the frustration for 10 years of noncompliance with just basic livability issues that arise in the neighborhood, there doesn't seem to be any danger to a well-run establishment. And I'm glad that this ordinance is out there and I urge you to pass it.

Katz: Thank you.

Linda Nettekoven: Mayor Katz and councilmembers, I'm Linda Nettekoven, a member of the hand board, vice-chair of Southeast Uplift, member of your liquor advisory group and sat in a lot of round tables at Olcc trying to get better handle on some of the problems associated with liquor licenses. I'm not representing those groups tonight and telling you about this interest of mine only because it means I've been hearing a lot of stories like the one that Cynthia Peek just shared with us as I've been trying to investigate this issue. I feel the ordinance could be an important tool for neighborhoods and we don't have enough tools right now to deal with the issues we're facing. The city's committed, I think, in its comprehensive plan to mixed use, which I think a lot of us feel is a good idea, but don't have enough tools to make that work effectively, and this could be a very useful one. I'd like to emphasize, and I was planning to say this even before I heard all the concerns from the industry, that I think this tool -- this tool could be a real asset for businesses. I work closely with both of our business associations, and it seems to me that the time, place and manner ordinance gets people together early in the game. If it only takes three complaints, then that means people start talking early before more serious problems and patterns develop. And it would be nice if people came to the table, but this gives some clout to get people to show up who are reluctant to make that first step. In fact, you've got trained staff working with the -- perhaps the problem establishments, helping them perhaps to be more skillful in solving the problems, and you've got trained staff working with neighborhood associations in cases where the neighborhood association or the neighbors may not be skilled in dealing with these issues. So I think it's creating a win-win situation all the way around. I'd like to talk briefly about that second issue referred to with the Pearl being the most recent example, where neighbors move next to an establishment and then decide it's a problem and in my case I've lived at my current address for five years and I can point to two establishments that have had three owners within that time period. In one situation, the situation has gotten better with each change of owner because of hard work by the neighbors and Olcc, but it shouldn't take this long to get a change to happen. In one case, it took someone dying before Olcc finally had enough clout to go after that license holder. I guess I'd just like to emphasize that the livability ordinance problems, the ordinance is designed to address are usually best solved at the local level, where people know each other, know the dynamics of the neighborhood, and this ordinance allows them to be solved at that level hopefully. I'm hoping that it can accuracy processes that help neighbors and businesses learn how to be allies and create a better community for everyone. I thank you for considering it.

Katz: Thank you.

Katz: Should I scream at both of you as well?

*****: I didn't do anything yet.

Saltzman: Operative word being "yet."

Katz: Go ahead, Larry.

*****: Thank you, Mayor.

Larry Harvey: For the record, my name is Larry Harvey. I'm here this evening representing the lodging industry throughout the region, particularly within the city of Portland. I know that your folks are here to try to address a serious issue, and I'm certainly not going to downplay it. I have lived in your neighborhood as well, Mayor, as you might recall, and in fact I lived directly over the

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ram at one point in my life. I don't mean to be flip, but frankly my biggest problem was the coffee establishments in the neighborhood that didn't pull their tables off the sidewalks at 10:00 as they were supposed to. I know it's late, and I for one usually am in bed at this time every day, so you can imagine my lying in bed many, many nights after midnight hoping those folks would somehow find their way home. The concern that I have here, bring on behalf of my client, is that we need better definition to exactly what we're talking about with regard to licensed establishments, particularly with exactly what the problem is, is that we've been hearing about here. Frankly, i'm sorry that commissioner leonard isn't here, because what i'd like to say is that i'm prepared -- I was not involved, and nor were any --

Katz: Do you want to wait until he comes back?

Katz: Commissioner leonard, somebody's talking to you.

Leonard: Sorry.

Harvey: I'm prepared to bring language forward that would help relieve the anxiety of my client with regard to the issues that hotels face. We do have issues about liquor licensing that go beyond what this is. I don't think our hotels were necessarily targeted. I don't know that there have been any problems associated with the hotels, but I think there ought to be language introduced that would address our concerns. I'd be happy to sit down and work through that, or you could exempt anyone that collects lodging tax under the city ordinance and I would go away, too, and that might make all four of you happy.

