



CITY OF  
**PORTLAND, OREGON**

OFFICIAL  
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **28TH 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; Ben Walters, Senior Deputy City Attorney; and Officer Michael Frome, Sergeant at Arms.

Items No. 76, 77 and 87 were pulled for discussion and, on a Y-4 roll call, the balance of Consent Agenda was adopted.

<b>COMMUNICATIONS</b>	<b>Disposition:</b>
<b>60</b> Request of John Haines to address Council regarding previous marches (Communication)	<b>PLACED ON FILE</b>
<b>61</b> Request of Bob Bernstein to address Council regarding County School Age Framework (Communication)	<b>PLACED ON FILE</b>
<b>62</b> Request of Bill Parish to address Council regarding the future of Portland General Electric (Communication)	<b>PLACED ON FILE</b>
<b>63</b> Request of Charles E. Long to address Council regarding why Jim Francesconi should be elected Mayor (Communication)	<b>PLACED ON FILE</b>
<b>64</b> Request of Todd J. Kurylowicz to address Council to raise social consciousness (Communication)	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>	
<b>*65</b> <b>TIME CERTAIN: 9:30 AM</b> – Authorize an agreement with McGuire Environmental Consultants, Inc. not to exceed \$243,590 to provide services as an Independent Technical Advisor for the Mount Tabor Open Drinking Water Independent Review Panel and provide for payment (Ordinance introduced by Commissioner Saltzman)  (Y-4)	<b>178169</b>

**January 28, 2005**

<p><b>66</b>    <b>TIME CERTAIN: 10:00 AM</b> – 12 Axioms and their Projects (Presentation by Mayor Katz)</p>	<p align="center"><b>PLACED ON FILE</b></p>
<p><b>67</b>    <b>TIME CERTAIN: 10:45 AM</b> – Financial Condition Report of School Districts in Multnomah County 2002 (Report introduced by Auditor Blackmer)</p> <p><b>Motion to accept the report:</b> Moved by Commissioner Leonard and seconded by Commissioner Saltzman.</p> <p>(Y-4)</p>	<p align="center"><b>ACCEPTED</b></p>
<p><b>*68</b>    <b>TIME CERTAIN: 11:05 AM</b> – Authorize contract with Cayenta Canada, Inc. for a replacement of the water and sewer utility customer information and billing system (Ordinance introduced by Mayor Katz and Commissioner Saltzman)</p> <p>(Y-4)</p>	<p align="center"><b>178170</b></p>
<p><b>*69</b>    Authorize contract with Pacific Consulting Group, Inc. for quality assurance services for replacement of the water and sewer utility customer information and billing system (Ordinance introduced by Mayor Katz and Commissioner Saltzman)</p> <p>(Y-4)</p>	<p align="center"><b>178171</b></p>
<p align="center"><b>CONSENT AGENDA – NO DISCUSSION</b></p>	
<p><b>70</b>    Statement of cash and investments December 18, 2003 through January 14, 2004 (Report; Treasurer)</p> <p>(Y-4)</p>	<p align="center"><b>PLACED ON FILE</b></p>
<p align="center"><b>Mayor Vera Katz</b></p>	
<p><b>71</b>    Confirm reappointment of Douglas Henne to the Business License Appeals Board for a term to expire December 31, 2006 (Report)</p> <p>(Y-4)</p>	<p align="center"><b>CONFIRMED</b></p>
<p><b>72</b>    Reappoint Richard Jensen to the Adjustment Committee for an interim term to expire April 30, 2004 (Report)</p> <p>(Y-4)</p>	<p align="center"><b>CONFIRMED</b></p>
<p><b>73</b>    Confirm appointment of Richard Brown, Steffeni Mendoza Gray, Adrienne Nelson and Jeffrey Tryens to the Portland Parks Board (Report)</p> <p>(Y-4)</p>	<p align="center"><b>CONFIRMED</b></p>
<p><b>*74</b>    Change the title and salary range of the Nonrepresented classification of Parking Control Supervisor (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>178157</b></p>
<p><b>*75</b>    Create a new classification of Electrician/Instrument Technician and establish an interim compensation rate for this classification (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>178158</b></p>

**January 28, 2005**

<p><b>*76</b> Authorize a contract with Gresham Ford to furnish replacement vehicles and provide for payment (Ordinance)</p>	<p align="center"><b>REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION</b></p>
<p><b>*77</b> Authorize the selection of parking attendant and revenue services contractor for the City Garage System through a request for proposal process (Ordinance)</p>	<p align="center"><b>REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION</b></p>
<p><b>Commissioner Jim Francesconi</b></p>	
<p><b>*78</b> Designate a Heritage Tree in the City of Portland (Ordinance) (Y-4)</p>	<p align="center"><b>178159</b></p>
<p><b>*79</b> Authorize two Intergovernmental Agreements with Oregon Health and Sciences University for the South Waterfront Central District Street Improvement Project (Ordinance) (Y-4)</p>	<p align="center"><b>178160</b></p>
<p><b>Commissioner Dan Saltzman</b></p>	
<p><b>*80</b> Authorize an agreement with Oregon Association of Clean Water Agencies to provide laboratory analytical services (Ordinance) (Y-4)</p>	<p align="center"><b>178161</b></p>
<p><b>*81</b> Authorize an Intergovernmental Agreement with the Oregon Department of Human Services for Willamette River fish tissue analysis (Ordinance) (Y-4)</p>	<p align="center"><b>178162</b></p>
<p><b>*82</b> Authorize grant application for communications campaign and SoilTrader website updates to the U.S. Environmental Protection Agency Office of Solid Waste and Emergency Response Innovative Work Group for \$13,000 (Ordinance) (Y-4)</p>	<p align="center"><b>178163</b></p>
<p><b>*83</b> Authorize grant application for rainfall interception study to the U.S. Environmental Protection Agency Region X Office of Ecosystems and Communities for \$25,875 (Ordinance) (Y-4)</p>	<p align="center"><b>178164</b></p>
<p><b>*84</b> Authorize grant application for revegetation activities in Johnson Creek to the National Fish and Wildlife Foundation Bring Back the Natives Program for \$40,000 (Ordinance) (Y-4)</p>	<p align="center"><b>178165</b></p>
<p><b>*85</b> Authorize contract with West Yost &amp; Associates for professional engineering services for final design and services during construction of the Sullivan Pump Station Capital Repairs, Project No. 7172 (Ordinance) (Y-4)</p>	<p align="center"><b>178166</b></p>

**January 28, 2005**

<b>*86</b> Authorize a contract and provide for payment for the construction of the Bull Run Dam 2 Tower Improvements Project (Ordinance) (Y-4)	<b>178167</b>
<b>*87</b> Authorize an agreement with Tetra Tech/KCM for \$729,825 for design and construction support services on the Conduit Trestle Vulnerability Reduction project and provide for payment (Ordinance)	<b>REFERRED TO COMMISSIONER OF PUBLIC AFFAIRS</b>
<b>Commissioner Erik Sten</b>	
<b>*88</b> Authorize Memorandum of Understanding with Oregon Trail Chapter of the American Red Cross for services related to disaster assistance (Ordinance) (Y-4)	<b>178168</b>

At 11:34 a.m., Council recessed.

**January 28, 2005**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,  
OREGON WAS HELD THIS 28TH DAY OF JANUARY, 2004 AT 2:00 P.M.

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

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

<p><b>s-89</b>    <b>TIME CERTAIN: 2:00 PM</b> – Establish Time, Place and Manner regulation of establishments that sell and serve alcoholic beverages, adopt implementation guidelines and policies (Ordinance introduced by Commissioner Leonard; Previous Agenda 59; adopt Code Chapter 14B.120)</p> <p><b>Motion to accept the Substitute Ordinance with amendments:</b> Moved by Commissioner Leonard and seconded by Commissioner Francesconi and gaveled down by Mayor Katz after no objections.</p>	<p><b>Disposition:</b></p> <p><b>SUBSTITUTE PASSED TO SECOND READING FEBRUARY 11, 2004 AT 2:00 PM TIME CERTAIN</b></p>
---	--

At 3:11 p.m., Council recessed.

**January 29, 2005**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 29TH DAY OF JANUARY, 2004 AT 2:00 P.M.

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

Commissioner Saltzman arrived at 2:01 p.m.  
Commissioner Francesconi arrived at 2:02 p.m.

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

<p><b>90</b> <b>TIME CERTAIN: 2:00 PM</b> – Amend Title 33, Planning and Zoning and Title 32, Signs and Related Regulations, to update and improve various City building and land use regulations and procedures that are hindering desirable development (Ordinance introduced by Mayor Katz; amend Titles 32 and 33)</p>	<p><b>Disposition:</b></p> <p><b>PASSED TO SECOND READING FEBRUARY 4, 2004 AT 9:30 AM</b></p>
<p><b>91</b> Amend Title 17, Public Improvements, to update and improve various City transportation regulations and procedures that are hindering desirable development (Ordinance introduced by Mayor Katz; amend Title 17)</p>	<p><b>PASSED TO SECOND READING FEBRUARY 4, 2004 AT 9:30 AM</b></p>

At 3:18 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.

**January 28, 2005**  
**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 28, 2004**            **9:30 AM**

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

Commissioner Sten is on paternal leave. Let's do communications. Item 60.

**Item 60.**

**Katz:** Come on up.

**John Haines:** The situation --

**Katz:** Could you grab the mike? Thank you. You were the gentleman that was here before that I spoke to. Ok. Go ahead. Take a deep breath. We won't scare you. We'll even be nice.

**Haines:** I came with a different thing to share. I want to say as far as that -- i'm sorry. I let somebody else speak.

**Katz:** Would you feel more comfortable if you could write it out?

**Haines:** I have things -- could I go last?

**Katz:** Go ahead. All right. Item 61.

**Item 61.**

**Moore:** He is going to have to reschedule.

**Item 62.**

**Katz:** Ok. 62.

**Katz:** Bill parish, if you can do it in three minutes, you'll get the award.

**Bill Parish:** Thank you for having me this morning. This is my first time speaking before the city council. I appreciate it. Basically --

**Katz:** Identify yourself for the record.

**Bill Parish:** Bill parish. I'm a resident of Portland. I'm a local investment manager, and I became involved in this p.g.e. proposal to purchase p.g.e. as a result of activity of the Oregon investment council. I presented you all a proposal, an alternative. It seems like on one side we've got the p.u.d. folks and the other side the notion of running Portland general out of the cayman islands by texas. What hasn't been looked at is a private co-op. They're nontaxed like a p.u.d., they're a great structure, this e -- they have been highly successful, very good for economic development. What will happen if you go to a co-op structure, mayor and council members, you'll eliminate this equity compression. So often at the end of the day have you rate payers competing with common stockholders, and it never works out. We've seen it with h.m.o.'s and other models. That's why the cooperative structure is so beautiful. What you can focus on is lower rates and providing a high-quality fixed income investment for perhaps public pensions. Another key aspect of this proposal is that there are huge pools of public pension assets all over the country looking for a place to invest. So it won't require issuing new bonds. For example, here in Oregon we've got a \$42 billion fund that's 70% weighted in equities right now. The stock market went up so much, they need to rebalance. I think p.g.e. Could be outstanding fixed income investment for a lot of public pensions, so you might be able to get three or four public pensions to provide the financing, use the structure to get a lot of the benefits of the p.u.d., and at the end of the day you'd satisfied the p.u.d. Folks, the industrial users, the citizens utilities board and brought p.g.e. home from basically running it anonymously for the most part out of the cayman islands. That's my proposal. I would be glad to lead that effort. I've got a lot of experience with co-ops, I worked at arthur andersen when it was a great firm in the 1980's, i'm familiar with a lot of the complicated financial things. I've got

**January 28, 2005**

examples of articles i've written for baron's and other studies i've done in that area. And it's interesting, just to conclude, I see i'm getting close to three minutes, I noticed on the agenda the next person is charles long, who is going to talk about why jim Francesconi should be mayor. My communication is a beautiful introduction to that, because I could certainly support anyone who could bring p.g.e. home from the Cayman islands for the benefit of all Oregonians. Thank you.

**Katz:** Item 63.

**Item 63.**

**Francesconi:** I appreciate the sentiment, but i'm not comfortable that this is the right setting for that. You have a right to speak, but I don't think this is an appropriate place to be honest.

**Katz:** Charles, you've signed up, so you can do what you want to do.

**Charles Long:** I'm a resident of Portland, 420 northeast mason street, and I have a number of reasons for feeling that commissioner Francesconi should be elected mayor. I'd like to mention one particular, and that is we need civilian control over the police department. There is a candidate running who has been police chief, and whose career has been in the police department, and I don't believe he could be objective in this office, and a police departments are subject to corruption, as well as any other office in government, and I think this candidate is exercising his ego, and I think he should be exercising his muscles and let mr. Francesconi wrestle with the many issues that come before the council, including many police issues that the council must be dealing with this year.

Thank you.

**Katz:** Thank you, charles. Ok. Todd, come on up.

**Katz:** John, you'll be next right after him, ok? Good.

**\*\*\*\*\*:** Sorry for the delay.

**Katz:** Go ahead.

**Todd J. Kurylowicz:** Hi. My name is todd joseph kurylowicz, i'm a resident of Portland, and i've got a short little video to play -- we showed it last week, but I need to have everybody kind of know what we're talking about. Thanks for the introduction, charles. That was -- there needs to be something done in the police realm. That's the city attorney david woboril, and the two officers standing beside him going to the park, and -- well, you'll see. Notice it's a completely peaceful environment. People are just kind of milling around. This is how you instigate a crowd into violence. I didn't see her break any laws. Now watch the elbows, once they get this guy cuffed, it's quite egregious. But this is what happens when an innocent person out of a crowd is dragged into the street. Elbows, that's -- I don't know. I keep missing it on the gun. She goes for a gun, to reach for a gun. That's obviously something that needs to be talked about. Amber would like to say something for a brief second.

**Katz:** Amber hasn't signed up, but i'll let her say something quickly.

**Amber:** I'm amber, and I was in the video. I just wanted to say i'm working on forgiving the city for what they did. It's a process.

**Katz:** We usually don't comment on this, but you know what needs to be done if people think that there's been use of excessive force unnecessarily.

**Kurylowicz:** Yes. That's why i'm going to you, because you happen to be the police commissioner, and you can obviously see from what's on the footage and discern for yourself what appropriate measures if a boss catches on videotape one of his employees perhaps abusing a customer or whatnot, this is a peaceful citizen of your community, and you happen to be the boss, and when something like this is caught on tape, it needs to be addressed. And this is a public forum, and this is a true democracy, we can have a dialogue and discuss these things.

**Katz:** Thank you. Thanks, todd. And i'll respond to you privately on this. It's not going to be right now. Thanks.

**Kurylowicz:** Thank you.

**Katz:** All right. John.



**January 28, 2005**

**John Haines:** Loosely, this is a direction as far as on life as far as -- it doesn't get people as far as into buildings without -- the situation is that I have asked to speak. I have seen the marches go through Portland, and some of them, it's plain as far as -- it doesn't invite people from other places. I can't speak upon the marches because I was in another place at another time. As far as my schooling goes, I wish I could take back what I said as far as to Wilson High School as far as to career situation. I was asked as far as what I thought about it, and I spoke about the special ed program, and the situation is that I could only respond as far as that dummies like me, it came out of my mouth. I just wish I would have said to them as far as less opportuned. There are a lot of people as far as were involved, as far as my transferring out of grade school, as far as into Wilson, and the problem with schools is that they don't look as far as into the grade school situation, into the high school situation, and what happens afterwards. The situation is that the less opportune, as far as can't get into the armed services, I don't know how I would be as a soldier. But I know as far as how much I've missed, I just want to say that I care about people around here, I see and greet people from time to time on the street, I know about street roots, only by the newspaper. There needs to be more places for the homeless. You asked me, Vera Katz, about my needs. My needs are needs as far as other people. Because I, like other people, take medicines, prescribed by a psychiatrist type things. This is a fear situation of what could happen as far as not only to people as far as on the street, but to the elderly in general. Everybody will get old. Everybody -- you think about it, you think about 21, and you go through another 21, you make a decision you're not to drink any alcohol, how old are you? It's youth.

**Katz:** Thank you. Ok. Consent agenda. There's been a request to pull item 76, 77, 87, any other items to be pulled? Anybody by the council? Anybody in the audience want to pull an item? If not, roll call on the consent agenda.

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

**Katz:** Mayor votes aye. [gavel pounded] all right. Item 68.

**Moore:** Do you want to take care of the pulled items?

**Katz:** Item 76.

**Item 76.**

**Katz:** There's been a request to pull it back to my office. Any objections?

**Leonard:** Before we do -- I do not object, but I did call the bureau to ask questions, and I would like to understand better the process we use.

**Katz:** Ok. Let me just find out if anybody here is from the bureau. To respond to this. Sue, did you want to respond? She's not from the bureau, but she's from purchasing.

**Leonard:** Ok. Like I said, staff called, my staff called, I was more confused after I heard the explanation.

**Sue Klobertanz, Director, Bureau of Purchases:** On this particular item we have actually requested that it go back to the mayor's office because we believe there needs to be more staff work.

There was miscommunication between the bureau of purchases and fleet services regarding appropriate process. The fleet services understood my staff to recommend that we use the state of Oregon contract to purchase the vehicles. How the way the state contract works is we belong to a cooperative purchasing association, so the state can do a public bid, and anyone can bid on those, and then they have a contract for the particular vehicle that we're looking for, and so we don't need to go out to bid. We can actually just buy off of that contract. The problem here is that my staff inappropriately missed the step where they should have done an assessment of whether the state contract was the right thing to do, or whether we should go out to bid.

**Katz:** We have options.

**Klobertanz:** So we do have some options. We haven't received -- we believe we're getting some incorrect information from different vendors, and we're not comparing apples and apples at this point, so it needs some more work, but I'd be glad to work with you --

**January 28, 2005**

**Leonard:** That's fine, but just so you understand why I asked it to be discussed today, is because the contracts were just about a million and a half dollars.

**Klobertanz:** Right.

**Leonard:** And obviously at least it was obvious to me the first question I had is, why would we spend \$1.5 million of Portlanders' taxpayer dollars to Gresham Ford, and as I understand, I called around the other dealers, and they hadn't been -- in Portland, hadn't been contacted, and I guess my thought was, I appreciate everything you said, how the process should go through, but why wouldn't we, when we had a dollar amount from Gresham Ford, call up one of the number of pick your favorite dealer in Portland and say, can you meet or beat this, the idea being they're doing business in Portland --

**Klobertanz:** The public procurement law does not allow us to do that. We have the choice of using the contract that's already in place by the state, or going out to a low bid kind of situation. There's no guarantee if the city were to go out to bid, which would take some time, that the low bidder would be from the city of Portland.

**Leonard:** You're saying we can't find the lowest bid and then ask others if they can --

**Klobertanz:** No, sir.

**Leonard:** I would like to better -- maybe we can work together so I can understand that. And then there's no opportunity -- I guess I got misinformation idea, because I asked if we were required to take the low bid, and I was told no.

**Klobertanz:** In this particular case, unless we take an exemption to the public procurement law, it is a low bid situation.

**Leonard:** What's the exemption?

**Klobertanz:** You would have to find that we would save money, number 1, and that number 2, there would be no elimination of competition, and that would be a council action to take an exemption. Normally goods and services where we have specific specifications we're meeting, we don't do that as a standard practice.

**Leonard:** Is there a process available, not just the one you're using, but some other process, where we could ask for Portland-based dealers to provide us their best price?

**Klobertanz:** No, sir.

**Leonard:** I guess I'm confused, because you said --

**Katz:** Why don't -- let's not argue now. Why don't you --

**Leonard:** I'm not arguing, I'm just trying to understand.

**Katz:** We need to understand the contracting law. So make sure that Commissioner Leonard has a copy of that, and then meet with him.

**Klobertanz:** Will do.

**Francesconi:** Actually, I was glad it was pulled for a different reason. I thought this was your reason. I know that we have a schedule that we follow, and that if we let vehicles get too old in the end it can be expensive. But I was hoping we could actually spend less money on this contract and maybe use the money for vehicles for police officers. Is that possible?

**Katz:** Vehicles -- first of all, police officers need vehicles, vehicles are a one-time spend which your, police officers are ongoing. So you'd have a police officer without a vehicle for one year.

**Leonard:** I thought these were police vehicles.

**Francesconi:** What I was hoping is maybe we could just adjust the purchase schedule, but --

**Klobertanz:** We'll work on that.

**Katz:** Any objections? Hearing none, so ordered. [gavel pounded] all right. 77.

**Item 77.**

**Katz:** And the --

**Moore:** They want to refer that back to your office.

**January 28, 2005**

**Katz:** Ok. There is a request to pull that back to my office. Any objections? Hearing none, so ordered. [gavel pounded] all right. Let's pull one more, 87.

**Item 87.**

**Saltzman:** We'd like to return this to my office.

**Katz:** Any objections? Hearing none, so order. [gavel pounded] all right. Time certain, 65.

**Item 65.**

**Katz:** Commissioner Saltzman?

**Saltzman:** Thank you, madam mayor, members of the council. As you recall recently we established a 13-person independent review panel for the mt. Tabor open reservoirs, and today i'm bringing forward, i'm pleased to submit to council a contract with mcguire environmental consultants of santa monica, california, that was the independent technical advisor selected by a subcommittee of the independent review panel. I'll cover a few points very briefly before introducing the panel's chair, Ogden Beeman, to present the consultants selection recommendations for the panel. This contract does reflect the panel's work and the panel's decision-making. Both the contract that's before us today and the panel's facilitation contract with enviro issues, which is being finalized through the city's purchasing office, reflect the hard work and decisive input of both chair ogden beeman and the selection committees. Both of these committees were composed entirely or solely of independent review panel members, and we haven't even had our first meeting, the panel hasn't had the first meeting, but already these volunteers have worked long and hard over a frozen week evaluating firm qualifications and conducting interviews to determine their choices. Their clear direction also on the scope of work allowed staff to negotiate contracts with these firms on behalf of the independent review panel in a record amount of time. So I want to thank them up front for the long, hard work they've already put in before the panel has even had its first meeting. What we're getting for the money, the cost for the two contracts with the independent technical advisor, which is the one before us today, but also the facilitation contract, the costs are not insubstantial. But I believe we're getting good value for these contracts. The selection committee has judged that through the mcguire environmental consultants contract that the panel will have national experts on drinking water and drinking water facilities available to it. The panel can conduct its work knowing that any of its technical questions can be thoroughly addressed. The chair and the selection committee have identified the need to develop a specific and detailed concept for the risk mitigation plan option, one of the five options we charged them to look at for dealing with open reservoirs. And with the mcguire environmental consultants they'll -- one of their work products will be a detailed risk mitigation plan, and what goes into that. So if the city council does end up deciding to pursue the risk mitigation plan option rather than burial, we'll know exactly what we need to do. And we'll have clear options in front of us. My final point is, this is really the transition point, the panel from this point on will now speak for itself. This contract really marks the beginning of the independent review panel, handling its own communications, the city will continue to provide support for the panel administratively, but for the rest of the process, the independent review panel is in charge, and either its members or selected staff will represent it. So now i'd like to introduce the panel's chair, ogden beeman.

**Ogden Beeman, Chair Mt. Tabor Independent Review Panel:** Your honor, members of the council, my name is ogden beeman, residing at 26887 northwest cornell road. I've been a resident of northwest Portland since 1960. I think about the same as the mayor, but i'm not sure.

**Katz:** A couple of years before.

**Beeman:** I'm here today as chair of the independent review panel for the mt. Tabor reservoirs. A subcommittee of the panel has been busy since you approved our creation several weeks ago. We have introduced and selected consultants, established contact and information exchange with some of the stakeholders, including friends of the reservoirs. And established a meeting schedule for the next three months. Our first meeting will be in this room on tuesday, february 17, from 4:00 to

**January 28, 2005**

6:00. Our subcommittee wrote request for qualifications, short-listed and interviewed four consultants and unanimously selected the consultant teams presented here today. I have two comments about the contracts. Commissioner Saltzman has already said that we expect new information as well as peer review of existing information from our engineering consultant. I believe these products are well worth the cost, regardless of the outcome of our panel's work. Second, the budget for our facilitator is necessary to make the panel truly independent, and not reliant on the city for either operations or process. Further, we need assistance in communicating with stakeholders and other publics who show interest in our work. A service which shall be provided by the facilitator. In closing, I would like to thank commissioner Saltzman's staff and bureau members who have been very supportive of our work while respecting the fact that we are an independent panel. I would be pleased to respond to questions or hear comments from the council.

**Katz:** Thank you. Questions? I guess the sign of no questions is go ahead and do the work that you've been assigned to do, and our thanks for taking the chair and making that happen. Anybody in the audience wanting to testify? If not, roll call.

\*\*\*\*\*: [inaudible] -- Washington park.

**Katz:** This is on mt. Tabor only. You can sign up if you want to next week and get your three minutes and talk about Washington park. Roll call.

**Francesconi:** This contract, and the way it was selected, proves this is an independent panel, because for the panel to be independent, to come up with its conclusions independent of the city, it has to be able to select their own experts and have control of the process, control of the experts. And so you've also selected very well qualified person who will help give us the information we need upon which to evaluate your findings. So thanks to commissioner Saltzman's staff for walking that balance, because he's our city resources, but this is a very good way to proceed, and thank you to commissioner Saltzman. Aye.

**Leonard:** As I said when commissioner Saltzman brought the task force to the council, i'm familiar with some members more than others, and I have complete confidence in the impartiality that you bring, and I appreciate how tough the task is as well. Aye.

**Saltzman:** I just wanted to say that I look forward to the panel's work, I know they're going to be working hard over the next 90 days or so, and I just also want to acknowledge edward campbell of my staff who worked very hard to get these contracts and get this r.f.p. Process done and really -- in really record time and get the panel members hearing during very challenging weather conditions to make some good decisions. Aye.

**Katz:** Mayor votes aye. [gavel pounded] thank you.

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

**Katz:** Thanks. Item 66.

**Item 66.**

**Katz:** Come on up. Let me introduce this. I always welcome new ideas. I always welcome citizens getting involved with their communities, and thinking through, and brainstorming about the future. We have two citizens, actually we have three, I don't know the gentleman, the x generation gentleman in the middle, but I do know the older ones at the end. So let me introduce them. You all know john russell, he's built and owns some of our finest buildings, but I think most importantly he's very interested in historic buildings, and has preserved them. He's also has spent many, many years volunteering for the city and for the state. He was a member of the Oregon transportation commission for eight years, he complete add three-year term on the Portland development commission and served as chair. He served four years on the planning commission, and I did not select him on the planning commission, I did on the Portland development commission. He served on the planning commission and eight years on the Portland historic landmark commission. Greg baldwin, his other elder partner to his right, you all know him as the senior design partner of

**January 28, 2005**

zimmer firm, he has been involved with a lot of the city projects, the downtown plan, the river district plan, the transit mall, and his light rail system that he helped design was a recipient of 2002 presidential design award. Both of these gentlemen have taken very seriously the notion that citizens in this community are valuable and we ask them to give of their service and when they do and they have something that they want to share with us, we give them the time to do it. Half an hour. Ok? Now, there is a young man sitting in between them, and somebody needs to introduce him.

**John Russell:** Madam mayor, the gentleman in between, the next generation is jerome, senior associate with c.g.f. Partners.

**Katz:** Let me just introduce the document that they're going to talk about. It's called 12 axioms. It is a gift that they worked on for over a year, a gift to the city. And you will hear why it is a gift to the city, and what the 12 axioms and principles are. So i'm going to turn it over to you. Thank you.

**Greg Baldwin:** Thank you, madam mayor. Members of council. Thank you for inviting us. We hope to use your time well. When I was a college senior, I lived in switzerland and worked at a factory in a town of about 100,000 people. The factory was at the center of the town, and I lived at the edge, but the town was compact enough that I could walk to work through the center, and largely through public parks. The town just worked. From where I lived I could see the boundary between the city and the farms, and beyond that the boundaries between the farm and the forest. And I was told those boundaries hadn't changed for generations, and they weren't about to change for generations. Switzerland works that way without regulations. There is no federal government to speak of in switzerland. It works that way in my opinion because there's a common set of understandings. Call it an ethic, we believe that's not a right term, because it implies that america for example, would be unethical. But no swiss citizen would dream of putting a wal-mart between two villages. Not because they can't, but just because they wouldn't. That's what this book is all about. It's an attempt to get us toward a set of common understandings, about 12 infrastructure items that we believe to be critical. For each axiom, we've listed a series of projects that seem to flow out of that. But the projects are temporal. Some of them may even be out of date today. But the axioms are really what we believe to be the most important part of our project. If we can gain understandings about why we do certain things, the projects themselves are controversial, they just seem to flow logically out of that common understanding.

**Greg Baldwin:** Madam mayor, thank you for your generous introduction. We'd like to go through a power point show quickly that sum rises what's in this document. Oregon is really a different kind of place. It's distinguished by its citizens, the differences, the diversity of its citizens, its climate, and its geography. However, I think the thing that really distinguishes it is the significance of the columbia river that early on caused us to create a transportation corridor that created a hinter land to the east that we have served for generations, whereas our neighbors who settled to the north and the south tended to come out and discover, explore, and discover. I know my forbearer said what distinguished us is we came out and immediately began to build with bricks and stones, theaters and markets, while their friends to the north and south would in fact discover, celebrate, and then sleep it off, and it's a cycle they tend to continue. But what is -- what this has caused is, and I would perhaps disagree with my colleague, I think an ethic that is -- has made us whole for centuries. It's an ethic that's been embrace by people as they have moved here, it's an ethic that has revealed in how we build cities and how we settle the land, it's an ethic that goes beyond conservation as it begins to describe how we can assume responsibilities for our resources. It an ethic that promotes collaboration and common sense and encourage action if something is a good idea, and it's a good deal, why don't we just do it. I think it's also an ethic that tends to temper egos, but at the same time promotes or encourage individual rights and individual responsibilities. Most important perhaps it's an ethic that views progress not as a challenge, but as a consequence, and the consequence is

**January 28, 2005**

sometimes best revealed as we design and build for ourselves. If you look at the best moments in Portland, until recent years, sometimes they are really characterized by projects that are quite pregnant with potential. Look at fifth and sixth avs as they were transformed to become really the core of the -- the spine in downtown that brought several distinct districts together. The removal of harbor drive and front avenue to create a front yard on the river. The removal of railroad tracks, an unusual collaboration between the public sector and private sector to develop, design and develop the river district. It is that kind of experience, that legacy that prompted us to look at, what would it take, what are the principles that might cause us to do things of equal value in the future? The first one is a bit abstract. John hates the word suburban. This was a city designed and built as a compact city, and after world war ii it began to sprawl a about it, but I think it is still one metropolitan area. But if it is to remain, so the urban experience of interdependence, of picking different activities and different people and getting them to complement each other requires that urban experience be expanded not only existent downtown, but expanded to hillsboro, to hillsdale, lake oswego. And that as we build and operate our transportation systems, our institutions, and our parks, they need to be made sustained as regional assets, not as local amenities.

**Russell:** The second axiom suggests that we need to acculturate parking. We didn't propose eliminating parking, at worse it's a necessity evil. What we really are talking about is making parking fit within the fabric of a central city. Stems from the belief that flat lot parking is just by its nature a blight. The magic of downtown is that continuity of the retail space and walking by parked cars, even before the joni mitchell song, it's not part of an european community. Interestingly enough, the city probably 30 years ago had that sense that parking needed to be aculturated n the 1972 plan, it called for the elimination of surface parking, called most importantly for aggregating parking, constructing public parking garages and once there was that common understanding, those garages were sited, built, I think they were built before the city passed the downtown plan. So the first project, if you will, that stems from that axiom, is to recommit to eliminating surface parking in the central city. The second project that comes from that is to develop ideally more below-grade parking if possible, but as a second choice, more aggregated parking in structures above ground with ground floor shops beneath.

**Baldwin:** We need new models, and I think what did you at the brewery blocks with the developer there was a very good start. I know you've been looking at something comparable for the cultural district along main, we really need some new models. If you were to define the place where you were to live, you probably wouldn't define it by the mechanical systems, the electrical systems, and the plumbing systems. By the same token, I think that a city is not defined necessarily by its utilities, and it was interesting when we first talked about developing light rail. Tri-met made it very clear, with some encouragement, that this was not an opportunity to build a transit system, it was an opportunity to rebuild communities. And they embraced the involvement of all of the communities they would serve. We have comparable opportunities today. Light rail on the mall is a project that's been around for a long time. Much of the time we've spent trying to figure out how to put 10 pounds of stuff in a five pound bag. We have moved recently beyond that to really trying to understand and commit ourselves to extending the civic value, the nature of the stewardship and the kind of coinvestment experiences we've had, and perhaps most important in looking at great streets around the world, trying to figure out how to create a place where we would rather be. A public space. And I think the work that you're planning -- your planning commission and a -- been doing in trying to figure out how to create stations in the place where they really become centers of renewed activity in an individual district is something that is very remarkable. Operationally without precedent around the world. However, the transit mall, what's happening there is not only something that is innovative and I think something of quality, but is making some key connections. Connections to Portland state, which have really never existed well before. And promising connections even beyond, from Portland state to Washington state, and clark county. There's a

**January 28, 2005**

campus that was designed around the promise of light rail, they already have cocurricular activities with Portland state, with Oregon state, with ohsu and other organize institutions, and if you connect there, obviously do you through downtown vancouver. Downtown vancouver six years ago didn't want light rail, today they have 121-block redevelopment plan that has light rail as its focus in the center. The -- some of the connections are more immediate. Connecting the east side and the west side of the river to the south. We've studied that, we have an approved and adopted way to get there, we can talk a little more later about how to do it. But that is certainly something that we need to continue to work on. Early in the 20th century the city of Portland and Portland public schools conspired to put a school in the middle of every neighborhood. It's worked well. However, in the last three decades we've closed more than 20 schools. That relationship has been undermined perhaps nowhere as significantly as on the west side, where we have closed every single school within a mile of the river. Shattuck, failing, terwilliger, fulton park, collinsview, jackson high school, and to remedy this circumstance, I think we need to get on with schools that we've already talked about, the construction of the school at Portland state. The development of a school that would serve both corbett terwilliger lair hill and the south waterfront, one of the most significant whoops is when we extended harbor drive and the ross island bridge and suddenly discovered there are only 19 homes within walking distance of failing school. So we first built a bridge and then we closed it a number of years ago. To construct a science magnet high school next to omsi that would draw from both sides of the river and perhaps most important, to redevelop the -- to redirect the planning and redevelopment resources of the city to make schools once again the focus of our communities. There was a partnership made during the 1970's that was shelved, I think we need to get back to that.

**Russell:** America is the only one of the major industrialized countries that doesn't have high-speed inner city rail. In just as gravity will eventually win out, it's absolutely certain that that will happen. Federal government has identified a number of corridors between major american cities where high-speed rail would be faster than the automobile or the airplane. Portland and seattle is lucky enough to be one of those preidentified corridors. It just is going to happen, the only issue is when. The project that needs to flow out of that is to join with the state of Washington to plan the alignment between Portland and seattle, or even between vancouver and eugene so that if the alignment is planned, federal funding is available, we move closer to the top of the heap. And of course the second project is to lobby congress to purchase the alignment and construct the system. The sixth axiom is to invest in freight railroads to stimulate our economy. As we all know, the term "freight mobility" has become a term in recent years that's been equivalent to motherhood. It was the reason that the legislature invested \$2 billion to fix the freeway bridges on the interstate system. But what people don't understand is that freight mobility by itself doesn't cause investment. If that were true, right in california, for example, would be a boom town. It has an interstate freeway and a rail system that speed quickly through the town of redding. Economic activity happens where those modes stop. And the trucks stop to load ships, to load trains, to load the airplanes, and to stimulate the economy, we need to invest in freight railroads. That was probably the single most important thing we can do. The simple project that comes from that is to support the Portland -- port of Portland plan for street improvements. Long beach, for example, invested \$1.2 billion to do a similar thing. Seattle invested \$400 million to straighten out its inner city freight rail system, port of Portland hasn't planned to do it, and we need to urge them to continue.

**Baldwin:** I like the \$0 million. I think that's a little more than \$0, but i'm not sure how much.

**Russell:** Seventh axiom is to raise dramatically our expectations for the bicycle system. It seems strange to say this, because Portland is the nation's number 1 bicycle cities. There's no question about that. The magnitude of traffic on the hawthorne bridge for any disbeliever is phenomenal, and it's increased 10 fold in the last decade. But there is more that could be done, and all you have to do is to see amsterdam to understand that. The pictures in the background are of the amsterdam

**January 28, 2005**

main train system. It's a sea of bicycles. People understand that amsterdam has a dramatically different level of usage of bicycles, the assumption is that it's sort of like wooden shoes, it's part of the culture -- shoes, it's part of the cultural genetics. It's not true. It was a conscious decision by the government that they had to do that to preserve the livability of amsterdam. We have the same climate, we have largely the same features. The simple single project that we believe flows from that axiom is to send a delegation of transportation experts to amsterdam to see what can be done. Eighth axiom is to foster pride in the oaks bottom and ross island wildlife refuges. Oaks bottom is an absolute treasure, and there's the potential as well to combine that with ross island. It brings a -- the ecology of the willamette river right to the center of the core of the city. It's really an unprecedented opportunity. The first project that flows from that is to eliminate the rock crusher on ross island as the park is brought in. We simply can't achieve the aims with the presence with that rock crusher. Second project is to remove sections of the railroad berm that block the natural flow of the river into oaks bottom and replace it with trestles to restore the flow. And the third is a little unusual, it's to make it plain to people that this is something we treasure. Otherwise oaks bottom looks like vacant land that is underutilized, when the truth is, we love the place, we celebrate the place, we just need to make that clear to people. The ninth axiom is to return Portland's ghost highways to thriving streets. The term "ghost highway" is -- it's a phenomenon of streets that used to have a through function that were displaced primarily by the interstate system. As I think you all know, Portland is just laced with state highways. Market street downtown is a state highway, powell boulevard, martin luther king boulevard, barbur, macadam, 82nd avenue, sandy, they're all state highways. And they all used to have a through function that -- they got displaced by the freeways. But when we had money to create the freeway system, money wasn't put back in those streets to turn them back to their new function. So the projects that flow from that axiom are to put money back into our ghost highways. Interestingly enough, this is not something -- pdot understands this, the issue really is getting state funding to make that happen.

**Baldwin:** When we decided not to build the mt. Hood freeway, one of the commitment that's was made was to really improve powell boulevard and certainly operational improvements have been made and there have been environmental improvements. We have not come close to doing what we had promised at that time. Perhaps one of the most conspicuous problems is that the west end of the ross island bridge, I mentioned that earlier, where it is really carved along with harbor drive or front avenue to pieces, corbett terwilliger, lair hill, you have a plan to remediate that problem. You've accepted it, and I think it's really critical that we move that forward. And that we all help you find the money to do so. The concept of urban freeway is kind of an oxymoron, because if the quality of urbanity is the ability to fit things that are fundamentally different together and for them to compliment each other, it's tough to fit freeways, so maybe you don't build them there. Are some we haven't built. Maybe you get rid of them, we've gotten rid of some of them, probably as many as others have. Some remain and some are necessary, and so the only remaining option you have is to make them better, to civilize them. Some cities are doing them at great cost right now, some cities are doing that. Some are doing it less expensively. We have to recognize I think it's important to recognize when you build a road in the country, it can do its own thing. You don't have to get across it when you build it in a city. If you can't get across it, it really separates neighborhoods. It's perhaps the most divisive element we have in terms of causing a restructuring of the city.

**Russell:** If I may, the best time to civilize a freeway is when it's built and designed. And I was asked to speak a number of years ago to the national governor's conference on the topic of urban freeways, when a freeway meets a city, I believe all of the rules that govern rural freeways ought to be turned on their head. Rural freeways have wide lane width, infrequent interceptions -- intersection and high speeds, and I believe that in order to pay respect to a city, in a sense they need to be civilized. There's some wonderful examples in the city, interstate 405, which the mayor has supported capping, is a wonderful freeway. It was built with exceptions, though. It's narrow, it's



**January 28, 2005**

depressed, and as a result, something like capping it is possible. Inner -- interstate 5 on the central east side is not as civilized, it's built at grade, it's got wide lanes, and it's not possible. Interstate 5 north of the city on the other hand s. Depressed and narrow. So anyway, the time to civilize a freeway is when it's on the drawing board. And I will say the city understands that, and has for years. The city has some very distinguished heads of the pdot, but freeways are designed by state engineers to federal standards, and the city can't always control that, but it needs to continue to try.

**Leonard:** Can I ask one question about 405, was it built intentionally depressed or was that the geography?

**Baldwin:** Well, both. There was a natural depression there, it was also built before fhwa existed, and when fhwa resumed responsibility for it, they hated the design. In fact it's probably a very good model for how we should build urban freeways, if we were building them. I hope we're not building any in the near future that we have to build correctly, but that's another story. South of the river district there's almost a two-mile stretch that you can't get across i-5. We talk about uniting the community on the west side of the city. We can't begin to talk about that until we in fact find ways to cross. I am delighted that patty and you have endorsed or committed yourselves to getting a pedestrian bridge built as part of the tram. That's not the solution, that's the precedent. Many many more needs to follow. There's a similar opportunity between the lloyd district and the central east side. If you were to make more connections there, there would be an economic benefit, there also would be a functional benefit, and it would give you many more options for making better connections to i-5 and to i-84. I-5 is interesting, it's a wide urban freeway that has clearly separated communities on the east side, tri-met is putting a light rail line along i-205, they're doing very interesting things and trying to use their presence to begin to unite those communities. There's some interesting stuff they're doing with clackamas county in general growth, for example, at the clackamas town center to figure out if there's a way that they can bring a streetcar to damascus and a bunch of things together so that they can connect the four quadrants of that intersection at sunnyside. But I think most important if you look at fixing our freeway system is to, and I see you smiling, mayor --

**Katz:** We'll actually have recommendations for you.

**Baldwin:** Before I die, the marquam bridge is going to be torn down. And replaced in some manner. I think it is important as you look at fixing our system to look at the places where there can be a catalyst. If you did something different with the marquam bridge, it opens opportunities to then do something with the -- with i-5 on the east side, the east bank freeway with i-5 to the south, and i-405. And don't forget what we did on the north, we developed the caruthers crossing. Marquam bridge was originally built as high as it was because the highway division decided it needed to be that built so they could have access to the dismantling operations. The reason we are as low now as we can be is not because of the corps of engineers responded initially to the desire to lower it, but we went to bob pamplin and asked if he could break down his cranes. He said sure, we went back to the corps and said, let's lower it. So we lowered it another 25%. So that in fact we could build a bridge now that the corps would approve that would start at the top of one bank and end up at the top of the other bank that's a.d.a. Accessible. When you start thinking of building that kind of bridge, whether it's for freeways and bikes and pedestrians or expressways or whatever, it's a different animal than what we have today. Street car system. We built one, every city i'm working in wants one now. They don't know why, but they think it's a cool deal. What distinguishes it? I think it was -- it's distinguishing characteristics was epitomized when we were working on the streetscape project, someone said, what I like, I can look directly into the car, I see people sometimes I know, it's an extension of the sidewalk. That is what it is doing. It is extending our pedestrian system beyond the normal quarter mile walk. In people's minds. It really is an -- in a sense a moving sidewalk. What is important is that we do extend it. The day we started designing

**January 28, 2005**

the street war, just the one we have built, we started planning for the street war that would serve south waterfront and ohsu. Today we're building the tram, designing that system, and so now is the time that we need to plan for the connections that extend on to the central east side to the lloyd district, and to lake oswego.