Leonard: If I did what both of you wanted us to do, there would be no ordinance.

Harvey: I'm not here with joe gilliam. Please don't confuse that issue.

Leonard: You chose to sit next to him. [laughter]

Harvey: We do have problems with potential saturation. This ordinance could inadvertently affect performing arts center, licensees close to that area, affect p.g.e. Park, which we obviously like and support, and we collect taxes to help pay for the bonds that renovated that particular facility. So i'd just like to suggest to you that we've got some time to deal with these issues. I'd be happy to sit down and work with it. I know that the good commissioners sought input from a lot of business associations. I don't think ours was one of them, but, you know, we're not going to hold that against anybody. We're happy to work with you with that issue, and any of the other ones that we're currently addressing through the city council. So we have a lengthy history of being cooperative with the local government, because you're our partners. You help us to bring people to this town so we can generate jobs and revenue and so on. So having said that, let me just, again, reiterate, i'm happy to work with you. We have some things that we can work through with you, and it's not my fault, i'm not paul romain, and I don't know this guy.

Leonard: If I could just, larry, of all things, you're right, I didn't contact you, because I just didn't think this was an issue for you. And let me explain to you you. I would almost think this would be good for the hotels. I mean, I would not think people that stay in your hotels would appreciate people that buy alcohol in a bar in your hotel screaming and hollering in a hotel. That would not be good for your business.

Harvey: I agree with you, commissioner leonard, and the rest of you as well. Let me just say that were it not that some of my members of my client, the lodging association, had they not called and said, this is of concern and please go and voice your concern and willingness to work with the city commissioners, then I probably wouldn't be here tonight, but it has raised some red flags for some of my members, and so that's why i'm here. And so rather than take up everyone's time tonight to say what those might be and how we would address them, i'm --

Leonard: I'd be happy to talk with you.

Harvey: Right. I know that i'm probably well beyond my time. Let me say also on a more personal note, as a member of the board of directors for the depaul treatment center, I can tell you

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that there will be a certain number of, shall we say, offenders or patrons, who will not be deter from their behavior by another city ordinance. Those people who urinate and regurgitate on the lawns and -- just so on and so forth. My long-term personal experience is that they're going to go somewhere else. They'll go to another neighborhood. So I was touched by the issue of we have a responsibility, a moral responsibility to help, and if that's the case, then we could also talk about how we can fund other treatment centers, too, but that's not what we're here for tonight.

Leonard: That's a good point.

Katz: Larry, you raise an interesting issue, because you are right, there are coffee bars that probably make more noise, or juice bars, where a lot of young people go, where liquor isn't being sold, and we hear about that at my every other friday gang meeting, so those are not covered by this. And so those facilities will not be impacted. Just wanted to make sure the neighbors understand that. All right.

*****: Madame mayor, gentleman --

Katz: For those who don't know, it's been years and years where I had to sit and listen to these gentlemen and now that i'm here for some of these issues these gentlemen gave us a hard time, and that's why we're here tonight. Some I said, larry. I don't know. Some. Payback.

*****: Madame mayor --

Katz: Joe, you're too young. You weren't there.

Leonard: But he was old enough when I was there, so your point is well taken.

Katz: He was there when I was there, too. All right, go ahead.

Leonard: Although he is a good friend.

*****: Madame mayor, gentlemen, commissioner leonard --

Leonard: He was a good friend before this. [laughter]

*****: -- i'm here tonight --

Katz: You have to identify yourself so every neighborhood association knows you.

Joe Gilliam: For everybody in the room, i'm your neighbor joe gilliam, represent the Oregon grocery association, i'm another in both capacities tonight. In the first capacity, i'll tell I live near p.g.e. park and I believe under this ordinance, a beer and a dog at p.g.e. park will just be a dog. You will not -- it will not withstand the amount of complaints you'll get and the process --

Leonard: Pulling out all the stops tonight.

Gilliam: I am. That's because I love you. Ok, I think the perception of this chronic list, to be serious about this, is that there's this list of chronic abusers. When we asked for that list from randy's office, and also from the city police, there's no list. No one knew of a list. There's no way to track these people. Then tonight I heard there is a list. So I look forward to receiving a copy of that list, of the three or four that are problem places now, and of the possible 20 over the last year that have -- would fall under the ordinance. We look forward to seeing that. I think what you're going to find, though, that the amount of mechanism we're building here, for .2% of all the licensees in the city is probably overkill. One of the things we've been discouraged with, I think that you're seeing -- our fear is there will be a basis of fraudulent complaints, in our view, amongst the legitimate complaints. But our fear is that the fraudulent kind of complaints are going to outweigh those small, legitimate complaints that people are having problems with. And constantly, as we had this discussion, we heard about the m.l.k. Safeway, the safeway at jefferson and zupan's at belmont, and i'll tell you that the m.l.k. store, safeway, hasn't had a complaint in 4 1/2 years. They have put on layers of criteria, until they had zero tolerance. That consists of there's a list on my testimony that are 11 items long, that a clerk must do, so in addition to the olcc requirements, they have to look -- check i.d. of anyone 40 or younger, check the -- ask the customer if they're under 21 years old, but the -- put the i.d. into a template, that just shows their age, so they don't get confused on the dates they're looking at. They have to complete the checklist on the back of the bottle year card,

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and if anybody was born in the 1980's at all, they have to have management come over and verify the age before they sell the alcohol. That's in addition to all the other steps prior to that. They have a policy they sting once a month internally. They sting once a month at the minimum in that store.

Leonard: This is just the --

Gilliam: This is safeway at m.l.k. If you fail the sting, you get one warning, second time you're terminated. If you fail an external sting, you're terminated on the spot, you're done. There's a zero tolerance policy. In addition to that, safeway turned and in that 4 1/2 years and invested \$5.5 million working with the neighborhood and city to renovate the store and make it a better place for the neighborhood. The manager at that store was troy steel. He moved to the new store, museum place, which is across the street from the old jefferson and tenth street store where there were problems. They committed \$12 million, most expensive store in the safeway chain to the city of Portland to improve that neighborhood. They stepped up big time to do ha. The same manager that cleaned up m.l.k. came in there to make sure that store got the right start, to solve the problems up front. They don't let anybody loiter more than 15 minutes.

Katz: Your time is up, but what you're discussing is people underage buying liquor. That doesn't mean that people over the certain age can go out and make noise.

Gilliam: Madame mayor, what the issue in their training is not only below, underage, which can create a nuisance, you know, if you got 17-year-olds out drinking beer in the neighborhood. But also how to say no and how to not sell to somebody who's intoxicated. There's also many times a violent reaction to not selling, so they have to be trained in that. The bottom line is, and I guess my peace offering here tonight is, I think you have serious legal issues. I don't want to be put on that team, to be quite honest with you, and I think you have a way to narrow the scope down where it's manageable. That is there's a program through olcc called the responsible vendor program. You have to step up and do quarterly training, more signage, you don't -- instead of 26 and younger i.d., you go to 30 and younger. You have written, signed-in, repeated signing of pledge by employees. It's a whole series of things that creates a more responsible vendor and it works. You should excluded those people who are responsible vendors from the program, in the ordinance. Anybody who doesn't want to join that, step you know and do the right thing, then is that the peril of the ordinance? Now you're talking about the organizations or the operations out there that are in that .10 of 1% that you're shooting at.

Katz: Thank you.

Francesconi: I've read your testimony here, joe, and in the spirit of full disclosure, i'm the one that talked to joe about these other episodes, because commissioner leonard I don't think was on the council, and I actually got involved in all of those episodes. I guess one thing I want to make very clear here is that I agree with everything contained in the letter about all the changes that were made by safeway and zupan's, and the q.f.c., they never should have been part of this, because there was no substantiation on anything against q.f.c., and I made a decision as a fact finder there was nothing on them, so they shouldn't have been on the list. But in terms of safeway and zupan's, they made all those changes, and invested all that money, and i'm more familiar with safeway than zupan's. Safeway is one of the best employers in the city, and we need them here, and don't want to do anything to discourage that. The problem I had is there's a lot of a lot of good little businesses that do the same thing. I didn't mean to imply that safeway hadn't corrected all those things a long time ago. And I think I told you that, and if I didn't make that clear, I wanted to. That's just a statement. You don't need to react to it one way or the other. Actually the concordia president said it before you do, the idea are there some incentives that we could put in this to incent the good behavior and regulate the bad behavior. And I don't know exactly what that is. One of them is the alternative you just gave us. I would like us to look at this during the interim to see if there's things we can do

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to incent good behavior, too. I do believe we need more regulation because the good neighbor agreements don't have teeth. I guess I'm tipping my hand here. But I do think if we can do some things to incent good behavior, we should do that, and look more at this particular program.