**Katz:** This is john's favorite.

**Baldwin:** No kidding. [laughter]

**Russell:** I love trees and I love caring for them. I just happen to live in a city that is relatively young in terms of its experience with street trees. And other cities in asia and europe have had street trees for years, they've understood the particular role they play and they understood that the care that is required. Sycamores, the sycamores used on the transit mall are very common street trees, but nobody other than in america allows them to grow without being pruned annually. And the first project that flows from that is to either replace the transit mall tree was honey locusts or modify the trees, prune them the way they're pruned in europe and asia. Secondly, I know from having talked with the people at the planning bureau who worked with lawrence halprin when the south auditorium area was built, he intended the number of trees be reduced by -- to either half or third in 20-odd years, and it's now been 30 years, and the overgrowth of those trees I believe has reduced the urbanity of the south auditorium area. Third project is to prune the understory of our mature parks, as was done in the parks adjacent to city hall, so that you can maintain the site lines, for example, you should be able to see across the park in the new cultural district from the historical society to the art museum through the park. And lastly, use gardens --

**Baldwin:** What interested me, john talking about taking care of the trees is really what we plant downtown is our garden. Urban gardens are extremely important, not only because they're green and they change in seasons, and we might expand our gardens, but because you have to take care of them like any good gardener. And that is one of the most important theaters, acts of theater in a downtown where you see people taking care of the city on an ongoing basis. And so I think this is really something worthy of promotion.

**Russell:** My family is from seattle, although I went to high school here, by the time i'd finished graduate school and had to choose where to live, my parents had moved back to seattle. But I chose to live in Portland for the simple reason that it felt a little bit like the switzerland that I had learned to admire so much. We Portlanders each and every one of us, believe we can control our own future. And that belief of course is a self-fulfilling prophecy f we believe we can control, we can. Whereas Seattleites believe seattle is going to hell in a hand basket, but there's nothing they can do. And that too is a self-fulfilling prophecy. You four probably understand that better than any of us. Many of you came from activist backgrounds. You know that in Portland, if we believe we can make a difference, we can. The very act of your inviting us here is further proof of that phenomenon. Greg and I are just ordinary citizens trying to make a difference here, and in Portland, that's possible. Thank you for the opportunity.

**Katz:** Thank you both of you, all three of you, thank you for sharing your ideas with us. I know the two of you have been involved in a lot of sharing of ideas and visions for the city, and that's why I invited you as we begin to make a transition here in terms of the mayoral leadership of this community. So I appreciate it. We may have -- if and when each one of us does this, we may have picked different axioms, but that's not the point. The point is you identified those that for the two of you and all your experience, those are the critical ones for you, and I happen to agree with many of them. I wish we had time for 20 of them, but that would have taken another year, and you didn't have another year. So I want to thank all of you, these two gentlemen are very experienced, all of them are now, both of them are working on our light rail down the transit mall, and coming in with really some different notions of what we're going to need to do, and you'll hear about those later. Thank you.

**January 28, 2005**

**Francesconi:** John, I guess I also wanted to thank you for your role in transportation commissioner for the whole state, you've been trying to help redesign those freeways, but also bring resources to us in a variety of ways. I guess I do have a question, and first of all, on the transportation infrastructure, the transportation side, which I didn't appreciate, I don't think you can understand a city without understanding transportation, and you really highlighted a variety of modes here, and their importance on creating a place. But I also know that you care about public spaces a lot. And so -- and as well as kind of our cultural institutions. So I -- the fact i'm saying this, I know if you had more time you'd want to include more. But I guess I want to ask you about three -- two in particular, and the mayor may want to ask you about the third one. But the public -- the piazzas, the neighborhood parks, the vitality they bring to european cities, I didn't notice that here. I saw the natural area of parks, so that's one. Then the cultural institutions, the art, the music, the cultural institutions and what they bring to a community, and then the whole issue of just -- that you care so passionately about, both of you, architecture and the private side in terms of design. Do you want to comment on any of those three as part after great city?

**Russell:** Absolutely. As the mayor said this, is not meant to be an exhaustive list at all. As you know, commissioner, I serve on the parks foundation leadership committee, because I believe passionately in the role of urban parks, and we're trying to make due, trying to do magnificent things with limited resources, and your leadership on parks has been terrific. But the fact we didn't mention it here doesn't mean we don't care deeply about that.

**Baldwin:** Design is really elusive, and I don't -- I wouldn't even know where to start, but I would like maybe to end with a compliment. I have a partner who said years ago that clients tend to get what they deserve. And in part what we've been talking about is creating the community as a client that deserves a great deal. And I think they do. You've upped the ante as you've focus on the design and quality of design in this community. And I hope, and I believe you will begin to get what you deserve. What you desire is something better than you've been getting. But we're really making progress. What you're getting is much better than what most people are getting elsewhere, at least in terms of responsible design from a bigger perspective.

**Russell:** I know from my time at p.d.c. the mayor's design initiative made a real difference, and it brought to the fore a wish that I know p.d.c. has tried real hard to carry out.

**Katz:** Thank you, everybody. We have people in the audience who have -- i'm not -- we're not going to debate this, this is a gift to the city, but we do have people in the audience who have spent their lives, two of them sitting up front here in pushing the envelope on transportation. They're probably way ahead of us in their thinking, and we need to continually listen to them. And I normally don't do this because he's a print person, but there is another gentleman sitting back there who's always been critical of some of our activities, including me personally, which is fine, but he's also given a lot of thought about the city, and critiqued our work, and pushed us to think bigger and smarter in terms of preserving what we have, and improving it in design. That's randy, who's sitting back there. So thank you as well. All right. Thanks, everybody. All right. Item 67. We've got a few minutes. Are the folks here? Thank you for your gift. All right, they're not here. Could somebody get the auditor's office to come and --.

**Item 67.**

**Katz:** We have a 10:45 on this, but I think we can start at 10:40. I'm going to need to leave for a very important meeting at noon. Gary, this would be properly called a baseline.

**Gary Blackmer, City Auditor:** A trend analysis also, because we're looking at multiple years.

**Katz:** Why don't we read item 67.

**Katz:** Before I turn it over to our two auditors, just want to remind everybody that as we made the agreement with the citizens of Multnomah county and they the -- the majority of them decided they were willing to pay additional taxes so that we could support schools in Multnomah county, one piece of that agreement, there are other pieces and you'll be hearing about them, was that -- was that

**January 28, 2005**

we would ask our two auditors, one center the city and one from the county, to report to the community over the next three years in terms of how the money has been distributed, how the money has been used, and I think I asked gary a few seconds ago, this is like a baseline report. You set the baseline and then you report as to where people have moved up or down. So thank you both for getting this done in a timely fashion, and i'll turn it over to you.

**Blackmer:** Thank you. Suzanne flynn, the Multnomah county auditor, is with me today, and our two offices as the mayor mentioned have been working closely together to look at school districts. And we have basically a three-year time period here to analyze the schools. And this is the very first report that we've undertaken. She -- we have two staff in her office that have been funded to f.t.e. Positions that have been funded with the Multnomah county tax, and so we have been looking at ways to tackle those districts, and look at all eight of them, because it can be very difficult to look at more than one district in terms of performance audits, so we've wanted to tackle those issues on a very methodical way. What you have before you is a first look at one of the areas. And we want to approach these audits carefully and use those limited resources we have as prudently as possible, so we want to do a couple of scans first. And this first one may be familiar to you. We -- both of our offices have been doing financial condition reports for the city of Portland and Multnomah county for many years now, and we felt like it was a good opportunity for us to understand the finances of the districts, look at where they were similar, where they were different, as a first starting point. We're going to be preparing another report and probably early april we'll have that one done, which you may be familiar with as well, because we're going to be looking at services, activities, and outcomes for all eight of those districts. Once we have those two reports done, then we're going to pick some audit areas to focus in on, because with eight districts and all different kinds of activities involved, we really want to make sure that our first audit efforts look at those places where we can have the greatest impact. So I want to also recognize judith, she is the Multnomah county auditor who is a whiz at developing these financial condition reports, and going through five years of financial reports for eight districts was a remarkable feat, and it really gave us a lot of insights. These -- this report here contains no recommendations yet because we are using this as part of that first scan. So what i'd like to do is turn it over to suzanne, and she can talk a little more about some of the high-level issues we've seen in these reports.

**Suzanne Flynn, Multnomah County Auditor:** So where we are right now is the second page of your handouts, and it's somewhat of a misnomer to say findings. These aren't findings in the traditional audit sense, these are more, once we completed all --

**Katz:** 30,000-foot --

**Flynn:** Exactly. And once we step back from all eight of the individual financial condition reports, there were some things that we could note, and that's what these are intended to do, is note them and we may or may not do additional work later on. The first two observations that we noticed are really related to state funding for the schools. The state has a funding allocation formula, and they apply this to each school district's population, student population. So first of all, the operating revenues per student varied. And again, i'm sure that that most of mostly is in part to the state funding allocation. Secondly, in most districts operating expenditure, when adjusted for student population and inflation, was increasing. Again, I think that's related to the state funding allocation, which takes into account such things as spacial needs or students who are not native english speakers. The third thing that we noticed was that the district ratio of students per total staff varied. And we don't -- we have no cause for that at this point, and maybe an area we look in later, but it just says to us that there's different configurations of staffing in each district. Looking at unreserved fund balances, we saw two things with a few exceptions, the unreserved fund balance were declining, but they still seemed healthy. But there were some districts that had a fairly low level of unreserve fund balances. And we see those both as warning trends for the districts, and something they should look at. The level of debt in each district appeared reasonable. We look add at their tax

**January 28, 2005**

base and compared that to their level of dent. We also saw that most districts have increasing student numbers. There were two districts that didn't have student population that's were declining. And also that some districts had significant increases in students who are eligible for free or reduced meals. So all of those things taken together, and the differences between the districts aren't necessarily what you might assume, I mean, I think that they all turned out differently and the one thing we learned I think as Gary said, is they're all different, but they all seemed to have met their challenges and understand their challenges.

**Blackmer:** One of the things I want to emphasize is we really didn't look at the adequacy of funding here, because of the great variety among these districts, we really would need to get down as a -- at a lower level of analysis to figure out what their needs were relative to their funding. Because each district, because of its size, because of the population it serves, has such a great variety, and so to that degree we were thinking how does this relate to measure 30. It doesn't to the sense that we don't have any answers right now, but we're committed to applying our methodology that we use in the city and the county to try to get answers for the public to help them understand where the money is going, that goes into education, and to get some sense of confidence that auditors are looking at holding the administrators accountable, and making sure that we're getting the best value for those dollars. And to that degree, we're going to be briefing the county board of commissioners tomorrow, the school efficiency and quality accountability committee.

**Katz:** That's the other requirement --

**Blackmer:** And we've also made ourselves available to any of the boards who would like to talk to us about this report. So that's kind of the next step with this report. And as we say, we'll have a scan in a couple months on activities and outcomes. And I don't have anything else.

**Katz:** Ok. Commissioner?

**Leonard:** If memory serves me correctly, there are currently 198 school districts in Oregon, and I remember when I first got in the legislature, and I don't know, Mayor Katz, if you were a member of the session when the legislature required the reduction of the number of school districts from I think then was 325 down to the 198 number.

**Katz:** Yes.

**\*\*\*\*\*:** The --

**Leonard:** The purpose was that -- the purpose of that was to create efficiencies. When I got there I remember raising the issue, why are there school districts at all? Why don't -- for efficiency purposes, why don't we have one school district throughout the state? One purchasing locale, and Senator Shirley Gold gave me a lecture.

**Katz:** I would have loved to have seen that.

**Leonard:** It was quite a lecture. It was about the pain that had to have been gone through by those members in the legislature at the time causing the reduction from 325 to 198, the politician of it. So I understand all that. Having said that, are you interested or have you looked at the notion of -- and understanding I think we have five districts either wholly or partly within the city, the idea of maybe emerging districts, readjusting lines, is there -- because of the demographics have changed so dramatically since all those districts were originally created, and in fact most of them were outside of the city, now they're in the city, is there any value in analyzing for efficiency purposes merging districts or readjusting lines within the city? Or county, for that matter.

**Flynn:** My first response is, I think it's interesting when we have met with all the superintendents early on before we even started this report, and several of them brought up the fact that they thought there were efficiencies across districts. So I think they're thinking of that already, about how they can work together, and I think they have some projects where they do do some joint things together. So the other thing is that it could very well pop out of an audit if we decided to look across districts that are particularly area. I'm not -- but it's not our goal. I -- our goal I think to find that. I think

**January 28, 2005**

we're looking at each district. And again, they are very different. And have very different populations.

**Blackmer:** They do have cooperative efforts through the education service district, which provides a lot of specialized services and technical assistance and training and so forth for --

**Leonard:** As I understand actually does the purchasing for all the districts in the county, and they - - so they do benefit from that.

**Blackmer:** M-hmm. One important point I forgot to mention was that we are just now getting the financial data for the school year that ended this last june. So the report that we have has data up through june 30 of 2002. The districts have said there have been substantial changes in their funding in that last school year, and we will get that data and when we put together our scan, the next report in april, we will include that 2003 data. So you'll get a better more timely sense of it. And we're hoping -- one of the goals that suzanne has been emphasizing with the districts and as we talk through this, is building accountability into the districts. And our sense is, these kinds of financial condition reports help the administrators, help the board, and help the public understand what's going on in finances over a longer term. And our hope is that they will adopt this, start using it as a basis for talking about financial issues and making decisions about revenues and reserves and so forth.

**Francesconi:** It's on that last point about kind of what your role is versus what's the district's role and the financial officer's role, and how do you bring value to this in light of what they're doing. Now, I notice, your role is not to talk about educational quality, but people want to know what they're buying in terms of educational quality. But that -- you don't get into those issues, right?

**Flynn:** I think the way we'll approach that, there are legitimate policy decisions that school boards make, and they're different among the districts. So -- I think it's like what we do in the city and county, taken what they have established as their goals and policies, we'll look at how well they're meeting those goals and policies. And whether they can be more effective meeting those, whether they can be more efficient meeting those.

**Francesconi:** That causes me some concern. For example, Portland public I know one of their goals is closing the achievement gap. I'm not sure you have the expertise to actually get into that question as to whether they're doing it right or not doing it right. So how would you evaluate that goal?

**Blackmer:** Well, actually, two of the auditors that are in suzanne's office that are going to be working on this have their previous experience was with the northwest education research lab. So their background and training is in educational research. So we may have some pretty good expertise there. We aren't necessarily going to outteach teachers, but I think we can certainly -- we know the best research in terms of educational practices.

**Francesconi:** Now we're going to have three groups -- the school board, the mayor and chair brought together a group, and now the auditors. My suggestion, for what it's worth, would be on the issues, the financial accountability issues, for example, you have things in here that are significant in Portland public schools, spending increase faster than inflation or growth in student population. Now, that's significant. So drilling down on why is that. Now, part of it is probably that class sizes may have gone down as a result of it. So there is some policy trade-offs. But I also know, for example, that Portland public has laid off 300 nonteacher positions just in the last three years. And so helping us understand how they could -- getting it out that they actually laid off 300 people, and i'm not talking about the janitors, i'm talking about classroom help, and then -- but getting that fact out to the public, but then figuring out, well, then why did spending increase faster than inflation or population growth, that's the kind of information that you have the commas capacity to get out to analyze independently from the districts, and then verify the good things that the districts are doing, give recommendations on the other things. But if you start getting into

**January 28, 2005**

educational quality issues, you're going to have problems with me and others, because I don't care who's on your staff, that's not your job, from my perspective.

**Blackmer:** I think we need to at least monitor outcomes, and I don't know that we could necessarily look just to dollars without being sensitive to the impact on the classroom.

**Francesconi:** It has to be done, the question is, do you do it. I guess reporting them is fair, but then I just don't think you have the expertise on educational qualities.

**Katz:** Why don't we leave that decision to the education quality council that's going to be meeting, because they will be phoning in on the achievement gap and how to measure whether that gap is going to be -- is closing over the next three years.

**Saltzman:** I would respectfully disagree with commissioner Francesconi, I think we're always calling for as we just created an independent review panel to look at our decision on the mt. Tabor reservoir, as we've done throughout many of the school funding issues, we're always looking for independent sets of eyes to look at these issues, and I think any kind of discussion about financial conditions devoid of any limiting their ability to make observations, how does that affect educational quality and things like that, I think would be under utilizing the expertise we have in both these offices here. So I think the more people looking at this issue the better. I think auditors have a certain credibility with the public to that oftentimes is lacking in perhaps groups of elected officials, even though you are both elected, you're sort of seen as again sort of a stature above sort of a regular run of the mill politician here. So I would welcome those observations and connections to -- you should be able to go where the information takes you.

**Francesconi:** I guess I want to be clear. It needs to be done independently by another group, and I think that's why the mayor and Diane Linn called the school quality council together with people with specific expertise on these questions. So you provide the financial back-up to make sure the money is being spent right, this other group provides the quality, and then we have the independent review.

**Blackmer:** I would assure you that we are going to proceed like we do with all audits to make sure that if we see changes that we think are necessary, we've analyzed them, we've made sure that there aren't any unintended consequences, we've worked through the process with the people we're auditing, and we've established at least a common understanding of why we're saying the recommendations that we are. And we're sensitive to the input of everyone we're auditing. So to that degree I don't think we're going to surprise people or tell them things that are not going to make sense to them. And our sense is we can be a catalyst for change in the districts where we -- where it appears there's better practices possible out there.

**Leonard:** If I could weigh in on that discussion this, is an issue I spent every session I was in the legislature focusing on, precisely what we're talking about here. I had a bill in every session of the legislature that required that the audits that school districts were required to do anyway not be contracted by the school district, but rather through a third party like the secretary of state to have some independent analysis and to give you just two brief examples of the -- some of the most egregious kinds of information we got back from districts who did their own auditing, one without naming the district, one in southern Oregon district that had their own auditor working for the superintendent and the board came back with a clean bill of health, the secretary of state picked that as one of their random audits around the state and determined that the superintendent was filling up the school district gas pump, the board members were filling up at the gas pump, none of which was revealed in their audit, but found in the secretary of state's audit. We had all -- two school districts east of us here, just over the cascades, who had determined that if they on paper transferred back and forth to each school district students, phantom students, they raised their adm's so each district appeared to have more students in it than they actually had which gave them more money from the state. Both of those districts, audits done by the school board did not reveal that. It was the audit done by the Secretary of State that revealed that practice, which obviously has since stopped. So I

**January 28, 2005**

not only think that what you do is valuable, I'd like to figure out some way just in Multnomah County to require this—I might add this bill I had in every session was killed by the school districts—never even got a hearing, including the Portland School District. I'd like to institutionalize annual auditing being done by someone other than an auditor hired by the school district. It's just fraught with problems when that occurs.

**Katz:** All right, let me put some closure on this. It's very clear what we wanted when we put all of these elements into the legislation. We wanted to make sure that we were able to identify how the money was spent. We wanted to make sure that we were able to tell the citizens of this community how the money was spent and what the money was spent on to close the achievement gap, because, after all, we did want the class sizes to be smaller, making the assumption that if class sizes are smaller the quality of the education will be at a much higher level than they'll -- and there'll be additional time to spend with youngsters who need additional assistance. We want to make sure that the school districts are all measuring the same thing, and that the data is comparable so that we can report accurately by an independent group as to what's happening. I have my own issue to put on the table, you may not want to do that, you may want to let me know privately without doing the whole analysis, because I think I was alone on the council to funding the issue by a.d.m. As opposed to the financial need, since adjustments were made during the legislative session to lower the dollar amount for Portland public schools and raise everybody else. So we still have poorer districts and maybe slightly less poor districts. I'm not going to call them rich districts. But we gave our money by a.d.m. Because of fairness and equity as seen by the council, and that was a wise decision. I just want to know if by doing that did we unlevel the playing field in some way. And if you can do that, and just -- just to educate me, because if you also recall we have the ability, and I hope it's never used, to make some adjustment on those funds. So I need to understand, did we really do much damage in how the money was distributed. I doubt if we did, but it's something we need to take a look at. So the quality council will be asking for a lot of information at our first meeting, which is, when, carol? This friday afternoon at 3:00. And this conversation, i'm sure, will be repeated at the council, and we'll -- we'll review where everybody -- what everybody has envisioned and what everybody is -- what everybody's expectations are going to be.

**Francesconi:** I want to make sure I'm clear. I think your job is very, very important, especially on the financial side, that's what i'm trying to emphasize. And because of all the reasons commissioner leonard just listed, if you can find ways that the district can save money and put that into education, that would be terrific. Then if you can find that the districts are doing good things, some good things already fiscally, and you could help publicize it, that would be terrific, too.

**Blackmer:** Yeah. I don't think we're in that much disagreement.

**Katz:** Ok. We'll get there. We have to. We have no choice. All right, anybody, before we accept the report and vote on it, is there anybody that would like to add something to this conversation? If not, i'll take a motion to accept the report.

**Leonard:** Move to accept.

**Saltzman:** Second.

**Katz:** Thank you. Roll call.

**Francesconi:** Thank you very much for your work and bringing added credibility and scrutiny to the most important issue in our city and state. Aye.

**Leonard:** Aye.

**Saltzman:** Thank you. Aye.

**Katz:** Mayor votes aye. [gavel pounding] all right. Item 68.

**Item 68.**

**Katz:** I'm going to turn this over to commissioner Saltzman if he promises to be brief. Both of us took the responsibility as we made a decision to centralize outside of the bureau's to the office of finance and management the responsibility of selecting another system, financial system, billing



**January 28, 2005**

system. We're going to be doing that in -- for every bureau now. And both of us will participate in making sure that we reach the -- that we came to the time when we were both satisfied that it was time to begin to thinking about making that transition. Commissioner Saltzman spent more time, because the water bureau is within his purview, as well as the bureau of environmental services. So i'll turn it over to him.