Leonard: Since Joe and I last talked, last time we talked a lot about this, and some of the points he made I agreed with, others I didn't, but we did -- I don't know that you've seen the -- where you hear when I read the amendment, that we're creating a committee consisting of seven members, including your organizations to make sure that the things that you're worried about having happened, which I think are legitimate concerns, don't happen. And if they do, to do something to try to fix that. Because that's not the point. I mean, I agree with Commissioner Francesconi. You know, Safeway is a first-rate employer. This is not about trying to do something to hassle, you know, your folks, or your folks. It's -- and I predict that it won't. It's going to be a very small group of people who don't get it, frankly one of which is next door to this woman that we heard from earlier on 20th. I think there's those kinds of examples we're talking about. And I'm just not about trying to do something here to make your life unnecessarily hard. And I want to do things along the way to make sure that we avoid that, too.

Katz: Ok, thank you.

James Davis: My name is James Davis. 2337 Southwest Sixth. I'm finally agreeing with a lot of what I'm hearing in terms of questions from this council. Ctlh does support this work that came out of Commissioner Leonard's office. I'd also like to thank Commissioner Saltzman for appointing me to the original board that worked for almost 20 months on this thing and we're now seeing the fruition of this work to a certain extent. Commissioner Francesconi, you threw my entire testimony off by saying one thing. You said we can't treat small businesses like large businesses.

Francesconi: No, differently than large businesses.

Davis: No, differently. We have to. I'm a small businessman. My nearest competitor happens to be Nike downtown. What they make in a month in their -- or what they spend a month in their electric bill is what I'd like to make in five years. We are different. And I think you should note that. The problems that I've heard --

Francesconi: You want more regulation?

Leonard: I think he meant it in a good way. [laughter]

Katz: He didn't want to discriminate.

Davis: I've only got three minutes. You've got another couple years.

Katz: We'll give another minute.

Davis: Thank you very much. What I'm hearing tonight is this -- throughout all the neighborhoods, if you've got a problem, it's going to take at least five years to get it taken care of, if at all. We had a problem in Lair Hill, the Pink Pearl, I don't think anybody here was on the commission at that time, the thing that really broke it open was the public fornication in the middle of Barbur Boulevard one night. That finally got the Olcc to take notice.

Katz: This is a family show, Jim.

Leonard: Or was it human beings?

Davis: I'm using big words. Those are good, political words. What I'm saying is this, you folks tonight, and we're all getting silly, you folks tonight have to make a decision. And I have no problems with the large corporations, I have no -- problems with even 7-Eleven's, who I went head-to-head with several years ago, and won the case, by the way. I do have problems with the small operators who don't give a damn. So when you vote, and when you think, and get into your consciences and say can we make this thing work or twist it a little bit, remember that woman that -- her name is Mattson, by the way, that's the face, not these guys who get paid very well for being here, or for me who don't -- doesn't get a cent, but probably just ticks you off most of the time. Think of Ms. Mattson, 10 years, she's not trying to screw around with anybody. I'm not trying to

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screw around with anybody. I've got more things to do than that. I certainly don't want to take on safeway or the grocery association or the bartenders association. I just want to make sure that the neighborhoods I moved into 40 years ago work for my kids the same way as they did for mine. And I don't think there's anybody in this room that disagrees with that. Thank you very much.

Katz: Thank you, jim. Both of you have three minutes and not a second more. [laughter]

*****: Good evening, mayor. Commissioners.

Katz: Identify yourself, john.

John Canda: I am the -- i'm so interested, I want to get right into it. I'm sorry. I'm the executive director for the northeast coalition of neighborhoods.