**Saltzman:** And I will be brief. We're at a much anticipated and important threshold today.

**Katz:** Let me just add, if things going wrong on this, we'll both stand together, shoulder to shoulder.

**Saltzman:** We're all in this together, right?

**Katz:** Yeah. Oh, no, not those two. You and i. [laughter].

**Saltzman:** Well, maybe -- I said it was an important threshold. Maybe it's a precipice that we're on today. We're about to select a contractor with this ordinance before us to select a contractor to replace our customer information system, our water and sewer utility billing system. We commonly call it c.i.s. The ordinance before us authorizes us to enter into a contract with cayenta canada, I think, that includes software licenses, maintenance support and the contract, just over \$4 million, includes warranties and assurances for the proper functioning of their software. All the way through the project, including beyond when it's been successfully moved into production. The process to find a replacement to our current computer information system has been going on since mid 2001 when we -- the city council directed the office of management and finance to undertake an assessment of the city's current automated billing system and to identify alternative systems that would better suit the city's needs. During the next year we focused on stabilizing the existing system to handle minimum business functions and we negotiated a maintenance agreement with our current c.i.s. Provider and we also obtained a \$7 million to us on their behalf. And towards the end of 2002 we began preparing a comprehensive request for proposals, all in accordance with the recommendations approved by the council in the assessment report. Over the last year, of 2003, we've thoroughly analyzed our options. We've visited customers currently using their software we've researched customers, both those with good and bad experiences with the products. We had vendors demonstrate nearly 1,000 business functions. We reviewed vendors' financial health and stability. In the end, a group of 12 internal advisers, along with outside experts, who many of them contributed lots of time to this process, including volunteer experts, unanimously concluded that cayenta was the best fit for the city of Portland for several reasons. First the basic software can handle the city's business functions with only very minor modifications. Second, the required modifications will be incorporated into their base product. Third their implementation strategy minimizes risk. And finally their proposal was \$5 million less than the only other option that we felt would meet the city's business requirements. Now the real work begins. We will not turn this system on or go live until every function has been thoroughly tested and works smoothly. We anticipate having this system going live by december of 2005. So with that, i'll turn it over to tim grew.

**Katz:** The caveat here is that both of us request that the council not make any new additional demands on this system until we're sure that it can function with what we've asked it to function if somewhere down the road somebody else wants to plug another program in. Did I state that accurately?

**Saltzman:** Yes.

**Tim Grewe, Chief Administrative Officer:** Tim grewe, chief administrative officer for the city. In response to your last statement, mayor, I did want to clarify one new feature we will be implementing will be the stormwater discount program.

**Katz:** Right, we knew that.

**Grewe:** Other than that we're holding off on the other features. Commissioner Saltzman did a very good job of providing an overview of the selection process. I'm not going to repeat what he said,

**January 28, 2005**

but I do want to say up front that your committee, all the people that worked on this, and I headed your executive committee, and worked very closely with the directors of the water bureau, environmental services, and my own technology manager, in getting to where we are today, but behind that group was a very hard-working group that really rolled up their sleeves and did the nitty-gritty work on the -- it consisted of staff from both the water bureau and environmental services, and technology, but were also assisted by a host of consultants and outside volunteers in completing that work. As a result of their efforts, i'm very comfortable being here today to recommend that we proceed with the cayenta contract. The selection process itself was very extensive, but I can tell you from other processes I reviewed went well beyond of what would normally happen in a selection process. Cayenta as commissioner Saltzman referenced, we tested the compatability of their system with over 975 business functions that we have to complete within the city. In some cases we actually had them come in -- excuse me -- 500 cases. -- we actually had them come in and show us on a computer screen that they could comply with 500 different scenarios, business scenarios, we had designed that their system actually works. So the due diligence process was very extensive. It also included contacts with other jurisdictions that were in the process of increasing -- excuse me -- of implementing their -- the cayenta product or had successfully implemented the cayenta product. Our staff sat side by side with the staff in those jurisdictions, at least one of those jurisdictions, and observed how the system was operating. Now we didn't just stop there with that extensive due diligence. I believe we've presented to you today a contract that provides added protections to the city. And we've designed a process that will provide additional assurances to you that this system will operate before we switch over. And I think as a commissioner Saltzman said earlier, we're not going to switch over on this system till we're absolutely convinced it is operating correctly. We anticipate that will be in december 2005, but I would like to state here, in front of you right now, that if we encounter any type of problem that is going to need more time, I will not hesitate to come back to the council and recommend that we -- that we adjust that ending schedule. Our goal is clearly to meet that deadline of december 2005, but I won't recommend to you that we do that if I think the system's not ready. Another thing we've done, as a part of the provision to make sure that the system gets implemented correctly, is we contracted with a quality assurance firm. Now the purpose of this firm will be to provide outside eyes, conduct outside review throughout our implementation process, to make sure that the contractor is doing what they said they would do in their contract, to make also sure that we're proceeding with the work plan in a manner that we did, and to identify any issues that are of concern to them and recommend remedies. They'll be totally independent of all the other consultants and all of the internal staff in terms of their review of this process. They will be providing information directly to me, as well as to the commissioner in charge, and the mayor as we go through this process and beyond that to council. The other thing we've done to assure the success of this process, which we haven't done previously, was contracted with a very experienced management firm outside the city that has gone through numerous system implementations. We'll not only have internal management on this project, we'll have an experienced outside manager providing guidance. One of the chief responsibilities of that outside manager is to track issues. We want to make sure that if problems are identified, nothing drops through the crack, that we have a plan for how we're going to address that problem successfully, and that we stay on the task until it's completed. And our outside manager will be assisting us in ensuring that that happens. In terms of the contract itself, unlike our last contract, we've tried to be very precise in developing provisions that give us access to the source code of the cayenta system in the event that we encounter problems where we believe we have to directly access that source code. That source code will be held in an escrow account by a third-party in the event that we need to access it. Our payments to cayenta will be based upon the completion of specific tasks. We've designed a contract that they will not receive full payment until we have a system that we're absolutely sure is operating. We also have a period

**January 28, 2005**

of time, 90 days after we go to implementation, that cayenta will actually keep staff present here in Portland to address any issues that might come up at that point. And then we also have placed within the contract a corporate guarantee. That corporate guarantee provides in the event of a system failure, cayenta will be responsible for paying to the city up to the full contract amount. And how we would use that payment, in the unlikely event that that occurs, is to complete installation and/or to use it to contract with another firm to come in and help us get our billing system up and running. We also have a one-year warranty with cayenta after implementation. The reason I wanted to go through all of these, I wanted to assure you that through design of our project management system, the types of expertise we have brought to the implementation process, and the provisions of the contract, I believe provide adequate protections to the city in the event that we encounter any problems. I think it does deserve emphasis that there's going to be numerous tests on this system before any decision is made to go live. I'd be extremely surprised, and you can probably remember these words, if i'm sitting before you at some point saying that we have to exert our warranty, that we have to access the code, or that we have to take some type of action. We've found absolutely nothing that indicated to us that cayenta would not be able to perform on this contract or I wouldn't be sitting before you today. Having said that, I know from past experience that highly technical implementations like this do have risks associated with them. And while I think we've designed a process that minimizes that risk, there still will be risk. I can assure you that from time to time in the implementation process i'll be briefing you on status and identifying issues that we've encountered and how we intend to resolve those issues, but they will be resolved and you won't have the system go live until i'm absolutely certain that our quality assurance expert is absolutely certain that we have a system that will work. I'll stop there. Staff are here present with me to answer any of your questions. We also have a representative of cayenta that would be pleased to address you as well if you saw so desire.

**Katz:** Where is the cayenta representative? Come on up. Hi.

**Paul Wyman, Vice President, Cayenta Sales and Marketing:** Hi. How are you?

**Katz:** We're fine. Thank you. Do you want to identify yourself and share some additional information?

**Wyman:** Ok. First i'd like to say thank you. My name is paul wyman. I'm our vice president of sales and marketing. We're very pleased to have the opportunity to assist the city of Portland with their utility billing system issues. The due diligence process has been extensive, very comprehensive, more than we're used to, but I think it's confirmed that our product is a very good match for the city's business issues, albeit with some modifications. They're minor. And we're just very excited to have this opportunity to work with the city of Portland. Thank you.

**Katz:** Thank you.

**Leonard:** And are you willing to stake your firstborn child on this thing working? [laughter]

**Wyman:** Well, you know, I have six of them, so that could be a -- be careful what you ask for.

**Leonard:** You offered up that child awfully quick. My goodness.

**Katz:** Thank you.

**Wyman:** You're welcome.

**Katz:** Questions?

**Francesconi:** Following up on commissioner leonard's point, so you're going to stand by the product and all the representations you made in that, and if your product fails to perform then you'll fix it at your cost if it -- if you don't meet the contractual obligations that you listed in the contract?

**Wyman:** Yes.

**Francesconi:** Thank you.

**Katz:** Further questions? I want to thank the staff that's been working with tim on this, dick, and jim van dyke, and others.

**Grewe:** Julie from the water bureau.

**January 28, 2005**

**Katz:** Julie, is she here? Over there. And I know they worked very hard. This has been over, what, a year now. So this hard questions and making sure that we're protected and making sure that the company that we selected is willing to do whatever it needs to do to guarantee that the system will work. And willing to give up the firstborn, which -- how old is the child now?

**Wyman:** She's 12.

**Katz:** She'll be 13 before --

**Wyman:** She'll be a handful.

**Francesconi:** I have one question for you, tim. It's not -- it's looking forward here. So the extra precaution -- so the procedures that we've now adopted in terms of testing and due diligence, all the things that you listed and commissioner Saltzman had earlier, are these going to be now the standard operating procedures for the city whenever we purchase customer information systems or significant software?

**Grewe:** Yes, commissioner. I think we're now going through a very standard procedure on technological installations like this. I would not recommend to you any system like -- system process like this that did not have the services of a quality assurance expert, that did not have professional management involved, did not have dedicated staff involved to the implementation within the city. You'll be seeing very similar steps, as we move to see if the city's diva system should be replaced within the city.

**Francesconi:** Are we going to centralize this function, at least so it's not left to individual bureaus?

**Katz:** We did.

**Grewe:** You've already assigned me responsibility, and through me to the technology director, responsibility for major applications within the city.

**Francesconi:** Yeah. And does that apply also on the installation and maintenance or is that the bureau's responsibility?

**Grewe:** For the large -- for the most part it will be the responsibility of my organization for installation and probably maintenance. There may be some situations where the system is so bureau specific that it makes sense to handle maintenance through a different means. But we'll analyze that in each and every individual basis as we go forward.

**Francesconi:** Thanks.

**Saltzman:** Just one question I wanted to just get out there. We had received a correspondence, all of us in the last day or so, from an i.t. Firm, or consultant, in tacoma, who was responding to an r.f.p. We have out, and he was suggesting that we delay this contract until we've done that -- that next bit of work. I wonder if you wanted to respond to that.

**Grewe:** Yeah, i'd be happy to. This was a vendor who was competing for a contract to develop a business plan and analysis for the replacement of our enterprise-wide iba system. So he's in competition right now. His point was why replace your water billing system until you've fully analyzed whether or not you're going to replace your enterprise-wide system and the business changes that might have to occur as a result of that. we've been through this issue before. In fact, we reviewed that extensively at the front end of this. I need to take you back and say that we're currently operating on the open vision system. As you know, that's not a fully implemented system, and we've 100 extra staff working with that system to ensure that we get accurate billings out. It is of paramount importance that the city proceed with the development of a new billing system so we cannot be dependent on the open vision system, but also so we can reduce costs associated with our billing system. Beyond that, with my limited expertise in this area, we're not aware of many products out there right now that meet all financial requirements of a jurisdiction. In other words, that meet your accounting requirements, but also meet your utility billing requirements. S.a.p., a second finalist in this process, is one of those systems that provides that, but they have also implemented systems that didn't bring up their billing system. So the answer to the question is

**January 28, 2005**

because the city has an urgent situation, and we're probably 12 months or longer away from making a decision on the enterprise-wide system, we felt it was prudent to proceed with the replacement of the water billing system. And one other point -- throughout our selection process, we have ensured that whatever billing system we implement will be compatible with the citywide system when and if it is replaced. And cayenta is compatible. And they've done that. They've connected to other systems within other jurisdictions.

**Katz:** Thank you. All right. Anybody else signed up to testify?

**Moore:** No one's signed up.

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

**Francesconi:** I'm very impressed with the fact that we're starting off right, starting with the mayor and commissioner Saltzman. I've impressed with the work, tim, that your team has done, and at a time that our credibility in government is suffering, all those efforts were really, really important. So the fact of the extensive testing, the fact that there's not a major modification of the software, the fact you've visited the customers, the fact we have a very reliable vendor here, the fact that it's cheaper than the other by \$5 million, the fact that we're going to go through very extensive testing before going live, the fact that there's outside qualification managers to scrutinize our work in terms of the implementation, all does the best we can, in my view, to minimize the risk that is out there, and to deliver a quality product and service that the taxpayers really need. So thank you all for your work. Aye.

**Leonard:** I'm struck here that recently that I read that one of the other utilities in town had a billing problem. And there was no backlash towards that. And what strikes me about that isn't that we shouldn't have had a problem, it's that it reminds me that we're held to a higher standard. And we shouldn't get defensive about that. We should understand that what we do is held to a standard that the private sector is not. That's probably as it should be, all things being equal. And having said that, since i've been here the last almost 15 months, i've been tremendously impressed with tim grew and the work you do and the thoroughness and completeness and that means a lot to me. I also wouldn't be sitting here today without the judgment that dan Saltzman made a little over 10 years ago about my fitness to serve in the senate. So I have to say i'm implicitly impressed with his judgment and ability to make good decisions. So I have a high level of confidence that the decisions he's making as this moves along, particularly suit his skills as an engineer, and I can think of nobody here that would be better to sheperd this project through than commissioner Saltzman. So I have -- as commissioner Francesconi said, i've met, too, with all the folks involved, and have asked hard questions, and have gotten very good answers, which I feel very comfortable in saying, then, that I think that we're progressing on a tough project, one that will receive a lot of scrutiny, but as I said that's as it should be, and I really do appreciate the amount of effort that's gone into this. It's been very tough. Aye.

**Saltzman:** Well, there's been a lot of people in the city and people outside the city who have volunteered their times to help us to get to this place. I wanted to just thank -- acknowledge all the hard-working people this the water bureau, environmental services bureau, office of management and finance, the city attorney's office, and i'm sure probably purchasing was involved as well.

**Grewe:** Yes.

**Saltzman:** They have really devoted a lot of time over the last year and a half or so to not only, you know, keeping our existing system working, reaching a settlement with our previous vendor, but really launching this whole r.f.p. Effort to get us to the point where we're entering what I believe will be a positive and productive relationship with cayenta. We look forward to that. But the work really has just begun. We still have a lot of work ahead of us to get this system in place and to make the ultimate decision to turn it on. But I think i'm confident that we've done a lot of due diligence. We have a lot of safeguards built in. And I think we have -- and a good person, good company that we're doing business with, too, which is probably one of the most important things

**January 28, 2005**

you can do in this whole due diligence is not lose sight of the caliber of the people you're sitting across the table from. Now we'll be sitting on the same table. It's been a great process. Thank you. Aye.

**Katz:** Aye. Let me also thank david weber, the chief information officer of northwest natural, who bought his i.b.m. Expertise to the table to make sure that we were asking the right questions and making the right decisions. So, david, and the entire time, thank you very much. We have high expectations from cayenta that I know makes you very nervous. And high expectations of our team as we begin the process of switching over. Aye. [gavel pounding] ok, everybody, we will stand adjourned --

**Francesconi:** We have one more.

**Katz:** Oh, 69.

**Item 69.**

**Saltzman:** This is the contract that tim spoke of, the outside firm that will be doing the quality assurance work throughout the new billing system.

**Katz:** Anybody want to testify? [roll call taken]

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

**Katz:** Mayor votes aye. We do the good news. Another good announcement today at 1:00 here, a company, an existing company, the nation's largest veterinary practice has signed an agreement, and will be building their facility here in Portland and adding additional jobs. Thank you. We stand adjourned. [gavel pounding]

At 11:34 a.m., Council recessed.

**January 28, 2005**  
**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 28, 2004**                      **2:00 PM**

[Roll call taken]

**Katz:** Commissioner Sten is on paternal leave. Why don't you read the item.

**Katz:** Ok. We are going to do the following -- we extended an invitation to the olcc, and -- where are they? That's the three of you? One of you? They're pointing to you and you're pointing to her. [laughter] probably the three of you -- four of you. All right. We're going to give them an opportunity to talk to us and share with us why some things just aren't working the way the city council would want them to work since the statute was changed unfortunately by interested parties that wanted the statute changed, and we had that conversation the last time. Then I understand there are some amendments. I have not had the opportunity to go through all of them since I -- we got them this morning, but as everybody knows when there are amendments we will allow further testimony, and I wanted to make sure that both the neighborhoods and the businesses knew that. And then we'll extend it for probably another two weeks because commissioner Leonard is going to be a guest of the sister city association in and may give a further opportunity for further discussion, and we'll have that later. But we do have amendments, and we did extend the invitation to the olcc. Will the olcc representatives come on up? This is not a hostile meeting. I want you to know that.

**Leonard:** Yeah.

**Katz:** This is -- hi.

**\*\*\*\*\*:** Hi.

**Katz:** This is basically trying to understand what -- as you all know, there was a change in the statute, and we've been basically left out of all the deliberations as a city council, and some of the issues that the neighborhoods are complaining about are not being addressed by olcc, and so it would be nice to know what you think is happening and what you think would need to be done, and then we'll open it up for questions by the council. Ok?

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

**Katz:** All right.

**Teresa Kaiser, Executive Director, Oregon Liquor Control Commission (OLCC):** Good afternoon, mayor Katz, and members of the city council. Thank you for the invitation to be here today. I'm Teresa Kaiser, the executive director of the olcc. I prepared some comments and materials in response to the questions that you had at the previous session and subsequently, and they don't include my take on why some citizens find it difficult coming to the olcc, but I have an opinion, which I also will share with you.

**Katz:** Good. Because if you don't answer that, we'll ask you that question.

**Kaiser:** Oh, I'm pleased to give you all the information that I have, just as your staff has been very, very responsive with us when asked them to the commission on various issues. We've enjoyed very good working relationships with the city, and I hope to continue that. We not taken any position on the city's proposed time, place and manner ordinance, but I'm happy to be here today to give you some background information and just to help your discussion of this proposal. It is good for the city to confer with its licensees and its citizens in regards to this proposal. Let me you walk through an overview of the statutory authority that we have and what we do not have regarding neighborhood livability issues. This is the area that's most frequently understood. What is the

**January 28, 2005**

olcc's charge, where does our authority extend and where does it end? Portland's proposed ordinance in the olcc processes are parallel in many ways. Your licensees are our licensees. And clearly both the city and the olcc are interested in seeing that liquor premises operate lawfully and reasonable neighborhood livability standards. At the same time there are differences between the proposed city ordinance, at least what we've seen so far, and our statutory responsibility. It's important to understand that state liquor laws supersede local ordinances if the two conflict, and this sounds like a harsh statement, so I want to point out, i'm quoting directly from the statute, the Oregon liquor control act is designed to operate uniformly throughout the state. It is paramount and superior to and supersedes municipal charter enactments or local in ordinance inconsistent with it. Under state law, olcc is vested with the responsibility of issuing liquor licenses and supersedes -- and specifies the criteria that we may use to issue or deny a liquor license and to sanction a liquor license. The criteria that we have to follow was set out in state law, in our regulation, and in a series of court cases that further define our responsibility. We have authority to regulate livability issues arriving inside a licensed premises or in the immediate area outside the premises that the licensee controls so long as there is a link to alcohol. That is often the area where we have a problem with citizens, that there's not a link to alcohol. Depending on the severity of the problem, statute gives olcc authority to issue various sanctions, raising -- ranging from fines to license cancellation against a liquor licensee. We have authority to take regulatory action against a liquor licensed-establishments based on a violation or based on a history of problems. Here are examples of our statutory authority to regulate livability issues. In the first instances, if there's a history of serious and persistent problems at the licensed establishments, it's a grounds for license cancellation or for refusing a license. These problems behaviors can include obtrusive or excessive noise, music or sound violation, public drunkenness, fights, altercations, harassment, drug sales, alcohol or related litter, trespassing on private property and public urination. Enforcement of the statute requires a history at that licensed establishment which means problems must be serious and ongoing. Further problems must be related to the sale or service of alcohol. And that's often times we hear testimony, but it's not related to the sales or service of alcohol. A second area where we regulate livability issues are when a licensee maintains a noisy, lewd, or disorderly establishment. Enforcement requires more than one isolated violation for noise enforcement there must be a violation of the city ordinance. A third area is if a licensee permits noisy, lewd or disorderly activities. Here there may be enforcement based on an isolated incident, however if it's noise the noise must violate the city's ordinance per state law. Our enforcement requires knowledge of the licensee or employees, and failure to take effective action to prevent or control the activity. Often times we find instances where it's -- we're not able to prove that the licensee or employees were aware. And it does not meet the statutory requirement. A fourth area is where a licensee permits unlawful activity. This requires knowledge that the licensee or employee and failure to take effective action, such as drug sales, other kinds of illegal activities on the licensed premises. The fifth area would allow olcc to deny a liquor license when the licensed premises would be located in an area that has a history of serious and persistent problems with unlawful activities, noise, or disturbances. And this provision applies only to a new liquor license. We have six district inspectors assigned to areas within the city of Portland. Each inspector is responsible for overseeing 300 to 400 liquor licensed establishments. The six folks are our feet on the street, our primary regulatory contacts with the liquor license business in Portland. And again, the authority of our inspectors and that of us generally is limited to matters that are related to or can be tied to the sales or service of alcohol. We use a balanced approach to regulation. Our goal is compliance. To achieve compliance, we combine education and training with a number of efforts aimed at testing licensee's compliance with the law. Many of our specific programs and activities are designed around one key public safety goal, such as our minor decoy and responsible vendor programs geared toward preventing minors from purchasing alcohol. I brought you informational bulletins



**January 28, 2005**

about those programs. Much of our inspectors' work is spent on alcohol and minors, visibly intoxicated persons and problem premises. Our inspectors have the following tools to use in compliance building -- verbal instructions, warnings, suspensions, fines, restrictions, cancellations, progressive compliance building and compliance plans. I'd like to point out three issues that are preliminary analysis of the city proposed ordinance has identified that I think really are legal issues.