Leonard: By the name of?

*****: Yes, sir.

Katz: I'm sorry, what did you say?

Leonard: I said, by the name of? He hasn't said his name yet.

Canda: John canda, northeast coalition of neighborhoods. It's late, commissioner. I'd like to first to say that i'm in support and the coalition of neighborhoods is in support of this ordinance. I would like to commend art hendricks and jimmy brown and commissioner leonard for -- for this ordinance. I think that in the years that i've been living and involved in the goings-on in north and northeast, this has been a problem. Mayor, you spoke about it just moments ago, when you talked about your every other friday gang group, which i'm a member, and have been for many years, and these are the type of things that we talk about. I have no problem with liquor establishments, restaurants, or any other types of businesses who are responsible and do tow the line in terms of regulations and being able to serve people, and then not serve people when it's time. We have had our share of these businesses. I think people speak differently when they live right next door or across the street or down the street from some of these liquor establishments who have not towed the line, because those are the people, like some of the testimony that we've heard here tonight, that have to deal with the traffic, that have to deal with the noise, and, yes, that have to deal with the -- with the homicides that -- which, by the way, from 2002 to 2003 have increased by 83%. That is what we talk about and that is what we make our business to deal with at the northeast coalition. I would say all of the coalitions. We know that basically there are three things that always bring people to meetings. During the day or at night. Food, controversy, and the loss of dollars. Isn't it amazing how many of the people who have come here tonight have come because of the potential for loss of dollars? When you call and you try to get folks like this to come to neighborhood association meetings, where, by the way, these people are volunteers, in a system that we created, in a system that is being touted, and I believe this, as among the top in the nation for volunteerism and activism, I see this as -- really as a slap in the face by a lot of these business owners. And if the council does not approve this ordinance, what kind of message are we sending to those citizens who have been volunteering countless hours of time for the last 30 years? Neighborhoods need tools and neighborhoods need options. And I look at this time, place and manner ordinance as a wonderful way to reinsurge the energy that we've been looking for across the city of Portland. Thank you.

Katz: Thank you. Katherine?

Katherine Anderson: My name is katherine anderson. I'm 735 southeast 106th is where I work. I am a crime prevention specialist -- oar i'm a crime prevention program coordinator with the city of Portland. I have about 14 years experience dealing with good neighbor agreements. This is -- i'm going to speak very experientially, if that's a word, as a neighborhood activist, as working for a nonprofit coalition, and as working for the city of Portland in this aspect. I came before this -- I came before council probably 14 years ago, but none of the same people were here, when council will vote upon favorable or unfavorable or recommend denial. One of the first good neighbor agreements I was involved with was the baghdad theater, so they can be very successful, all the

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things we tried to address in that and have a good working relationship with a business has worked out. I've worked with approximately a third of the city's neighborhoods over this time, and I have been involved in either implementing, monitoring or authoring two dozen good neighbor agreements or community partnership agreements where a good neighbor agreement may have failed. What I would like to say is that I think we bring a sort of common sense and sensibility to this. We certainly do this, and when I say we, often times there are a group of partners who are involved in these things. It may be an individual business in the neighborhood association but you bring in the olcc, you bring in the d.a., the police, you bring in crime prevention, the neighborhood association, and when there are issues it has never been an issue for a business to be self-reporting. That is if they have a problem inside, we have -- we -- all the partners have made it very clear that they're not penalized for calling the police. We want them to do that so there aren't additional problems. The same thing holds forward, I heard it referred to, what if somebody has a problem in the line outside and doesn't serve somebody, we've talked and worked with those businesses to get them to note, they need to document that in their log, and it's the same sort of thing. You didn't provide service, and we want to see it documented and we reward you, you know, we commend you. I can't say reward, but we commend you for doing that. There's been a lot of ongoing work so that we are -- we are holding the sort of common sense and sensibility. Another thing is a chronic nuisance ordinance, you know, through the ordinance itself, three violations within 30 days. There are a number of establishments, probably including many precincts and fryer stores and schools that could fall within that, but with sense and sensibility, you know, the police bureau doesn't send out warning letters to all of those. There's a focus. I'm assuming that we will take that same sort of sense into dealing with these businesses. Just because there are three complaints, we will do more than just look at, you know, three complaints, automatic, you're going to be, quote, unquote, taken to the wall. No. They'll be looked at. If further action is needed, people will get to the table. I have dealt specifically with three establishments where there have been shootings, you know, sometimes people were shot. Sometimes people died. I believe roseway neighborhood spoke about one. And there's not always good satisfaction in dealing with the that these businesses are currently dealt with. Now the last point I want to make, because I know you're looking at me, like that's it, is each of the good neighbor agreements that I and many other people have been involved with sort of has a preamble that states, good healthy businesses are part of the fabric that makes our neighborhoods livable. And it's not just put there. It's not empty words. People believe it. You know, that's one of the basic concepts of why we do these good neighbor agreements, anybody in the neighborhood will tell you that. Getting people to the table, knowing that we will discuss things and find solutions and people will be held accountable is what this is all about.

Katz: Thank you. Thank you.

Leonard: Thank you, john and katherine, both. They're people on the front lines that will actually be part of the process of dealing with this ordinance. It probably would have been better to have them come up first. I think you addressed a lot of things that people are afraid might happen, and I appreciate both of you coming and saying what you said. Thanks.

*****: Thank you, sir.

*****: Thank you.

Katz: Ok.

Leonard: I'm sorry, we have one person who didn't sign up, who caught me in the hall, who arrived late, that's been one of our leading folks, and it is marianne schwab. Are you here?

Mary Ann Schwab: Yes, I am. Hello. My name is mary ann schwab with the sunnyside neighborhood association. I've lived in that neighborhood for 32 years. And I have dealt with many, many olcc issues over the course of those 32 years. And my heart belongs to lovers playground park. Our neighborhood, since 1987, has challenged olcc process eight times. We lost

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because in 1999 -- and they're all laughing and joking about it -- how they went down to salem and tweaked salem, so the city had to follow suit, the police had to follow suit, olcc had to follow suit. We lost our political voice. I'm here to say let's fix it. Rene wrote a very good article not long ago in the paper, and I told her i'd taken a pickle fork to olcc. Let me demonstrate what i've done with my pickle. In the course of time i've reviewed the olcc guidelines, I have delivered letters of -- for pleading for help to every one of your offices, not one staff in any of your offices referred to this, where we gave you the history and told you how we challenged southland corporation, plaid pantry twice, texaco food mart twice, and I had forgotten of the flying j. We all know what a genius that businessman is. He chose not to sell beer and wine when he found out about the opposition. I have a friend in the audience, charles ellis, in 1988 we had 186 negative letters, two positive. Charles says, don't worry about the comp plan, with that many in the history, no business is going to want to sell beer or wine there. I called him, what happened? During finals week I found they shifted the 60-day notification back to 30. I had four days and a math final coming up. But I got 47 letters, denial, and seven positive. What happened? They got it. I figured out what happened. I finally figured out what the process is. Mayor, you've given the local voice of authority over to the chief of police. I found that out. And then they have given it to the two overworked people here, we have one investigator here, however he's not my investigator, because he's north of burnside. One has friday off, one has monday night, when the big hearing came up june 20 last summer, I went to their supervisor, and he's sitting there with a smile he used to be a school police officer. I mean, I knew him. I'm a retired high school secretary. I said why can't these guys switch their day off? I need technical support in that meeting because i'm going to be in austria, and I missed the meeting. From what I understand it was quite a meeting, because the people that testified did not feel heard. In fact, we had 88 letters. I've been challenging brent to read those letters, but he keeps telling me he's too busy. I want to make sure that this did not happen to those letters. One was signed by three of your five county commissioners. One was signed by will you tell ran community services, we do counseling in that park. We represent 20 neighborhoods in southeast Portland and all we did was nothing. Let's fix it. I'm ready to go to salem, and with my pickle fork, take those representatives and senators out of line one at a time, and by the same token --

Katz: It's the lobbyists sitting back there.