First of all, the liquor control act is designed to operate uniformly throughout the state. It supersedes, as I mentioned, from statute our municipal charter ordinances or local ordinances inconsistent with it. To the extent the city's proposal would be inconsistent with respect to the sale or service of alcohol, it would be superseded and unenforceable. Our preliminary analysis is that the city's proposed restrictions of hours during which alcohol may be sold or served directly conflict with the liquor control act. Secondly, to the extent that the city's proposal --

**Katz:** Let me just interrupt, see if I understand, that if after an investigation a good neighbor agreement or the hearing officer makes a determination that the establishment needs to be shut down earlier, and that is not the original order from the olcc, you see that as a conflict, where olcc statute supersedes city authority?

**Kaiser:** That's our preliminary legal analysis.

**Katz:** All right. Keep going.

**Kaiser:** Secondly, to the extent that the city's proposal is not inconsistent with the liquor control act, both of us may regulate certain conduct. This raises issues that should be further considered. Can someone be charged for the same conduct by both jurisdictions? Under what circumstances? Is there uniform enforcement? Will this become an Oregon constitutional article one, section 20, issue? Third, if the city's proposal is consistent on the face with the liquor control act, but applied inconsistently, can someone be charged under both? Under what circumstances? Is there uniform enforcement? Is this, again, an Oregon constitution article one, section 20, issue? Now to address the issue that you asked about the citizens who come before the commission. I've been there listening to the testimony at the commission meeting of interested members of the public. Often times the issues raised by the citizens are not issues that the olcc commissioner can respond to. They're issues concerning traffic or parking on the street or litter unrelated to the licensed establishment or noise unrelated to the licensed establishment or other activities in the neighborhood. We have a very narrow area in which we have authority to act. Often times the concerns of the citizens, while very real and heartfelt and persuasive to us, that they're serious problems, are not problems that the commission can fix, and it causes a lot of upset on the part of the citizen who's traveled to the commission to share the stories of what's going on in their neighborhood, because they don't understand why we are unable to address their concerns. They're simply not appropriate concerns for the liquor commission.

**Katz:** Let me pursue the legal aspect, because I think that was one that was raised the last time we had the hearing.

**Kaiser:** Yes.

**Katz:** If we conflict -- if we have an agreement, or the hearing officer makes some determination about hours, or whatever the issue would be, and it conflicts with olcc's original recommendations for the licensee, what would you do?

**Kaiser:** If we've licensed a particular establishment with certain operating hours and there's a problem with that establishment, we have an internal process for remedying that, part of which process could result in time restrictions, but if we've given permission for hours of operation and the city were to overturn or attempt to impose other hours of operation, that would be a conflict that our preliminary legal analysis would indicate we have the authority to make that determination.

**Katz:** Let me push back a little bit. Would you not take a look at our hearing officer's recommendations as a serious issue that he or she addressed, and would you review your provisions under the license that you gave an establishment?

**January 28, 2005**

**Kaiser:** We do look at city recommendations. We do now, for example, in recommending the issuance or nonissuance of a license, but our duty is to go behind the recommendation. In other words, we cannot just take it at face value. We have to look at the factual basis that resulted in that recommendation and whether it's sufficient or not to weigh in on the issue before us.

**Katz:** So you would review the recommendations of a hearing officer on a specific establishment?

**Kaiser:** Under particular circumstances -- linda, would you like to --

**Linda Ignowski, Regulatory Program Director, OLCC:** I'm the regulatory program director at the olcc. Yes, we do our own independent investigation on any complaint. So we would do our own investigation and come up with a determination if there was a problem and what the solution would be to that. It would not be solely based on the findings of your hearings officer.

**Katz:** So it is possible that you would concur with the findings of the hearings officer, or it is possible that you would override the findings of the hearing officer, and our role would be greatly diminished when you did that? Or would this be a legal battle that we would find ourselves in?

**Ignowski:** That's a good question. You know, I think your licensees will have to make a determination of what they're going to follow.

**Katz:** Ok.

**Leonard:** I'd like to ask a question. I think it gets to the bottom of this.

**Katz:** Go ahead.

**Leonard:** The o.r.s. 471.64. Says allow cities and counties<sup>^</sup> to adopt reasonable time -- are you familiar with this provision -- time, place, and manner regulations of the nuisance aspects of establishments that offer entertainment or serve alcoholic beverages if the city or county makes specific findings that the establishment would cause adverse effects to occur. What to you does reasonable time, place and manner regulations mean, that the city has?

**Kaiser:** I guess the devil's in the detail. You'd have to look at the statute and analyze that.

**Leonard:** Let's be specific. What does time mean?

**Kaiser:** I think the problem you have is that particular statute does not overcome the statute that's already on the book that says that the state liquor business is the business of the olcc, and city ordinances past that conflict with the olcc's authority are superseded. So you have two -- you would have two statutes that conflict.

**Leonard:** Do you agree this is written in compliance with this statute?

**Kaiser:** Well, i'm not prepared to give you a legal analysis, but it would appear that what you're doing is attempting to be consistent with that particular statute. Unfortunately, the statutes when read together don't make sense together.

**Saltzman:** One doesn't necessarily override the other, they're just in conflict?

**Kaiser:** It's in conflict, but the statute that existed previously, and still, would indicate that where there is a conflict between a city ordinance and the state liquor agency, that our agency laws overcome.

**Leonard:** What is the conflict with what we're proposing and this o.r.s.?

**Ignowski:** If I may speak, commissioner leonard, I think one of the main things that we see -- one of the problems with this, it's just a statute, and a lot of times we've taken the statute and developed administrative rules to define what the statute means. To our knowledge no city has ever taken up this time, place and manner ordinance, so this is a new field that we're coming across that we don't know where all the legal battles.

**Leonard:** Have you read this provision before?

**Ignowski:** Right. I think time may be the conflict here, and i'm not our a.g., so I can't give you legal analysis --

**Leonard:** But you did. You gave us a statement that you said this may be in conflict, so you did.

**Ignowski:** Yeah.

**Leonard:** I'm asking you how that fits with this statute.

**January 28, 2005**

**Ignowski:** I think your ordinance specifically will regulate the hours that alcohol will be served.

**Leonard:** If a nuisance exists.

**Ignowski:** Right. And that may be in conflict with our authority to regulate the sale and service of alcohol.

**\*\*\*\*\*:** Remedy, section b.

**Leonard:** I guess we're going to need to have one of the deputy -- do you have one of your deputy ag's here?

**Kaiser:** I have the head of my hearings section here, who is --

**Leonard:** Is that with the a.g.'s office?

**Kaiser:** No. She's legal. She's an attorney, handles our hearings.

**Katz:** Let me just ask, do you feel comfortable or competent -- do you feel competent or comfortable answering this question, or would you rather get an a.g.'s opinion on this?

**Kaiser:** I'd rather that you relied on your own attorneys' analysis of what your responsibilities and rights are. I'm not here today, nor do I propose to give you legal advice. I'm very uncomfortable in that role.

**Katz:** I can sense that. I can appreciate it. I think where the conflict would rise is if the directions are entirely different after a hearing officer makes the recommendations.

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

**Katz:** Then that's up -- i'm not an attorney either, but then that's up to you to decide which -- whether to do an investigation or to concur with the hearings officer. It seems to me that's where part of the problem is going to reside.

**Leonard:** I don't agree with that. We've done a lot of work on this particular subject, and we have ruth sitting over here and i'd appreciate her coming up and tell us what we've been told, who is our attorney.

**Katz:** Just a minute. Let's wait and finish with the olcc first. Does anybody else have questions with regard to the olcc?

**Francesconi:** I have not a legal question. I actually think our lawyers do disagree on this, on the interpretation of that one statute.

**\*\*\*\*\*:** Uh-huh.

**Francesconi:** But that's -- from a practical standpoint, you know, I didn't hear you talk much on the practical side. I understand, practically speaking, do you have the resources to do what you're supposed to do with all the bars and taverns in Portland?

**Kaiser:** Does anyone in government have the resources anymore? I think we could certainly use more. I'll tell you this, practically speaking our six inspectors work with your police and your office of neighborhood involvement very, very closely to target our efforts to those areas where there are problems. We have a wonderful working relationship. I think our goals are the same. For the few problem establishments we need to target them for enforcement. The majority of business people want to stay within the law. They're in the business to make a profit. They serve the community. They make Portland a wonderful, livable place it is. There are bad apples. We work very closely with your teams to maximize the resources we do have. And those teams work together very well. I think our goals are the same. You have a broader authority in many respects in terms of litter, noise, and other city issues that I think you're doing a responsible thing by conferring with your citizens and licensees to move forward. There's not a conflict between our goals.

**Francesconi:** Ok. That was the second area. The kind of complaints you hear from citizens when they come down to the olcc, that you don't have the authority over, how often does that happen and what kind of complaints do you get?

**Kaiser:** It frequently happens, since you no longer hear the citizens here yourself. People like to be heard and they want their day to be heard. When they can't come to talk to you, they come to talk to the commission even though the commission can't do -- I mean, the commission can't do

**January 28, 2005**

anything about a licensee who's an existent licensee who has no parking. Ok, he has no parking. We don't have a grounds for denying a license or denying a renewal. I mean, the citizen gets frustrated, because the only place to complain is a place where they can't get redress for that issue.

**Francesconi:** What kind of other complaints do you get that you don't have authority for?

**Kaiser:** Sometimes a person will complain about litter. Of course, there's a bus stop outside the licensee establishment and the litter is mcdonald's wrappers. It's like, ok, I understand litter is frustrating. I understand there's noise when people come in to a building and go out of a building. A lot of the issues we hear about are issues of cities, where people are crowded together, and sometimes there's noise. It could be a garbage truck or the postman –

**Katz:** Let me be more specific. Someone coming out of the establishment and screaming at top of their lungs at 2:30 in the morning.

**Kaiser:** To the extent that the licensee is expected to control inside his establishment and within a reasonable distant outside, we do investigate, and they are grounds --

**Katz:** What is your reasonable distant?

**Kaiser:** The immediate vicinity, but i've seen that construed up to a couple miles. Depending on the particular circumstances of parking and lighting: I mean, our case law spells out with a lot more specificity. And trust me, we're talking about the rights of the individual versus the rights of the society. So the courts often weigh in, and we're bound by those decisions, too. So licensee does have responsibility outside his establishment. We've had citizens complain also when an establishment refused entrance to someone who was inebriated when they came there, but the nature of the complaint was, well, if the licensee didn't exist, no one would have come here in the first place. Ok.

**Leonard:** Let's take this same example.

**Francesconi:** Go ahead, go ahead. I'm going to change subjects.

**Leonard:** I just want to take that same example. Would you theoretically have the ability if you sustained a complaint, within a reasonable distance of it occurring from the establishment, to alter the hours of operation? Is that one of the authorities that you have?

**Kaiser:** When we have violations and it's clear that there are neighborhood livability issues, yes, we do have the authority of restricting hours.

**Leonard:** How is that inconsistent with what we're proposing? If we're proposing to have the ability to do the same thing under the same set of circumstances, how is that inconsistent with -- let's just assume that this other statute I read isn't even in effect -- how is that inconsistent with what you consider to be your statutes?

**Kaiser:** To the extent that we have licensed that establishment for particular hours, and you want to change those hours of operation, then we conflict, because we've already given --

**Leonard:** Listen to my example.

**Kaiser:** All right.

**Leonard:** I'm saying for purposes of this discussion, I agree with you, for the purposes of this question, that we have to do consistently what you do or would do. And we -- we have a complaint that's sustained of some disorderly conduct within the vicinity as you would define the vicinity of the premises. And based on that disorderly conduct, we take actions to reduce the hours of operation, which, as I understand you have the authority to do as well under the statute. How is what we're doing in conflict with you if we're enforcing those same kinds of rules, the same kind of way you would? I mean, how is us doing that in conflict with your statute, if you were able to do the same thing under your statute?

**Kaiser:** The way I would see it is we've already given the licensee the parameters, and you're further reducing the parameters of the licensee, which is --

**Leonard:** But you could do that as well under the statute?

**Kaiser:** It's not an either/or. I mean, we'd already given him the hours --

**January 28, 2005**

**Leonard:** I'm asking you if you could, after you sustained --

**Kaiser:** Yes, we could.

**Katz:** That was again the question -- if we had a real good case, i'm assuming that you would investigate that. And maybe change your ruling as well.

**Kaiser:** We do -- we do and would continue to investigate cases you bring up to us. And if there's a finding of fact that would support a change, we would --

**Katz:** All right, let me ask you one more question, then i'll turn it over to commissioner Francesconi, because we did have a specific case in our neighborhood, and we had to use a police officer to monitor the situation at 2:30, 3:00 in the morning. If we knew the establishments, if we had the top -- I don't remember what numbers were thrown out, but let's say top 20 out of almost 1200, would you target your investigators to make sure that they had the ability -- you're shaking your head no. I'm asking her. Would you target your investigators --

**Leonard:** That's our noise officer.

**Katz:** I know, I know. I'll ask him later. Would you target your investigators to those particular establishments where our citizens have consistently complained, but aren't able to get up at 2:30, 3:00 in the morning, go around the block and monitor a specific establishment?

**Kaiser:** You go first. Then i'll go.

**Ignowski:** Mayor Katz, I think it would depend on what the situation was.

**Katz:** I just described the situation to you.

**\*\*\*\*\*:** Is it noise?

**Katz:** Oh, yes.

**Ignowski:** If its noise based on the statute, we really can't do anything until there's a noise ordinance violation. We can definitely talk to licensees, and we do that consistently, of trying to get them into compliance, but if the statute was raised, I believe four years ago, where it makes a difference. We are tied until there is an actual noise ordinance violation before we can act upon that issue. Now if there's disorderly -- I mean, people are fighting, there's drug activity, there's a lot of that, absolutely, we're going to get on to that, but it depends on what the issues are.

**Katz:** I got my answer. All right, go ahead.

**Francesconi:** Thanks for giving us information on the responsible vendor program. How do you -- how many of your -- how many people belong to it, like in the Portland area?

**Ignowski:** How many --

**Francesconi:** What percentage of the liquor establishments -- are signed up for the responsible --

**Ignowski:** Commissioner Francesconi, I don't think i've seen it broken down into cities, but the total amount is about 1800 across the state, which isn't much considering we have almost 10,000 license yeast.

**Francesconi:** Ok. So 20% statewide roughly.

**\*\*\*\*\*:** Uh-huh.

**Francesconi:** And I see what the requirements are here. Do you do any -- is there any way to check? Do you check to make sure they do what they say they're going to do?

**Ignowski:** Commissioner Francesconi, we have premise visits that we do to all licensed premises throughout the state. It takes us a awhile. At that time we check to see if they're a responsible vendor and if so if they have all the elements of that in place. Sometimes we go and find a violation, we do check and see if they have secondary -- you know, maybe they had a sale to the minor, we check another responsible vendor, do they have these things in place, if they don't they have another issue with us. It's checked as best as we can.

**Francesconi:** Do you think it's a program that works to incent good behavior? I mean, it's one of the things that I asked commissioner Leonard and commission Leonard was looking at to see if there's things we can do to incent good behavior.

**January 28, 2005**

**Ignowski:** It was meant to give an incentive. It's narrowly defined because it only deals with sales to minors. It doesn't deal with any other kind of violations. But for a licensee to be part of that program, it gives them a safeguard as a separate sanctioned schedule, and it's reduced sanction schedule, and if you look at the sanction schedule there's never an issue, unless the licensee actually sells, of cancellation. So, one, they get a reduced fine, have no threat of cancellation, as long as they're maintaining the elements of that program, and the licensee doesn't sell to the minor. It's an advantage to them. We're surprised there's not a lot of people part of the program.

**Katz:** I think you just -- this is only related to the sale of alcohol, not noise.

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

**Kaiser:** The statute that I read you clearly ties us to the city's noise ordinances. So we look to -- we're looking to you on noise.

**Katz:** I just described the nightmare for us to get to the noise issue. If you don't have people to go and follow and sit and wait day after day, weekend after weekend, we don't have an enforcement arm.

**Kaiser:** Yeah, absolutely. I hear you. And I sympathize. That's us, too.

**Katz:** All right. I guess what I have in front of me are exhibits with tabs, but I do not have the amendments specific to any changes that we adopted last week. So if there are amendments I need to -- i'm sorry. Thank you. I would not leave yet. There may be additional questions. But thank you very much for being here and responding to the questions. Ok, do we have a substitute? All right, we have a substitute. I'm not going to take a motion yet, because I want everybody to review the amendments. Ok.

**Leonard:** Mayor, I would like to have the city attorney come up and --

**Katz:** Really, of what?

**Leonard:** Vera, i've been working on this ordinance for a year, and it's important to me that questions that are raised are addressed, and --

**Katz:** Ok. Ruth, come on up. We've moved beyond that. We're ready to deal with the amendments.

**Leonard:** But we're going to have two weeks in between here, and i'd like people in the audience coming to visit me, to hear our point.

**Katz:** Fair enough. Ok, good point. Ruth, do you understand the issue?

**Ruth Spetter, City Attorney's Office:** I believe i've -- i've been listening to the representatives from the olcc. That's what I was going to address. Ruth spetter, Portland city attorney's office. I'd like to say that before we began this process, being very aware of the olcc's responsibilities in this area, we looked at the statutes and we contacted the olcc, and we've been in contact with them for months. We talked to them months ago, and I think they even as recently as a month ago, and we were never told that what we were proposing was illegal and never told anything of that sort, or that we should not go forward. In fact, we were actually sort of supported and encouraged to go forward because of the fact that there are limited resources and local regulation was an interest. So we looked at the section. We found there was no case law on it, no very useful or any legislative history, and it appeared to us as though this was something we could do. We also went to different cities to find out if they had regulations, and we found that eugene does. Eugene specifically regulates time and hasn't had any problem with that. So it was after that effort that we began drafting what we have. We haven't heard from any attorneys at the state. And, you know, if anybody wants to talk to us, we're more than willing, but everything that we've been told indicated that we had a right to go forward and should go forward.

**Katz:** Ruth, you heard the question that I asked with regard to if there's a conflict in the hours after an investigation is done by us. What should the olcc be doing if those rules conflict? What is the establishment --

**Spetter:** What controls or --

**January 28, 2005**

**Katz:** Yeah, let's say hours.

**Spetter:** It is possible that the olcc does regulate hours, but this ordinance permits us to do some time regulation, it would appear. And whether, you know, it's set exactly the way it ought to be set or not, I don't know, but I haven't heard anything today that would indicate this o.r.s. Section is necessarily superseded.

**Katz:** That wasn't the question. I guess the question was, we tell establishment y they've got to close at 12:00. They got a liquor license for 2:00. They now have two orders, one from our hearing officer and one from the olcc. What do they do?

**Spetter:** Just offhand, and I haven't examined this, I think they might go with the olcc one, but that doesn't mean we can't provide some regulation in terms of the operations of that institution that might affect time. It may not be exactly when they close or not, but --

**Katz:** Give me an example.

**Spetter:** This is a new area there's no interpretation on, but it might be that you would say there can be no excessive noise, which is a nuisance activity, from this restaurant, this operation, during these hours. So that would be a time regulation. There are also manner regulations that they didn't seem to object to today, so that might be a way.

**Katz:** All right, that makes it a little clearer. Thanks.

**Spetter:** Ok.

**Saltzman:** So eugene does regulate time and -- based upon some frequency of complaints or --

**Spetter:** No. I would say that our proposal is much more directed at actual problems than eugene's is. I mean, we've really made an effort to make this as limited as possible. I think it's a very limited type of regulation, where someone has to get themselves in trouble, whereas in eugene it simply says, subject to the provisions of the following section, no person shall sell, dispense or allow the consumption of alcohol liquor on licensed premises, nor shall a licensee, a licensee's employee or agent, deliver or permit the removal of liquor from licensed premises between the hours of 1:00 a.m. and 7:00 a.m., and has other sections as well.

**Leonard:** Has that been challenged?

**Spetter:** No, at least when we checked.

**Saltzman:** That applies to everyone?

**Spetter:** Yes. Ours is a much more fact specific and might less impactful type of situation.

**Katz:** Let's get staff up here.

**Leonard:** Thank you, ruth.

**Katz:** I need some help on identifying the new language what, the new language is, where is it. If you folks are going to do new language, we need to do it in bold and strike out the old so we can figure it out. Start with the first bullet. Did we not do that last time?

**Brent Canode, Staff Assistant, Commissioner Leonard's Office:** We did that last time.

**Katz:** So we don't need to do that again?

**Canode:** Correct.

**Katz:** We adopted that?

**Canode:** Correct.

**Katz:** Next. Next bullet.

**Canode:** There's been one addition. Originally --

**Katz:** Does everybody have the language, so you know what i'm talking about? The first bullet is add a directive to report to council on february 1, 2005, regarding the impact and effectiveness of the time, place and manner ordinance. We adopted that last time. All right, the second bullet. Add a directive to appoint a committee that includes the Oregon grocers association, the Oregon restaurant association, the neighborhood associations, the small business advisory council to study the impact of the ordinance. Has that changed since --

**January 28, 2005**

**Canode:** That has changed. Last time the o.r.a. requested their name be removed from that committee and we received a call yesterday asking to be put back on the committee.

**Katz:** Any objections to that change? Hearing none, so ordered. [gavel pounding]

**\*\*\*\*\*:** First bullet, establish the liquor license team to review and substantiate complaints.

**Hendricks:** Exhibit a or exhibit b?

**Katz:** This is exhibit a.

**Hendricks:** We added language in exhibit a --

**Leonard:** Identify yourself.

**Hendricks:** Art hendricks. We added language in exhibit a that included the definition of the liquor license team and --

**Katz:** Is it on page one?

**Hendricks:** That is on page two, so it states the director and the chief of police shall appoint a liquor license team to review and substantiate the occurrence of the nuisance activities.

**Katz:** The reason you put that?

**Hendricks:** In exhibit b we had referenced the liquor license team and there was no connection to the liquor license team in exhibit b, which was a procedural guideline to the exhibit a, which was the code language. I also wanted to clarify that this is the team that will be working to document and substantiate complaints.

**Katz:** I'm not going to take a vote on this, because this is new language that folks might want to testify. We'll come back and take a vote on it after the testimony.