Schwab: You hear me, pickles, you're going on a compost heap. Then we're going to change that beer tax from 3/4 of a penny to a dime this session. We wouldn't have to have all of this budget problems if people paid their fair share. People aren't telling you that these restaurants charge you \$4 for a bottle of beer and they only pay a 3/4 penny tax. They don't even pay minimum wage hardly for their restaurant people. I'm not sympathizing with the restaurants.

Katz: Thank you.

Schwab: Thank you very much.

Katz: Thank you.

Schwab: Can you hear me? Is there any question you have for me?

Katz: No. Thank you.

Schwab: All right. And, oh, trucks should not park the wrong way on one-way streets.

Katz: Sure.

Leonard: Did the grocers lobbyists hire you to come and --

Schwab: What?

Leonard: I think you've scared them?

Schwab: I hope somebody has.

Katz: All right. I want -- come on up. I would like to hear from olcc, since they're not here. When this comes back, we'll give them an opportunity to say a few words and the council to question them.

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Hendricks: Could I make a suggestion, if the council could send a letter to olcc, I did send a letter to olcc.

Katz: Why don't you draft a letter tomorrow and get it up to -- make sure that everybody signs it. Ok?

Hendricks: Ok.

Leonard: Who's everybody?

Katz: The council, councilmembers. That's what you really meant.

Hendricks: Yes.

Katz: I could do it myself, but I think it's better if everybody else --

Hendricks: I can do that.

Katz: There was some testimony on the nuisance language. Did you want to pursue that?

Francesconi: Just a point. How would you like to proceed?

Katz: Just go ahead, just raise the issue.

Francesconi: And later we can talk about it.

Katz: And I want to take the amendments. Let's raise some of the issues that were raised and get some discussion.

Francesconi: Here's a couple. This first is the definition of noise. As I look at the definition in the Administrative Rule, I'm not even sure it complies with the City definition of noise, let alone the State definition. I need some help on that. This one, I'm not sure what it means myself. I don't know that I want to go through all of these right now, unless the mayor and commissioner Leonard want to. The second is the whole question of the investigation and how it's going to be done. I heard what Katherine said and I don't even know if the administrative rules are in front of us, so I don't know if we're talking about those at all. The issue of is 10 days enough for bar owners to respond to some of the allegations. And the last one, this whole question of --and this one's the vaguest in my mind--are there some incentives we can build into this thing that reward good behavior so that we then punish bad behavior. It was the issue that's come up a couple of times.

Leonard: How are you asking them to respond to that. Now?

Francesconi: Not necessarily. These are just the issues. It's up to you.

Leonard: That's fine and I am still open to focusing this on what I had been told by the police bureau and on and crime prevention staff are the problems, which are the smaller stores and restaurants. If the Council is open to looking at this exemption that I had in for stores over 12,000 sq. ft., I'm willing to listen to that.

Katz: I don't think those are the issues that came up. The issues that have been raised are the ones that commissioner Francesconi just raised. I need to understand. I laugh and make criticism of Paul and the other lobbyists but I also tend to listen to them because I know they are going to be down at the legislature wiping all of this out at the next legislative session. So I want to make sure that we are as protected as we possibly can. If the definition of the nuisance is an issue, I'd like for our legal folks to take a look at it.

Francesconi: And that's why I'm raising these issues.

Leonard: And while people are still here a point worth making that I was maybe trying to be flippant about is if citizens see this ordinance as a tool to promote a personal agenda to rid the city of alcohol establishments, the ordinance will go away. We will lose it. And if we don't lose it here it will be lost by some legislative preemption. I would urge people—I've heard a number of people tonight from neighborhood associations give extremely balanced testimony that this will promote good businesses. This will promote better relationships which I absolutely whole-heartedly agree with. I am concerned that, you know, from at least one person that testified that if this ordinance is misused, and I don't think it can be. I think that we have added enough layers of checks and balances that it can't, but if it is, you know, we end up losing a powerful tool along with, as I have

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said to many people, many times, with new authority comes responsibility, and the responsibility is to use it the way it is intended to be used. I hope that everybody can do that.

Katz: Ok. So, there is still a little work that needs to be done. To make sure that we are as legally

Leonard: I think that we have done that. I am fine to, to satisfy anybody else. I mean, i, I --

Katz: I haven't looked at it and I don't need a lot of time to do that, but I think that those are the issues that the council members want to respond on. Ok.