**Canode:** That piece also gets at commissioner Francesconi's concern about having a professional element in each investigation on substantiation. That's why the p.p.b. has been tied to that committee.

**Francesconi:** Thank you.

**Katz:** Next bullet, establish a responsible neighbor program that encourages licensees to take measures to ensure that the sale or service of alcohol does not have a negative impact of neighborhood livability, the program is available for offpremises licensees that are part of olcc's responsible vendor program. Now what we heard was that it was only for the sale of liquor to minors. This is something different now?

**Canode:** Yes. Let me clarify. This is a new program that we've created. There was a concern last time that weren't enough incentives, so we came up with this program.

**Katz:** Tell me about it.

**Canode:** Strictly for offpremise licensees, retail establishments. If you work with a crime prevention coordinator to develop a responsible neighbor plan, which includes litter control, some abatement activities, upfront, proactively --

**Leonard:** This is prior to any complaints.

**Canode:** This agreement goes on file. If you have three substantiated complaints in 30 days, you're removed from the program, but you're not taken to the code hearings process on that first pass-through. It's a good faith pass.

**Katz:** They get a pass?

**Canode:** Correct.

**Katz:** They get a pass for the first three?

**Canode:** Correct. Then they're removed from that program for a year if there are three substantiated complaints and they fall under all the provisions of the ordinance going forward.

**Katz:** Ok. And where's the language?

**Canode:** It's in the page six, it begins, the administrative procedures, and carries through. It's item five.

**Hendricks:** And that's exhibit b.

**Katz:** Exhibit b, ok. Kathryn, are you following this?



January 28, 2005

**Beaumont:** Yes.

**Katz:** All right, does everybody understand this? Ok, keep going. Now we're in exhibit b.

**Francesconi:** Back on this last one, again, thanks for including an incentive. I don't know if now's the time for questions, but what's the rationale? I think you and I have talked.

**Canode:** Right.

**Francesconi:** Is there a chance that we could include onpremise under certain conditions?

**Leonard:** If I could respond to that. I mean, I have been open to and ask for discussions on all of these particularly controversial issues, particularly as they affect industry. One segment of the industry has been very actively involved in negotiating with us. Another segment has not. To the extent that they want to get involved and come meet and sit down in the next two weeks and say, here's what we'd like to propose, that's exactly what I hope happens. I mean, the proposal up until now has basically been this is not a lawful thing the city's doing. We object to what the city's doing.

In fact, even saying take our name off of this review committee. I mean, if they want to sit down and offer suggestions, I commit to sit and trying to work through them and find a middle ground, but I can't do it by myself.

**Katz:** Let me ask the working question. Assuming you want to go in that direction, how in the name of heaven are you going to develop these agreements with every --

**Leonard:** I don't know. That's part of what's going to happen. That was the same issue with the retailers.

**Katz:** It may be easier, just in terms of -- i'm just talking about the numbers.

**Leonard:** My point is that, is I need some feedback from that industry to know what it is that they're flexible on or not in order to do that. I haven't been able to till now, but i'm absolutely open to doing that.

**Katz:** Yeah. I raise the workability issue, can you actually --

**Leonard:** That's a question i'll have. I mean, that's part of the negotiating process, is how does this keep faith with the ordinance and do what you want to do.

**Katz:** Ok.

**Leonard:** We were successful with that with the stores, not so with the others.

**Katz:** All right. Exhibit b, bullet, included definitions of key terms and procedures. What did you include that wasn't in before?

**Hendricks:** Actually, mayor, exhibit b has gone through quite a bit of change.

**Katz:** Ok. So you want to turn to exhibit b. Does everybody in the audience have exhibit b? Why don't you go ahead and start so everybody understands what the changes are.

**Hendricks:** So what we added on page one was actually definitions. The previous document, the feedback that we received was that there are parts of it that were confusing, didn't necessarily match up with the exhibit a, which was the code language, so we added a definition term to make sure that everybody knows who is a part of the process and what bureau they work for. On page -- so that key terms and the procedures is the rest of the document, so really spelling out what the procedures are of the liquor license team. So moving on to page two, roles and responsibilities, we outline and delineated the roles and responsibility of the bureaus involved --

**Katz:** What's the substantive change?

**Hendricks:** The actual language delineating the roles of the liquor license team on page three, clarifying the roles of each of the key components of the liquor license team, so the liquor license specialist, crime prevention, senior neighborhood officer. And the other substantive change is -- begins on page five in terms of substantiating complaints, commissioner Francesconi had some questions about documentation, so the substantive change was that we outlined the information regarding complaints as they come in, what type of information the liquor license team would be looking at, as well as the procedures that the liquor license team would undertake in terms of substantiating complaints. We also, in this process, clarified where this takes place in the process.

**January 28, 2005**

So if you remember at the last code -- or at the last council hearing, I had a flow chart, and some of the things that we talked about in terms of good neighbor agreements conflicted with the code language. We've moved that up in the process prior to notice. So back in exhibit a, notice, once there's three substantiated complaints, we would send a notice to the licensee. So in the content of this clarifies that prior to notice, that the liquor license team, the crime prevention -- consisting of the crime prevention staff, drugs and vice division, would investigate all complaints, look at good neighbor agreements, and look at criteria before we sent notice. So it makes clear that considerable work would be done up front, not on the back end of the process, but more on the front end and consistent with the problem-solving approaches. On the bottom of page six, we've put in the actual process for the responsible neighbor program that Brent just talked about this the previous amendment. So we have delineated the process, what the components of the responsible neighborhood program.

**Katz:** All right. Let me ask a question, because I know this should come up. You took out noise -- you folded noise under nuisance activity, and how is that defined under the city code again?

**Canode:** Right. We collapsed noise into disorderly conduct after a conversation with the police bureau. We asked what would happen if somebody's essentially screaming outside an establishment, and that is a form of disorderly conduct. We had the city attorney's look at that, and we've moved the noise piece back to the standard in the city code.

**Hendricks:** The code language that was in there was the objective substantiated noise. The concern of patron noise that we've heard from would be covered under disorderly conduct.

**Katz:** Let me push back on you, then, then just -- then the noise would have to comply with our code language on decibels? Correct.

**Hendricks:** Correct.

**Leonard:** Amplified noise.

**Canode:** Amplified noise, that piece. Patron noise would not. It would fall under disorderly conduct.

**Katz:** Thank you. Patron noise would be -- fall under disorderly conduct.

**Canode:** Correct.

**Katz:** Ok, all right. I did this for purposes of testimony, so everybody knew what was being changed. And we need to hear from you. So let's sign up.

**Beaumont:** Do you want to move the substitute ordinance and amendment so that people would be testifying to the --

**Katz:** I'll move them, but not adopt them. I need a motion then.

**Leonard:** I move the amendments as proposed.

**Francesconi:** Second.

**Katz:** There's a motion to move the substitute ordinance with all the amendments. Do I hear any objections to bringing that forward? Hearing none, so ordered. [gavel pounding] all right.

**Katz:** Go ahead.

**Mike Reed, Attorney, Korean American Grocery Association, P.O. Box 68987, 97268:** Thank you. Mayor Katz, members of the city council, my name is Mike Reed. I'm an attorney, and I represent the Korean American Grocery Association. Also represent a number of other small business owners who own restaurants or taverns in the Portland area. Before I went into private practice in 1996 I was the Olcc's assistant administrator for 10 years and before that I was their attorney for eight years. I was involved in the development and implementation of Senate Bill 126, which is the statute that authorizes the Olcc to take action when there's a history of serious and persistent problems in the immediate vicinity of a licensed premise. My first comment is that if I look at the language of the current statute that authorizes time, place and manner restrictions, the language of that statute says, an establishment that offers entertainment or serves alcoholic -- beverages. It means that this ordinance that you're contemplating has no impact on convenience stores or grocery

**January 28, 2005**

stores because they do not serve alcoholic bev -- beverages. The primary problem with this ordinance is it has serious downsides, and it is largely redundant of what the olcc does do or can do.

I would suggest, as a far better approach, simply working with the liquor commission to enforce the ordinances -- the statutes and rules that are already on their books. Let me explain very briefly as what I see as some of the obvious downsides. It sets a threshold that is far too low. Three incidents of litter in a 30-day period simply doesn't seem to -- wouldn't seem to justify taking action on time, place or manner restrictions. Similarly, three incidents of somebody shouting in a 30-day period would seem to be an awfully low threshold for involving businesses in this kind of a process.

Second problem is it creates a real opportunity for mischief. There are a lot of people who have personal agendas out there, whether it's -- and who could file reports that are credible, but nevertheless false.

**Katz:** Excuse me, let me interrupt you. I'll give you your time. We now really ought to be testifying to the new language that you just heard us discussing, because the council adopted the standard of three last time. So i'll give you a little leeway, but just kind of flag that to you. We want to hear on the new language, not the old language.

**Reed:** Well, i'm not sure that I have any comments that are specifically applicable just to the new language, so let me finish within 60 seconds, if I may, mayor.

**Katz:** Ok, go ahead.

**Reed:** I won't enumerate all these people who have agendas who could cause people to get into this process, but the enforcement will be more expensive than you think it's going to be. I think when people see three problems in a 30-day period, you'll have a hillside of people trying to exercise their rights and go after their personal agendas. You may have underestimated the costs once you get into the courts following a code hearings officer's decisions and so forth. But if you really and what I read in the Oregonian is correct, granted not everything is correct. That you really anticipate two instances a year of going to a code hearing officer it sounds like an awful lot of procedure for here for two instances and maybe there's a way to attack those types of premises that you really have problems with. Without making this an umbrella that potentially catches every business in the city. And adding costs to there already stressed financial situation.

**Katz:** Thank you Mr. Reed.

\*\*\*\*\*: Good afternoon. I'm back, and --

**Katz:** But I need your name, even though --

**Chris Girard, Plaid Pantry:** Chris girard with plaid pantries. I probably should have reminded you last week, since I haven't been in front of this commission and this council in I guess five years, the reason i'm back is that half of plaid pantry is in the city of Portland. We operate 103 stores now, and 50 of them are in the city limits of Portland. So Portland is our very most important market. I'm indirectly would like to make comments about the amendments. The last time I was here we didn't have the administrative procedures. May I speak to those in relation to my concern last time? One of my concerns, only one of my two concerns, one was dealt with, was the enforcement, and at the time I expressed the concern that we would be -- there could be conflicts between the investigative and enforcement action of the police department and the office of neighborhood involvement. But when I got the administrative procedures I saw that it's really much worse than that. It says that the minimum number of investigators that people involved in the investigation are liquor, chief of police and the director of o.n.i., liquor license specialist, drugs and vice investigator, crime prevention program coordinator, senior neighborhood officer, noise control officer, neighborhood service manager, frankly I don't know what several of these are, the crime prevention program manager. That just multiplies my concerns about conflicts and standards of enforcement and investigation, evidence, fact finding, and the ultimate resolution. Another point related to my prior testimony is we're still guessing what a problem location is. We know that there are 2,000 of us in the city limits. We know that 20 have been identified as problem locations, but we don't know

**January 28, 2005**

who they are. Commissioner Francesconi asked how many are restaurants, how many are stores, I don't know if city council is aware of that yet, but it seems it would be important to know when designing solutions to problems. So this guessing you may have a lot less industry resistance if there wasn't a guess, because where everyone is afraid of the unknown, we do know that these locations apparently haven't violated liquor laws, and they apparently haven't violated city ordinances or other laws, and frankly, in putting two and two together, it looks like it's a couple of noisy bars that create traffic problems. If that's the case, then there's a whole lot less concern from other industry members I would think.

**Katz:** Your time is up.

**Girard:** My time's up. Well, my summary is, if it really is a couple of noisy bars, it seems like the solution would be different than this -- this is a very large bureaucracy to address that.

**Katz:** Thank you. Grab the mike.

**Mary Ann Schwab:** Mayor Katz, commissioners, my name is mary ann schwab, i'm a resident of the sunnyside neighborhood association and i'd like to give you our demographics as they relate to the new language here. We have in 1988 - 38 outlets, in 19 -- in 2003 we now have 77. I have talked with neighbors along Belmont, unlike the mayor they didn't -- when they called the police, she went out there when the police car came, they were defending the noisemakers at 3:30 in the morning at the picnic tables outside the bar, saying that these citizens have a freedom of speech, the constitutional right to make as much noise as they wanted. When she fussed, the neighbor was told, if you don't go back to your house, i'm going to arrest you for disturbing the peace. She was a college student, she had finals the next morning. She was so intimidated with that little apartment on 38th and belmont, she's no longer in the apartment. She moved. And people that live in some of the apartment houses at the end of the day their car windows are broken, there's all kinds of things happening people exiting these businesses. You talk about ordinance, the noise ordinance. There's very few pieces of equipment that we have to go out there and track them. And i'm concerned with o.l.c.c. shortage of funds, especially when eight people go to testify, they don't have the money to communicate back with us. So i'm glad we are working in partnership for this. What I want to talk about was my concern again with my neighborhood, is if i'm going to be helping my neighbors get a good night's sleep, and i'm concerned about this community, this new committee on the seven members, I don't want this to be lopsided with the Oregon groceries, Oregon restaurant association, small business advisory group, that to me is 3-1. And I would like to think olcc and our police investigators would be part of the neutral office of neighborhood involvement with helping with the staff to solicit. I think this new committee is lopsided, and i'm just questioning how fair that would be. Citizens coming out to participate only have the investment in their property and their rental and their good night's sleep. We're not invested in the profit of the profit and loss of all of these liquor outlets. I heard olcc earlier say that there is a place that they can with the history of problems in a specific area, they can deny a license. They didn't use that loophole when october -- june 20 of last year, we challenged the issuance of a license across from laurelhurst park. So I think it's pick and choose, depends on who you are whether or not you get listened to. I see a real serious imbalance here, and i'm really pleased that randy leonard and his staff have worked so hard to bring this forward. This is step one. We have 13 to go. There's a total of 14.

**Katz:** So the issue that -- it is a changed issue, a little bit more representation from the neighborhoods. Ok. Thank you.

**Schwab:** Thank you.

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

**Katz:** Anybody else signed up? That's it? Ok. Any further amendments that anybody wants to make? Do you want to enlarge the citizens group?

**Leonard:** Not here.

**Katz:** You're going to work on that? What are you going to do?

**January 28, 2005**

**Leonard:** We have two weeks between now and the final reading. And vote. And I encourage anybody who wants to have an earnest discussion about this and want to propose changes to contact our office. We've been meeting since last week until now every day into the evening on the suggestions coming forward, so again, I want to repeat, I encourage anybody who wants to earnestly sit down and address problems that may exist to come forward and talk to us and we will sit down and work with you. And if we can get there, we will.

**Katz:** I just want to make sure I don't -- I don't see a lot of neighborhood people here, so art, would you make sure that at least some of the neighbors that testified the other night know that they have an opportunity to sit down with the establishments to see if there's any other tweaking or changes that they would like to do? All right. If that's the case, as I said at the opening, we -- there will probably be additional amendments. Why don't we wait and vote on it all at the one time. We'll vote on all of this one time. So this is now in substitute amendment, and then you come in, if there is any additional language, we'll build it in and then we'll vote one time. Ok.

**Kathryn Beaumont:** This would pass to second?

**Katz:** This would pass to second, probably to third. This is second, probably third, and maybe even fourth, depending on what happens. When do you want to bring it back?

**Leonard:** The -- two weeks from today.

**Moore:** The 11th.

**Leonard:** And I want to just repeat what I said the other day for those who may not have been here is I am very sensitive to concerns about this being improperly enforced. To the extent that the business community can make specific recommendations to create checks and balances, I am very interested in that. I share that concern. On the other side, as I said before, neighbors need to understand that this is a new tool that needs to be used judiciously, or I predict we will lose it. So it has to be -- we -- both sides have to approach this rationally, and at the end of a year we are going to be looking at it to see how it worked. I hope everybody heeds what i'm saying. Thank you.

**Katz:** Thanks, commissioner leonard. We will stand adjourned, then, until 2:00 tomorrow. [gavel pounded]

At 3:11 p.m., Council recessed.

**January 29, 2005**  
**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 29, 2004                      2:00 PM**

**Katz:** Let's call the roll.

**Leonard:** Here.

**Katz:** Mayor is present. Commissioner Sten is on paternal leave, and we'll wait until we have a -- ok, it's working. It's working. We have a quorum, but I would like everybody to hear this. Karla, would you holler at commissioner Francesconi.

**Katz:** Let's read the item. Items, 90 and 91.

**Items 90 and 91.**

**Katz:** As karla just mentioned, we made a commitment to the community that we would be looking at regulations that hinder desirable development, regulations that are silly, regulations that we've learned a little bit about, because we had some history about how they work. Regulations that a city needs to review every 10 years on a regular basis because times have changed. What we thought might happen in a neighborhood doesn't happen in a neighborhood, even the neighborhood desires for something to happen. So we're constantly reviewing. What you're going to have today is the third element of revising the regulatory work plan for 2002 and 2003, and the beginning of revising the regulatory regulations for 2003-2004. And as you know, we've made a commitment that every year there will be a list of items that are the annoying ones that have been identified by the community at large. Now the community at large is not only the business community, but also the neighborhood associations. And my hope is that the outreach that we had done in the first round is the kind of outreach that we'll be continually doing to be inclusive and make sure that everybody has been involved, even though we're in a hurry to get some of these things done. All right, having said all of that, i'll turn it over.

**Gil Kelley, Director, Bureau of Planning (BOP):** Good afternoon, mayor and council. Gil kelley, planning bureau. With me are cary and phil. Phil is the project manager on the minor policy packages and this falls within cary's program area at the bureau of planning. Just as an addition to the mayor's comment, we have brought back this diagram, which you all endorsed, and that shows the five-box approach we have to revising and revamping the city's regulatory structure. This falls within the third box down, called minor policy amendments. These are where there could be some policy implications, and in fact you'll hear from some of the testifiers. They're not like an area plan or the river renaissance, but they do represent substantial policy issues, distinguished from what we call code main, the next box down. Those are just generally cleanup for workability and don't generally have a policy issue involved. The whole package of those has come to you already in the last year and a half, and the second one of those is on its way to the planning commission. In fact, they'll be hearing that on the 24th of february. Back to the minor policy box, minor policy box here, this is because of the way chief chunked things up in the last year and a half, this is the fourth package of those that we've brought to you. So we're making progress. We've had about 30 packages within those four sets coming to you. This one includes about 10 items, and cary and phil will go through those in a moment. I just wanted to highlight a couple of things before turning it over to cary. This particular package does include provisions on the small lot development, and you referred much of that to us in terms of making further allowances for small houses on small lots. Within the confines you gave us before, and we've brought back essentially three items in that

**January 29, 2005**

regard. You'll hear about that. We've also combed through the regulations and brought forward several that we think search for a regulations and still adhere to the comp plan policy and its intent. One example of that came from the business community in terms of the housing requirement in the central city. You'll hear today a proposal that would essentially lift the housing requirement on central city sites, which otherwise has it where your only -- you're only doing essentially a major remodeling or expansion of up to 10,000 feet. So this is -- these are not really opportunities where there's a wholesale redevelopment of the property, where we might expect a substantial increment of housing. The way the regulation is written now, it tends to interfere with the just sort of more commonplace expansion of businesses, and we heard evidence of that with the rasmussen car dealership, for example. So this goes directly at that issue and was one of the most important ones asserted by the business community in this discussion. This package also includes two reports that don't actually contain new regulatory language, but that you asked us to do. One was an assessment of our industrial lands, and that's been presented to you previously in the river renaissance discussions, but that's incorporated by reference here, since it was on the list of regulatory requests. That's a continuing work program in the bureau, in partnership with the port and p.d.c. We've also included a report on a nonconforming uses in the commercial corridors, or mixed-use corridors. We now see a future phase of that work. You'll hear about that both from staff and from at least one testifier today, and that's something we'd like your support and encouragement to keep working on. I'm going to turn it over to cary. I need to duck out for another obligation and will return close to the end of your proceedings today if that's acceptable to the mayor.

**Katz:** Tell them what you're doing, so they don't think you're ducking out for a drink or something. [laughter]

**Kelley:** Yeah, i'm going out to have lunch. What the heck. No. This is an interbureau meeting to resolve issues about streets in the waterfront area, and it's a seminal meeting, so i'd like to do that and return.

**Francesconi:** Doing that over a drink might be a good idea. [laughter]

**Katz:** That's true. Come back soon, when you're --

**Kelley:** Thanks.

**\*\*\*\*\*:** Get everybody in line.

**Katz:** Yeah, ok. Carrie, go ahead.

**Cary Pinard, BOP:** We're here to present the planning commission's recommendation on policy package 2-b, and this slide, you see a version of this in each of these kind of presentations, because it gives you -- reminds you of the history and shows you how we've gotten to where we are now, which is policy package 2. Here's another way of looking at it, in trying to see how the different pieces of regulatory improvement go together. This is kind of a history line. We're now here on policy package 2-b. We can get you a larger version of this to actually read the fine print if you're interested. There are about nine issues in this package, and we'll go over each one, just briefly, and then, of course, we'll be available for questions afterwards. The first one has to do with nonconforming upgrades. The proposal is to exempt certain groundwater protection improvements from the nonworming -- nonconforming upgrade requirement. We already do this with improvements, such as improvements for a.d.a. compliance or seismic. Last fall you'll remember you adopted the groundwater protection program out in columbia south shore, and this issue of whether it should be exempt from these upgrades came up then. The second one is about short-term -- I can kind of see it. Why don't you take it off and i'll go pretty much by memory. It's about bicycle parking, and I want to point out this is an example of where the regulatory improvement project is a multi-bureau project. The lion's share of the staff work and all the outreach was done by pdot, gene harrison, and roger is here from pdot to answer questions. They initiated a bicycle task force that had representation of the business interests, pedestrian interest, bicycle interest, to deal with some problems with short-term bicycle parking. This first recommendation would be what is

**January 29, 2005**

proposed in your item 91 on your agenda today that would change title 17 to create the bicycle parking fund, and in the zoning code we're providing some I will administrations for how another option providing for -- providing short-term bicycle parking could be met. There's some pictures of it and here's some illustrations that will be in the code.

**Katz:** What was the controversy on that, that we sent it to you? I can't recall what the --

**Pinard:** My memory -- and we can -- and gene can go into more detail, but my overall memory was, we were finding that in some situations where the development covered almost all of the lot already, there weren't very many onsite places to put the short-term bicycle parking. There were some developments that did little cutouts in their little, but then didn't turn out to be workable for short-term bicycle parking. So the task force looked at under what circumstances should developers be able to put the bicycle parking that's required that's normally supposed to be on their site offsite or in the public right-of-way or in this case sometimes pay into a fund where the city will then put some parking.

**Katz:** Got you. Ok, thank you.

**Pinard:** The a overlay and the base zone changes have been divided into three sections. Basically these were issues that you sent us, directed us to go back and explore a little bit more when we were talking about small lot development last fall. The accessory dwelling units issue is that the city has two different standards today, and they're kind of confusing. We have a map that shows where the a over lay zones are, and there's one set of accessory dwelling units, and there's a different set for the city which would be the white areas. When we adopted -- you know, you can grab the easel if you want. When we adopted the rules in 1997 we promised we would monitor the results of those. One of the issues back then was we dropped the owner occupancy requirement for the city rules. We did not change the rules in the a overlay zone, which is the red areas, that still have an owner occupancy requirement. We did that back in 1997, and that was -- there was concern about us dropping that requirement for the majority of the city and we promised that we would monitor these new -- at that time new a.d.u. regulations. Coming back, you've gotten -- your offices have gotten a copy of the a.d.u. monitoring project that's looked at these issues and come to several conclusions and recommendations. One of the interesting findings is that actually there is a higher incidence of owner occupancy in the white areas where it's not required today than there is in the red areas where it is a theoretical requirement. Back in 1997 we also talked to about how that's a hard regulation to enforce, and we were trying to not have rules on the book that were hard to enforce. So that all leads to the monitoring project, one of the conclusions is the owner occupancy requirement in the red areas, or the a overlay zone, is not getting us what we intended in the first place. It is hard to enforce, and that's one of the recommendations before you is to drop that requirement. Another way of looking at the recommendation before you is to say we want to take the special a.d.u. requirements in the red areas and throw them away and take the citywide rules for the white areas and apply them to all parts of the city, resulting in one set, the current set we have now, that are outside of the a overlay, and another part of that citywide requirement would be to reduce the -- a special parking requirement for the accessory unit. So that's first of these three that have to do with the a overlay zone and kind of looking at -- who some of those a overlay issues apply citywide rather than just in the a overlay or vice versa the next issue has to do duplexes and triplexes in the r-2.5 and r-2-a zones. In this case we allow attached unions in the r-t.5 zone at the 2.5 density. This provision would also allow duplexes at that same density, one unit of the duplex for every 2,500 square feet. The duplex and triplex allowances in the a overlay zone currently have an owner occupancy requirement to them. We're recommending that we drop that for the same reasons I talked about for a.d.u.'s, and this combined with the next issue i'll show you goes towards allowing more types of housing in more of the zones. And that will make more sense, I think, when I talk about this one. This would allow a detached housing product that you heard last fall was more desirable in the market than some attached or sometimes apartment units, and we currently do not



**January 29, 2005**

allow detached small lots in some of our higher density zones. So you told us to go look at that. We said let's take the provision that does allow detached units, that's currently in the a overlay zone, and apply it citywide. So that, again, is what we're proposing to do. So there would be more places in the city where this detached product, on a small lot, would be allowed by right. And the places where we're proposing that be allowed by right are places that are already zoned for that density anyway.

**Francesconi:** What was the rationale originally for not allowing it, detached units, even so the zoning was correct?

**Pinard:** Traditionally in the higher density zones where you can townhouses or apartments, you've got economies of scale, because the units are attached to each other, and you have more common, usable outdoor space. You can accommodate -- many times it's multi-storied units. You have to design very carefully one detached unit at those kinds of densities to make sure you're maintaining livability in the units, that to the extent that we can get at some privacy issues, appropriate amounts of outdoor space. So what has been changing nationwide is more and more looking at how can we get smaller, but detached product, because it's a very desirable product, and instead of forcing people into fewer types of housing choices, like at a certain density, you only get an apartment or row house, there are more and more prototypes that are considered appropriate, well-designed, and -

**Francesconi:** Got it. You're proposing design requirements?

**Pinard:** Yes, we're proposing that different set of design requirements would apply here. So we're removing some of the existing ones, but another set would apply. You can expect that we would come back perhaps with some other fine-tuning after we see the results of commissioner leonard's project on the catalog for appropriate infill of detached houses. That's very -- proving very interesting. We may want to tweak the code more once we find out more about that.

**Francesconi:** And my last question is -- how many units do you expect, then, will be built if we allow the detached? And would it be scattered -- would they be scattered throughout the neighborhoods in the city, or would it be certain areas?

**Pinard:** These requirements that we have before you would only allow that density in the zones that already allow that density. So you could have have a two-unit apartment, a triplex apartment, or three detached units. So I can't tell you, are you going to be more likely to get a triplex or three detached, but we've already planned for that density. Does that get close to an answer? So moving along, this is another one of those small business friendly amendments. We've carved out an exception to required design review in central city plan district for certain awnings so that they can bypass the design review requirement, and they need to be preapproved, and we have some illustrations, so that if they're within parameters they're exempt from design review. Gil mentioned this issue where we're removing the required housing regulation in parts of central city, just for existing businesses that want to expand or modify. If the site is in the required housing overlay and is building new, new development, would still need to meet the minimum housing density, we are already seeing that. A new developments here, we're getting a lot of housing. The problem has been when existing businesses are already there, they want to expand, they're not in the housing business, and it's improved a hindrance to desirable development, so we're changing that. And this is a quick one. You can see this as a cleanup from a recently-adopted kenton planned district regulation. I can go into details if you're interested. And the last one, you can also see as kind of a quick early indicator, cleanup item from what you may want to call the shakedown period of the new land division regulations. Here's one that's about land divisions. The next package, policy package three, is going to have a bunch of these type of shakedown, cleanup amendments. In this one, we found that the preapplication requirement that we put on the new type two x review wasn't warranted i. Adds four to six weeks of review, and it's expensive, and because most of the reviews falling under that were only for a two or three lot division it seemed to be overkill, and we're

**January 29, 2005**

recommending that we delete the preapplication requirement for those and the planning commission wanted us to continue to monitor the land division process to see if there should be some other threshold for requiring preapplication conferences. So the planning commission recommends that you adopt the report, direct staff to continue the monitoring efforts. Want to note the two reports that are attached, but we're not asking you to take any action on them. I'd like to point out for the record that the full public records in the room, if anybody wants to look at it, and if you have any questions we'd be to answer them now or after testimony.

**Katz:** All right. Questions now? Why don't we wait. Why don't you just jot down the issues being raised, and i'm sure you'll have to come back if the council wants further explanation on the a overlay.

**Francesconi:** Could I ask one more, mayor?

**Katz:** Sure, go ahead.

**Francesconi:** It's on the nonconforming use issue. I don't think you addressed it. A lot of folks want it taken care of along the corridors -- corridors. Do you know what i'm talking?

**Pinard:** There's a report that looked at just the nonconforming uses in residential zones. It recommends further work that we have in our work program that I believe, as we've been talking to the small business association folks, they want us to continue to do that work. I think they're worried that we're not going to do as much of it as they would like.

**Francesconi:** Well, I would like you to do it, too, to be honest, because it's an important issue for the small business community out in the neighborhoods. One way this could be read is that we're addressing it in the downtown with the required residential development areas, giving a little more cleanup, and yet the neighborhood business districts, along the corridors, need that same assistance.

\*\*\*\*\*: Oh, well --

**Francesconi:** You don't have to do through this process, but it needs to be done. And so could you just address what it will take to make sure it gets done timely?

**Pinard:** I can address that to a certain extent. In looking at the nonconforming commercial use issue, particularly in that report, the conclusions are that rather than go area by area, citywide, and just look at the nonconforming commercial uses, we should incorporate that evaluation into our main streets and other neighborhood and area planning program, where we're seeing each commercial area needs to be healthy and vibrant and working well and have the right mix of uses, and to get that way if we need to correct some nonconforming situations, as we're studying the whole issue, that's how to do it. And that's what we have in our budget proposal. I think we're calling it our main streets program, one specific example is the division vision project that you've heard a little bit about, that we're getting a t.g.m. grant, that would be an example of the kind of things we want to do more of. Does that answer your question?

**Francesconi:** Yeah, it does. I know people are concerned about. The statistics in the report, which are very good, is that it could affect 20% of the businesses in the corridors, between the main town centers, and 20% of the businesses is a lot. So this is one of the regulatory issues that's been identified. To me it doesn't matter if we do it in this process or in the main streets process, which does make sense. I want to make sure it's done timely. You're saying it's a budget proposal that will come in front of the council. Is that what you're saying?

**Pinard:** It's part -- no it's --

**Katz:** It's that's right of -- it's part of their work plan for this year.

**Francesconi:** Those are the words I wanted to hear. Thank you.

**Katz:** But you don't want to do it haphazardly, you want to look at it comprehensively.

**Pinard:** Comprehensive plan.

**Francesconi:** Thank you, mayor.

**January 29, 2005**

**Katz:** Jack, I think we have your testimony. I'm going to ask you not to read it, because we'll never get through it in three minutes.

**Jack Olson, President, Forest Heights Homeowners Association:** I promise you I won't.

**Katz:** Ok, good.

**Olson:** In fact, I was going to say that was so well done, i'm so proud of it, and I can say it so immodestly because michael harrison prepared it. I'd like to update you on the status and why this issue is important to us.

**Katz:** Ok.

**Olson:** Many of you have been involved in this in forest heights over the years. The good news is you haven't seen or heard anything from us for a number of years, and this I think is a noncontroversial issue. We now have about 1500 dwelling units going towards 3,000 -- I mean 2,000. I think it's a community that the city can be very proud of. The planning department can be proud of. We have diverse housing. The most recent thing going in is apartments. So we have townhouses -- you maybe thought of it as an update scale community, but we really very diverse housing. A major development that's occurred within the last six months is we're now self-governing. Until six months ago it was governed by the developer. I'm the president of the forest heights homeowners association. We're proud of the work that we're doing. I see our function as similar to yours. We have constituents. They pay dues. They would like for it to be low, preferably zero, until they see a need for something to be done, then they want the best service possible. And a recent example is the snow. And when we discovered that the city wasn't going to plow, we did. So our function is to provide services to our residents. Now bear with me on this. Assume for the moment that you were suddenly evicted from this facility and every facility that you have in the city of Portland. And you found that there were state requirements which prohibited you from having an office and facilities within the city of Portland. And you found yourself looking to beaverton, tigard, wherever, for facilities. That's exactly where we are. The developer was allowed to have -- to function out of houses within the community, and that was fine. When we took over, we were in a trailer for a while. Then we were evicted from that trailer. They were going to develop the commercial site. We hoped that we could locate within a townhouse. And found that we couldn't do that. There was not an option. Because it would be in violation of requirements. So we are now literally Washington county, city of beaverton. About 2 1/2 miles from the center of our community. Now we're told that there are options. One is to be in a housing unit, however there's a one-employee limit. Doesn't work for us. Another to be in a commercial center. A, there isn't a commercial center yet. B, that would only meet part of our needs, because we have a -- one function is the administrative function. We also maintain 200 acres. So we have a truck and some modest --

**Katz:** You're coming to us to request that we take a look at this potentially in our next work and do it quickly, depending on what some of the other issues are that you didn't identify for us?

**Olson:** Right. Our reason for being here initially was there was urgency. However we now have a lease. It's not urgent at this moment, however it will become urgent within about a year.

**Katz:** Ok.

**Olson:** We want this matter looked at from a practical perspective in order that we locate within our community, in order to serve our own constituents.

**Katz:** You probably don't know the answer to this question, but is this an issue in a lot of places? You don't know that?

**Olson:** I do.

**Katz:** You do?

**Olson:** The answer is this -- it depends on how big you are. Michael harrison, who we hired to help us, apparently is in a small condominium unit, five units, and he tells me he can put his stuff in one drawer. But every condominium unit, every homeowners association, has the problem. It

**January 29, 2005**

depends on how big it is. We just can't do it within the rules so that the problem -- the only reason we have a problem is we're just bigger.

**Katz:** Jot it down, cary, and we'll back to it.

**Olson:** Because the urgency is not there any longer, we're not looking for anything special. We want to work with this, but make sure it gets addressed.

**Francesconi:** Can we fix this one quickly? Is this really that complicated to fix?

**Katz:** We'll get back to you.

**Francesconi:** I hesitated to say that. I was going to say that, until I heard the snowplow example. Just kidding. That was a joke.

**Olson:** And you know what, now they want us to remove the sand. Thank you for your time.

**Katz:** Ok.

**Rob Mawson, 1120 NW Northrup:** Rob mawson, representing the apnba and the Portland small business -- metropolitan small business alliance. I'm here to talk about the nonconforming use. I appreciate commissioner Francesconi's comments. It is a big issue for small businesses outside the central city. We are talking about anywhere from 10% of the businesses to 33% of the businesses outside the residential neighborhoods. I mean, not in the residential blocks, but along corridors and town centers and main streets. One out of three, one out of 10, are in a nonconforming use situation. We appreciate the division vision effort. We appreciate the main street work plan. Our concern is that we've been working with this for two years and we're concerned -- I guess we want some finality, that we would like to get a point where we feel comfortable that there's a strategy that will address this issue and bring it to some sort of resolution. It is a problem that's not easily solved. It's livability issue. It's an issue of balancing neighborhood and business aspirations, but these are not mutually exclusive. And it's that point where vision and reality meet and we need to get about the business of finding a solution and dealing with it.

**Katz:** Thank you.

**Mawson:** Thank you.

**Katz:** Thank you. By the way, let me thank the association. I happen to have been there to give out some of the small awards for neighborhood livability through the neighborhood business associations as just a little bit of money of general fund money that goes to p.d.c. That then goes to the business associations, and the joy of seeing the changes in some of the neighborhoods, especially the main streets with just that little bit of money, and rob was running this meeting, so it was -- it was fun. Thank you.

**Tony Ellis, Small Business Advisory Council:** My name is tony ellis. I'm here representing the small business advisory council. I'd like to echo our sentiments, are quite similar to rob's, and parallel to the example that commissioner Francesconi gave about 20% of the businesses being affected. We recently had an orientation meeting for new members to the small business advisory council, and there were five new members present, and while we were explaining to them what our advisory council was about, when I got to the issue of nonconforming use, all of a sudden a hand went up from one of our new members, and he said "hey, that's something that's affecting me right now." so, you know, that's a 20% number right there, you know, just within a small group of business people. It is a great concern to us. And we do feel that the issue of nonconforming use has kind of been deferred and -- and placed at a lower level priority, and we're quite concerned with that, because when small businesses are affected most by this is when they're trying to grow and expand. And by placing this burden on them, you know, we potentially risk the possibility that these businesses will not be able to expand or that they will look elsewhere. And we certainly don't want that. I think, you know, all the neighborhood people and the businesses and the city of Portland itself wants to keep these small businesses, and they are very important here to us. We strongly feel that without real action taking place now that we suffer the real loss of businesses leaving the city of Portland.

January 29, 2005

**Katz:** It's in the work plan.

**Ellis:** Absolutely.

**Katz:** We're in January. So it will be done.

**Ellis:** We just want to make sure that -- you know, we appreciate everything that the planning bureau has done.

**Francesconi:** The mayor said it.

**Katz:** It's also -- it's also something that we need to work with the neighborhood -- neighborhood, because whatever happens on the main street, and interestingly enough, you're right, when we look at the main streets and the town centers, we're not quite as successful as we thought we would be. So we don't have all the smart answers. But right off the edge of these streets are neighborhoods. And we need to work together on that. I think we can get to some closure on some of the issues that may not have been made sense 10, 15 years ago.

**Ellis:** Absolutely. And our council recognizes it's a complex issue and we're absolutely committed to working -- you know, our group is committed to working with the residents in those encroachment zones and the city and hopefully together we can find some real solutions real quickly.

**Katz:** Ok, thanks.

**Francesconi:** Staff might, at the end of this, you might describe a little bit the public process that you're going to engage to let people know on the main streets how the residents and businesses can be involved.

**Katz:** Ok, thank you, gentlemen.

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

**Katz:** Let me just ask, you all testified in front of the planning commission?

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

**Katz:** You did on this issue? You need to do that, not bypass the planning commission to us. Ok, thank you. Go ahead.

**Brad McLean:** I'm Brad McLean, also representing Portland Metropolitan Small Business Alliance. I'm the chair of the small business issues committee within the PMSBA. I really just came along with Rob and Tony to lend our support, because one of our three main issues on our small business issues committee is this nonconforming use. And I know you've already said it's in the work plan, and that's good, we just wanted to say we're also behind that and are happy to work with whoever we need to to resolve the issue as well as we can. We know it's a complex issue.

**Katz:** Ok. Thank you.

**McLean:** Thank you.

**Eileen Fitzsimons, 1405 SE Martins St., 97202:** My name is Eileen Fitzsimons.

**Katz:** Grab the mic, please.

**Fitzsimons:** Eileen Fitzsimons. I lived in the Sellwood/Westmoreland neighborhood where I've lived for 24 years. I'm not going to submit my comments -- read my comments, which I submitted in writing, as well as with pictures of our neighborhood. I participated for three years in our neighborhood plan, which you approved in 1998. Besides upzoning on both our highly-trafficked streets and anticipating the extension of the north/south light rail on McLoughlin, we upzoned heavily on McLoughlin, too. The other thing we looked at for getting more housing into our neighborhood was increasing our density. We're not opposed to density. In fact, we tried to build in a 10% increase in density during our neighborhood plan rewrite, was the D.A.U.'s. We think that's a good way for us to add housing to Sellwood/Westmoreland. That little checkerboard effect. I think we're probably as disappointed as you are that it's not happening. So I guess our main plea at this point would be to do some kind of proactive workshop, show neighbors good infill design on the scale of an A.D.U., and come and be proactive in our neighborhood and tell us how we can get more of this kind of development rather than the massive row house developments we're getting

**January 29, 2005**

now. We have the 70 units at the old car barn site. We have another 35 at the sellwood hospital site. These are massive scale facades lined up in our neighborhood, and we really think the checkerboard a.d.u. additions would be a better choice for us. So we could really use some help trying to sell this. A lot of us have lived in the neighborhood a long time. We're facing retirement and would like to stay in our neighborhoods, but row houses may not be the option for all of us if we want garden space. That's the summary of my comments.

**Katz:** Thank you. I thought -- this is my memory, which is failing me, but I think I was the only one when we had the conversation on a.d.u., I remember the place was just filled. We all had little pins.

**Fitzsimons:** Uh-huh.

**Katz:** Remember irvington was very adamant about this issue. We had a lot of testimony. Did we not make a decision at that time that we were going to have examples of accessory dwelling units or not? I thought we did, because people were very nervous about how they would look, but I may be very wrong.

**Fitzsimons:** The ones on this sheet are from our neighborhood, but there from before our neighborhood plan. We would like to see more like that.

**Katz:** Ok.

**Fitzsimons:** It's just the design guidelines that we want. We'd like to have some conversation with developers and say "how can we do this? How can we help you do this to make it a good situation for our neighborhood?" and let us stay there in the neighborhood, not have to move away.

**Katz:** We'll come back to that, because I think that's a very valid point.

**Fitzsimons:** Thank you.

**Kelly Ross, 15555 SW Bangy Rd., Lake Oswego, 97035:** Kelly ross representing the home builders association. I'm here very briefly to indicate our strong support for two of the components of the package before you. The change to the a overlay to allow detached homes and the r-2.5 zone and multi-family zone and the elimination of the preapplication conference for a type ii-x review. We think those amke very good sense. They'll be beneficial to our industry, to the consumers, and hopefully to the neighborhoods too. Express our appreciation to the planning staff and planning commission for a job well done. Urge you to pass those.

**Katz:** Thank you. Cary, I also want to know the design standards that will be used, ok, on this, because I think that's important. And if not, we'll have to put it in. All right, go ahead.

**Katz:** Ok. Who wants to start. Go ahead.

**Cathy Mahle, 1325 SE Sherrett St., 97202:** Ok. Cathy mahle, 1325 southeast sherrett. I've lived in our sellwood home for 19 years and was involved in the sellwood neighborhood plan, the s&p. I volunteered in Portland public schools for 13 years and to share another perspective on housing and enrollment, parents I have known who withdraw children from p.p.s. do so because they're concerned about the quality of the education. Families who can afford to pay for private education stay in Portland, but dissatisfied families without enough income for private schooling move. Concerning the a overlay. Problems came to my attention when I learned an r-5 lot, part of gateway hospital, was rezoned r-2.5. I thought this was an oversight. The sellwood neighborhood plan vision was to keep r-5 zones and concentrate density along traffic corridors. I explained this at the zoning hearing. Unfortunately rezoning wasn't a mistake, it just wasn't common knowledge that the new r-2.5 housing was possible in our r5 a zone. The s.&p stressed preserving the r5 zone while promoting a.d.u.'s. Our neighborhood and the city would have had a win-win situation if the vacancy provision promoted constructing both a single-family dwelling and a.d.u. on the same lot. The two housing units would have met neighborhood and city goals. While researching a overlay city employees explained that this topic was part of the top 10, but some issues had already been addressed. Smile was uninformed and information is crucial. Redress fell through the cracks for policy package one. The regulatory improvement plan process is new and neighborhood volunteers

**January 29, 2005**

were not aware of the significance of the top 10. A presenter, noting issues, would have been helpful at our neighborhood association. To address policy package one, it seemed logical that the acceptance of the s&p, including zone lots, would take precedence over historic documents. But returning to gateway. At the redevelopment project talk, in our neighborhood, at the presentation, when asked about the vacant r-5 lot, the presenter noted -- and i'm paraphrasing -- "we considered building a single-family home but couldn't afford to." they knew that a single-family home matched the neighborhood development and pattern and was desirable development and yet, like enron and others, the bottom line was not, am I doing the right thing in making a fair profit, but how can I make the most money? So please keep us informed. These issues impact the livability of our city for generations, far beyond our lifetime. Mayor, commissioners, thank you.