Hendricks: Ok.

Katz: Do you want to vote on the amendments?

Leonard: Sure.

Katz: Amendment number one, it's basically adding, I think the date, the date and the time. All right. Any objections to that? Hearing none, so ordered. Amendment 2 --

Francesconi: Before you do that, I would like to have -- i'm sorry.

Katz: Ok. Amendment 2 is, is, it's the 10 business days, and you had an issue there, commissioner Francesconi --

Francesconi: We just heard testimony that they need more time to respond. I guess that I wanted staff to react. It didn't seem like giving them a little longer is any problem with that.

Katz: How did you get to 10?

Hendricks: I think it's consistent with the chronic nuisance ordinance --

Katz: That's right.

Hendricks: It was crafted after the ordinance -- it seems to be the time period when folks are giving letters that they have to respond back to, to the commanders. It's not a magic number. You know, I don't -- I think that what is important for us is that, is that we get a response, and that -- I worried too much time, but, you know, if we want to extend it beyond 10 days, I think that would be ok.

Katz: Great. Does anybody --

Hendricks: It says business days, so we put it in there in terms --

Katz: So it is consistent with the --

*****: Yes.

*****: Ok.

Katz: Ok. Any objections to that? Ok. Then that amendment passes. Amendment 3 -- that's the -- help me out. That's the current language --

Leonard: That's four.

Hendricks: It's a strikeout, the exemption for the big 12,000 square foot stores.

Canode: Yeah. Returns it to the original language, strikes, amendments --

Katz: Oh, yeah, right. Any objections to that? Hearing none, so ordered. Proposed amendment 4.

Canode: This is language that there was due process concerns that would have allowed the city to go directly to a code hearings process, restored as the original intent and provides for the hearing.

Katz: Ok. Any objections? Hearing none. Amendment 5.

Canode: This requires the police report back to council in one year on the impact and effectiveness of the ordinance.

Katz: Any objections? Hearing none, so ordered. Amendment 6 -- I added "and the city council."

Canode: Yes

Leonard: I think one thing that I saw, it says commissioner of public safety, it should say "commissioner in charge of oni". I do not want to have this responsibility of every assignment from your office of neighborhood involvement

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Katz: Ok. So we will amend that onto reflect the commissioner who has it in their portfolio, and you come back to the city council, as well, as the commissioner. There is two places in that language.

Leonard: Have you got that, mr. City attorney? Did you get that change?

Katz: He got it. All right. Any objections? Hearing none. Ok. So let me charge the three of you, or you, whoever, you all worked together for this time, to, to work on the -- to show us the language on the nuisance, o.r.s., and make the case that we are complying with state law. Anything else?

Francesconi: Yeah. I also want options on noise, to tighten this up. I think it could throw the whole thing out, and I also would like the professional investigation side clarified if not changed to make sure that this professional investigation involved. Then the area of looking at incentives. I would like some options to see if there is a way that we can incent good behavior and regulate. That's more -- and then on the olcc side, which is the last one, we have got to bring them here. Potentially you could have a hearings officer saying one and another saying another. I don't know if there is anything that we can do about it, but at least having a conferring with them about that to see if there could be any consistency, and then it may not be possible. So the last two, we just need more -- other options. The last one, may be the hardest.

Hendricks: Those are issues that we have delved into, I just think for the sake of time --

Katz: We are not going to discuss them now. Work with commissioner Francesconi --

Francesconi: No, with commissioner learned.

Katz: You both will have to work on that.

Francesconi: Ok.

Katz: And make sure that we, we -- the rest of the council knows what you have come up with before you bring this back.

Francesconi: Ok.

Katz: Get the letter to invite the olcc representatives here to, to speak to us and answer our --

Hendricks: Great. Ok.

Katz: Ok. Anything else? When do you want to bring it back?

Leonard: Next week.

Katz: Next week. You think you will be ready by next week?

Canode: Sure.

Katz: Aren't you gone?

Leonard: The following week.

Katz: You are gone the following week. All right, so you have got your work cut out for you. Thank you, everybody.

At 9:37 p.m., Council adjourned.