**Katz:** Thank you.

**Dr. Kelly Fitzpatrick, 923 SE Sherrett St., 97202:** Dr. Kelly fitzpatrick, sellwood neighborhood association. Mayor and commissioners, thank you for this opportunity to speak on zoning and density concerns in the sellwood neighborhood. I'm a home and business owner in sellwood since 2000. Currently i'm a smile board member and consider myself fortunate to live in a neighborhood where there's a sense of community and caring. The sellwood neighborhood provides an eclectic diversity of housing within its boundaries. Sellwood neighbors have worked with city officials to create designated pockets for high-density housing. Private sectors provide many types of multiple housing units for varied economic needs. In the past year, sellwood, south of tacoma, has noted the removal of three historic industrial buildings to be developed as over 100 townhouses collectively. We see progress greeting our neighborhood and wish to underscore our design to maintain continuity of our neighborhood vision with the city's plans for zoning and housing. Our neighborhood does not oppose density, but wants to have input on how density occurs. Regarding the 2.5 zones, the r-2.5 zones, the preference for houses would be more of an attached, shared-wall dwellings, and for duplexes versus detached units. The detached units don't afford for a lot of landscaping and actually absorb quite a bit of the land space on the r-2.5's. Parking requirements for these structures should be available versus onstreet parking and should be applied to the a.d.u.'s. Regarding a.d.u.'s on the r-5-a zones, we'd like to see maintaining the design review of the a.d.u.'s at this time, being able to utilize the smile station for opportunity for neighbors to come in and talk about what our neighborhood is planning on advancing toward with these a.d.u.'s. And also continuing to retain the owner-occupied designation for the a.d.u.'s. We think that acts as a watchdog for renters in our neighborhood. I wish to emphasize the neighborhoods wish to work with the developer, city planning officials and the neighbors to creatively explore adu designs which would be sensitive to neighbors, while assuring functional dwelling sites. We would like to maintain a congruency with the city's increased density plans and our own neighborhood vision of sellwood's unique community living space. I appreciate the opportunity to address you. Thank you.

**Katz:** So you're addressing the issue that we had dealt with before?

**Mahle:** I kind of was, because we didn't talk about it from our neighborhood, yeah.

**Katz:** Ok.

**Fitzpatrick:** I'm just reiterating some of the things we've met about in our city neighborhood and some of the concerns that we have.

**Mahle:** She's talking about -- p.p.-2.

**Fitzpatrick:** What eileen submitted to you is basically the bullets of what she's submitted also.

**Katz:** All right.

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

**Amanda Fritz, 4106 SE Vacuna St., 97219:** I'm amanda fritz. I'm so happy that I can speak to you for myself. I don't to ask anybody's permission to be here.

**Katz:** Oh-oh.

**January 29, 2005**

**Fritz:** I have a hard time getting riled up about this package because i'm so happy to be able to speak. These folks are bringing different concerns than the ones I have.

**Katz:** Ok.

**Fritz:** I'm going to start with commending mayor Katz for having the foresight and realizing the importance of monitoring an evaluation and for funding this accessory dwelling unit study. It's the first time that I've been involved in the last 12 years that we've actually done what we said we were going to do in going back to see how this is working. I'm just amazed that we would have somebody in our planning bureau, an adjunct professor at a world-renowned university doing this kind of research on our behalf, and I commend dr. Mark bellow for having put this together and for the amount of community outreach that went into it. Having said that, it's just appalling and a complete waste of that intellectual capacity and all of that money funding that study that there hasn't been a community discussion about what's in it --

**Katz:** Let me just -- i'll give you back your time. I absolutely agree, and I said that the other day. I showed these documents to gil, and I said we've never talked about these. So let's get those on the agenda so we can have a conversation with the community and the city council on it. So go ahead and blast us, but I absolutely agree with you on that.

**Fitz:** Thank you. These two ladies coming forward with their concerns are actually epitomized that, even though I didn't know what they were going to say. This is partly due, because this was put into the package on the hurry-up offense with the vacant lot provision. It wasn't discussed at the neighborhood associations it wasn't discussed in the citywide land use committee, it was rushed to the planning commission. So there hasn't been the community review. This study doesn't have a list of recommendations. It has some options which merit further consideration. And instead of having that community discussion, looking at the broader issues of privacy, open space, the design of the infill, we're rushing to what's in this proposal, much of which is fine, but it doesn't have that discussion. And then we're going to go to code maintenance 04. I can't tell you what's in that, because it's only posted on the website yesterday, and the actual version isn't out until monday. Not enough time to put it on neighborhood agendas, not enough time to put it on citywide land use committee. But there are at least four, if not six items on accessory dwelling units and the a overlay in code maintenance and they're not small. They're not minor policy. They're major policy. My request would be that we take the a overlay and my suggestion would be take the a overlay and the accessory dwelling unit provisions out of this package. The rest of it is fine. Indeed, the staff should be commended for having put together the bicycle stuff and other pieces that do need to be passed. They did a tremendous job of getting that done in the four weeks allowed, but the a overlay and a.d.u. part needs to be looked together, and not as part of 04 and this package. I would request that you use some regulatory discipline in your decision-making. The forest heights issue was taken to the planning commission, the planning commission unanimously recommended put it back in the hopper. We've got a process for deciding which projects are the most important to do. Incidentally, the 04 code maintenance items were not subject to any kind of neighborhood review as to whether those were the most important parts.

**Katz:** They need to.

**Fritz:** Yes. So those are the process issues. And finally the type ii pre-app application conference going away, that was the -- one of the things that -- one of the few things that the neighborhoods testified at the planning commission, the neighborhood associations do feel that -- there's value to that pre application conference. It's the one place we get to hear what all the bureaus have to say. It's very different from the contact meeting. If you decide to go ahead and pass that, i'd just like to note that that's another slam for neighborhoods.

**Katz:** Thank you.

**Francesconi:** Amanda, I guess, first, I didn't acknowledge and thank you for your time in the planning commission, and I should have.



January 29, 2005

**Fritz:** You're welcome.

**Francesconi:** So I wanted to thank you for that. On this issue, you're clear on the -- on the substance of what's -- I mean, what's your feeling from what we should do from a policy standpoint once the process is done with?

**Fritz:** What's in here is fairly benign. If were to understand it. Part of what we do in planning is to decide as a community what we want to do. I think that if people had a better concept, had more discussion, and more education about what's in here, not only would most of the things that are in here be ok, but there are other suggestions that would make it better. The problem, if we go ahead and adopt this and adopt the next four to six things in the code maintenance 04, we never get to that bigger discussion. We're always chopping away at the little things. We've talked about that in the regulatory form process, that we're going to do the low-hanging fruit. If you look at this as the low-hanging fruit, you never get to that bigger picture. The shame of it is that the study shows that we've done a good job with a.d.u.'s. They by and large fit in. They're not causing problems in neighborhoods. There are very few things that can be done to make them work better in terms of privacy and open space and design issues, but it's a success story. But we're burying it as if it's a terrible thing.

**Francesconi:** Well, on the owner occupied, I was actually here, mayor, and commissioner Sten was here, and it was a very controversial decision. In fact, it was a 3-2 vote. I was on the two, and I think you were on the two, because I wanted the owner occupied left in. If i've got my memory correct. I think that was it. But it turns out that the reverse is happening in terms of -- so it seems to me now, having -- that I was wrong on that issue, given the study. And that we should actually pull it out.

**Fritz:** I thought that was a very interesting part of the study, that it shows that in fact we're getting the same, that it doesn't make that much difference. What we need to ask is what were the core values that the neighborhoods were concerned about. One of the things I remember from that hearing, was we were concerned that there were going to be whole blocks changed over to having a.d.u.'s and that hasn't happened. Perhaps we do need to look into making these changes to the r-2.5 zone and the two zone and the vacant lot and skinny lot stuff, we have got whole blocks being raised and changed into a different thing. Do we need to look at the context and going back to the neighborhood and ask what were their values and are there other ways to address those values?

**Katz:** Ok, thanks.

**Charlotte Uris, 2526 NE 10<sup>th</sup> Ave., 97212:** My name is charlotte uris, and i'm coming representing the irvington community association. I want to briefly state before hand that I differ from the earlier presentation of the a overlay issue as being just a minor policy tweaking as opposed to the big plans like the riverside district or stuff like that, because we're talking about making changes to community plans that are -- that are huge parts of the city that affect huge numbers of residents, and where huge numbers of residents have either had or the possibility of having input into that process. And basically the i.c.a. is concerned with the process issue, and it's also partially because we didn't have the time for -- once we found out about it -- for me, one of the few people left on a volunteer board to educate everybody, and to try to get up to speed. And this again is part of the reason why I am concerned about the process, and I think the process has to be taken seriously. I would like to go through my main points and the testimony written in. The i.c.a. recommends that any changes to portland's adopted community plans and neighborhood plans be made through a clear plan amendment process with broad public involvement and decision-making to address the changing goals, needs or problems of the specific community or neighborhoods. Changes to the comprehensively considered and created community plans should not be made by the city as minor tweaking of regulations mixed among a number of proposed development regulation changes. As in this case stuck in between short-term bicycle parking and awnings. The citizen involvement process for this proposed change, both notification and input is totally inadequate and a

**January 29, 2005**

consideration of discussion of the a overlay element within the comprehensively thought out and developed community plan is completely lacking. The bureau of planning white paper discussing possible changes to the a overlay zone acknowledges the high requirement for a full legislative review process with higher than usual public notification requirements and an approximate time line of nine to 12 months. This proposed draft came out last september with essentially no citizen input and came before the planning commission in october in a hearing that covered many regulatory improvement items, which is not exactly all that it is. The Bureau has certainly created a minimal situation which in no way respects the results of the years and thought put into the creation of the albina community plan by Portland citizens, planning commissioners, city commissioners, or the bureau staff, and i'll add that I find that it's a very bad precedent for how to treat community and neighborhood plans. In general, it's not just an issue for albina community plan, but for the city as a whole and citizen involvement in the city as a whole. The a overlay in the albina community plan was not "adopted as a way to increase investment in the area" as stated in policy package two. The original a overlay zone was created during a long, complex and controversial process. The process began with a total emphasis on economic development and redevelopment within increases in density. Only after much citizen involvement and discussion of all elements of the comprehensive plan as it pertained to albina was the concept of rehabilitational housing even included and was the value of maintaining and fostering healthy neighborhoods seen as a primary goal, promoting owner occupancy was seen as a key element to developing neighborhood health and stability, particularly in the economically disadvantaged parts of albina.

**Katz:** Charlotte, your time is up, I let you do this because you have the history. Want to get to closure on the testimony?

**Uris:** Basically it was a compromise that was part of a very comprehensive process, and that in addressing these issues, i've not -- now i've not seen the city even have adequate process, let alone look at in terms of the whole picture, how it would have an impact, have citizen involvement and so on.

**Katz:** Ok.

**Uris:** And so we recommend that the decision-making should be deferred on the many and far-reaching complex elements of the a overlay of policy package two, only after time of understanding the full complications discussions and adequate public process should decisions be made.

**Katz:** Thank you.

**Catherine Ciarlo, PO Box 9072, 97207:** Catherine Ciarlo, bicycle transportation alliance. Thanks for hearing our testimony today. It's not going to surprise you that I'm going to comment on the bicycle parking section of the package. It might surprise you that nationally bicycle parking is kind of a big issue when you look at what encourages people to bike. Part of it is infrastructure giving them safe places to ride but surveys research really show that people are looking for the safe, convenient parking that we're talking about in this code. So interestingly, Portland's former code provision that we're changing now has held up nationwide as a great, strong, kind of forward-thinking provision. The problem was it wasn't easy to enforce for all kinds of reasons, and the good thing about the process that we just went through to address that is it really brought members of the business community and members of the bicycle community together to look at why it was difficult to enforce, and what are underlying shared interests were, which in the case of the bicycle community were getting the parking on the street, in the business community, we're having more clarity and more predictability about what they were getting into. So in short i'd just want to commend jean harrison and the other staff for doing a great job, bringing everyone together, and encourage your support for that portion of the package. Thanks.

**Katz:** Thank you.

**Francesconi:** Thank you Catherine, let me say this. Before I was transportation commissioner and before I could no longer run for exercise, I asked you several times, why is it that bicycle parking,

**January 29, 2005**

does it really work to encourage bicycles? Now that i've been transportation commissioner and been more exposed to this -- the national research and what's really happening in Portland, and now that I use my bicycle more, it does make a big difference. So I just want to say this, that i'm not going to raise that issue ever again.

**Uris:** Thank you.

**Francesconi:** Thanks.

**Katz:** Thanks. Ok.

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

**Katz:** Anybody else? Gil, come on up, cary, let me summarize the issue. Remember when I held up the accessory dwelling study and said why didn't we talk about it, why didn't we talk to the neighborhoods about it, why didn't we have a discussion. You sort of agreed with me, and I had a sense that it was a whoops, we didn't do it and we should have done it. So I -- talk a little bit about that. The other issue that came up was the process issue. When sam and hannah worked through the first package, they really did an incredible outreach to the neighborhoods and to the business community, and to everybody, land use chairs, and anybody that was willing to listen. I'm not sure we're doing that now, and I need a little conversation of that. Then there is the issue of design review. Cary, I know i'm stepping on your toes on the issues that came up, but the design review for a overlay, charlotte might want to help me, but I thought we had -- when we first did a overlay we did examples of accessory units, dwelling units, that could be used by developers. Or owners of the property, I don't know if we did that if my memory fails me or not. And what else are we going to talk about?

**Pinard:** Nonconforming uses if you wanted to.

**Katz:** There's an urgency on the nonconforming uses, but it's got to be done with the neighborhoods, there's no question about that.

**Pinard:** Process for sites.

**Katz:** Process --

**Pinard:** I think you mentioned that. How much process is appropriate?

**Katz:** Have a conversation with us on that.

**Kelley:** Let's start on the process piece.

**Pinard:** How much process and how much outreach to do is a continually balancing act. We in all of these policy packages, we've done the -- a little bit more than the minimum requirement of sending out the notice, we're focusing more on trying to get the -- of dealing with land use chair that's meet monthly, and making sure they're aware of what the plans are, and if things are changing as the process goes along. We've had a public open house with notice on each one of our packages. I think the reality is, inevitably, issues and per mutations on issues come up in the process, and people who initially decided they weren't interested in following along later think oh, I wish would I have known about that, or can I be involved in this discussion now? The balance of how much outreach to do and how long that takes, given the resources you have, is a decision for council to make.

**Katz:** I don't want to put on the -- all the blame on you because we've been telling you there's urgency to do this.

**Pinard:** That's what I was getting into. Partly -- this report we had sent it to the planning commission right when a lot of those issues were starting to be talked about at the planning commission level and city council last summer, and the commissioner Sten proposed a resolution in the fall in september that asked us to bring the report to the planning commission to your offices by the end of november. And so -- it was because of the circumstances that this product would bypass any typical process of more public involvement in that, and I agree with gil's and your sentiments on what we may want to do with that.

**January 29, 2005**

**Katz:** Before you get to the next package that has a overlays or accessory dwelling a.d.u.'s, you may want to open up the conversation so that it is viewed holistically.

**Kelley:** I think that's a good idea.

**Pinard:** And for -- i'm not sure exactly what a.d.u. and a overlay items are in code maintenance 2004. Notice has gone out for that. There is a list and there are two open houses for that in february.

**Kelley:** I would also make the point on the overall list and outreach, many of the items on the list are remnants of the earlier list from that larger outreach, and some of them are referrals from you from legislative projects like the small lot development conversations you had here. In both those cases there was a lot of public testimony to get those things on the list. Not having heard the testimony on the specifics, i'm not sure --

**Katz:** But we can talk about the report --

**Kelley:** -- lacking public input or not, but --

**Katz:** Go ahead.

**Pinard:** So on the nonconforming use study, if I could mention three things that we have done in the last years part of regulatory improvement that has gone a long way to address these issues, and we are planning on having the work program, to do more as the main street study that we talked about and you heard the testimony about, first off was for nonconforming development, you raise a threshold for when changes trigger compliance from \$25,000 to \$100,000. That made a big change. In the other packages that you've passed, there have been two other nonconforming use issues that have made dealing with those issues easier for businesses that want to stay or expand. First you changed the review procedure from a type 3 to a type 2 in residential zones. For a situation that would have to go through what's called nonconforming review. And you also changed the approval criteria for nonconforming review from what used to be a criteria that said the proposal had to have a net reduction in impacts. Had to improve its impacts, or have lesser impacts. The new criteria says there can be no net gain in impacts. So if you're staying the same, that's now approvable, and that was -- had proved to be a hard criteria to meet for a lot of the nonconforming reviews where people wanted to just do some minor changes, and they weren't changing the impact at all, but they also weren't making discernible improvements in it. So both of those issues and the change in the threshold are -- have been items that we have done and accomplished in the last year, and I think are all in effect right now.

**Katz:** Ok. Design review?

**Pinard:** We -- you're not talking about the awnings, you're talking about what review --

**Katz:** On the a overlay.

**Pinard:** -- applies to the a overlay. Can we ask phil to come up and explain the list? We've got several different lists of design requirements, different parts of the code. It gets complicated, and phil's going to try to keep it all straight for you.

**Katz:** Thank you.

**Phil Nameny, (BOP):** A couple things on the design review piece. When the a overlay was first implemented back after the albina community plan, which was in 1993, there were very few design standards that would apply to single family housing or anything in single family neighborhoods, and that's where they came up with the idea of having an option with the community design standards, or going through a design review. And of course a overlay got expanded to outer southeast and to the sellwood-moreland area. That was also in the mid 90's. Since that time, we have implemented base zone design standards, which took effect in 1999. Also since that time in the base a.d.u. chapter for a.d.u.'s that are built as detached, or if they're built as increases in floor area, such as added on to the existing house, there is a list of design standards. So in terms of the a.d.u., when -- one thing the a.d.u. report did note was that it was very hard to distinguish between an a.d.u.-built using community design standards, behind -- as part of the back of a house, versus an

**January 29, 2005**

a.d.u. built under the base accessory dwelling unit standards. So that kind of in combination with some of the base zone design standards, we felt has made community design standards unnecessary for the a.d.u. part of it. The same kind of logic goes along with the idea of the duplex-triplex provision and the small lot single family detached houses. Since once again the a overlay was set up we do have the base zone design standards that apply both in r 2.5 and r-2, if your proposing detached or attached houses. Also the one thing to keep in mind if somebody was going to take advantage of the triplex in the a overlay, they would still have to use community design standards, however, for a duplex when it switches over to the base zone, they would be using the base zone design standards that were implemented in 1999. Also last year with the land division code there were specific standards that were added for proposals, land division proposals where the lots are proposed that don't meet certain dimensional standards, and those were standards that involved the minimizing the curb cut, also further minimizing the garage length for the narrow homes, and I believe the third one was -- if there was an alley access they would have to get access from the alley. And that would apply, for example, in an r-2.5 zone if somebody went through a land division to create these narrow lots. That was something that was added as part of the land division revisions. So the idea of once again is a lot has changed in the last five to 10 years in terms of how we look at designs, there's a lot of things in place in the code that can equally or better satisfy some of the design requirements that the community design standards applied.

**Francesconi:** Is the summary that the design standards will apply to all of these accessory dwelling units, 90%, 80%, 20%?

**Nameny:** Well, in the past they only -- the community design standards only applied in the case of the a overlay. If you were outside of the red area --

**Francesconi:** How about now?

**Nameny:** Basically it would be the design standards that are in the a.d.u. chapter. The base a.d.u. chapter, which talk about things that if it's a detached a.d.u. that you match the trim, you match the siding, the windows, if it's vertical style windows on the house, vertical style windows on the a.d.u. Eves have to be similar, things like that.

**Pinard:** Can I summarize by saying there are different sets of design requirements --

**Francesconi:** I thought lawyers were hard to understand.

**Pinard:** -- and we are -- a set or more, a set and a half at least will apply to all of the proposals we're talking about, just a different set than applies now.

**Katz:** And one of these days --

**Pinard:** We should --

**Katz:** -- we really should take a look at all of these and make some -- I know they've been added on piecemeal as we redo a project, but one of these days we probably ought to take a look at all of them and make some sense so everybody can understand which design review, which design overlays --

**Kelley:** That might qualify as a major policy package instead of a minor.

**Katz:** That is a major policy package. All right. I think we covered all the issues. The council feel comfortable moving on, moving this both of these to second?

**Francesconi:** Yeah.

**Katz:** Ok.

**Francesconi:** The process was not ideal, but I think the council may have hamstrung the process.

**Katz:** We set a pretty high standard the first time, and it's going to be, you know -- we don't have the staffing to do that that came from basically my office and that's not there anymore. So you are going to have to balance it, but making sure that the community at large and the neighborhoods are fully aware. I don't know if the open house brings people to the action.

**Kelley:** We'll continue to look for ways with the internet, with land use chairs, organizations, others, advance notice and discussion to try to increase that.

**January 29, 2005**

**Katz:** The land use chairs are pretty well organized.

**Kelley:** Yeah.

**Katz:** Ok. All right, everybody. Thank you. We will move through this next week, and deal with the nonconforming use -- i'll double-check at my normal meeting with gil as to what the time line is going to be on that.

**Francesconi:** Mayor, just a matter of personal privilege, just brief, we have one more item we need group input on. The small business advocate is here and she hasn't yet had her baby. In fact, she's overdue and she needs help picking a name. So we thought we'd just have a little group discussion on the name. What do you think, jennifer? [laughter]

**Katz:** Jennifer? Is it a boy or a girl?

\*\*\*\*\*: We don't know.

**Katz:** No name until we know.

\*\*\*\*\*: It could be a long meeting.

**Katz:** When are you due?

\*\*\*\*\*: Any time.

**Francesconi:** Last week.

**Katz:** Let's adjourn. [laughter] we stand adjourned. [gavel pounded]

At 3:18 p.m., Council adjourned.