



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **24TH DAY OF MARCH, 2004** AT 9:30 A.M.

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

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

Item No. 270 was pulled for discussion and on a Y-5 roll call, the balance of Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
<p>255 Request of Terry Prather to address Council regarding review of negotiations with Commissioner Sten's Office (Communication)</p>	PLACED ON FILE
<p>256 Request of Keith Vann to address Council regarding review of pilot projects to mitigate homelessness as discussed with Commissioner Sten's Office (Communication)</p>	PLACED ON FILE
<p>257 Request of Israel Bayer to address Council regarding Right To Sleep Campaign (Communication)</p>	PLACED ON FILE
<p>258 Request of Bruce W. Anderson to address Council regarding concerns with homelessness (Communication)</p>	PLACED ON FILE
<p>259 Request of Smooth to address Council regarding right to sleep (Communication)</p>	PLACED ON FILE
TIME CERTAINS	
<p>260 TIME CERTAIN: 9:30 AM – Accept the Economic Development Report to Council by the Portland Development Commission (Report introduced by Mayor Katz) (Y-5)</p>	ACCEPTED

March 24, 2004

<p>*261 TIME CERTAIN: 10:30 AM – Authorize agreement for acquisition of three parcels of real property in southwest Portland for park purposes from Richard and Jory Lakeman and David Orkney (Ordinance introduced by Commissioner Francesconi) (Y-5)</p>	<p align="center">178266</p>
<p>*262 TIME CERTAIN: 11:00 AM – Adopt on an annually recurring basis, a PGE Park Season Program to regulate parking in Northwest Portland and authorize the Portland Office of Transportation to implement the Program (Ordinance introduced by Commissioner Francesconi; waive Title 16) Motion to amend to change “Northwest Everett” to “Northwest Hoyt” in paragraph c and on map, Exhibit A: Moved by Commissioner Francesconi and seconded by Commissioner Saltzman. Hearing no objections, the Mayor Gaveled down. (Y-5)</p>	<p align="center">178267 AS AMENDED</p>
<p align="center">CONSENT AGENDA – NO DISCUSSION</p>	
<p>263 Statement of cash and investments February 12, 2004 through March 10, 2004 (Report; Treasurer) (Y-5)</p>	<p align="center">PLACED ON FILE</p>
<p align="center">Mayor Vera Katz</p>	
<p>264 Appoint Jeffrey Cole to the Adjustment Committee for a term to expire February 28, 2008 and Terry Amundson for a term to expire June 30, 2006 (Report) (Y-5)</p>	<p align="center">CONFIRMED</p>
<p>265 Confirm reappointment of Loren Waxman to the Design Commission for a term to expire August 15, 2007 (Report) (Y-5)</p>	<p align="center">CONFIRMED</p>
<p>*266 Amend contract with Emmons Architects for completion of architectural and engineering services for the design and construction of Fire Station 27 (Ordinance; amend Contract No. 34320) (Y-5)</p>	<p align="center">178255</p>
<p>*267 Pay claim of Dainard Paulson (Ordinance) (Y-5)</p>	<p align="center">178256</p>
<p>*268 Create one position of Facilities Maintenance Technician Apprentice in the Bureau of Parks and Recreation (Ordinance) (Y-5)</p>	<p align="center">178257</p>
<p align="center">Commissioner Jim Francesconi</p>	

March 24, 2004

<p>269 Set hearing date for Wednesday, 9:30 a.m., April 28, 2004, for the vacation of certain portions of NW 6th Avenue and NW Johnson Street in connection with the Sixth Avenue Extension/Union Station Forecourt Project (Resolution; V-10013) (Y-5)</p>	<p align="center">36207</p>
<p>*270 Authorize a Rental Agreement with the Overlook Neighborhood Association and the Office of Neighborhood Involvement for use of Overlook House Community Center (Ordinance) (Y-5)</p>	<p align="center">178263</p>
<p>*271 Amend contract with Winterowd Planning Services, Inc. for the preparation of a master plan update for Portland International Raceway (Ordinance; amend Contract No. 33292) (Y-5)</p>	<p align="center">178258</p>
<p>*272 Amend contract with WBGs Architecture & Planning, PC to increase contract amount for rendered architectural services to consolidate maintenance crews in one site (Ordinance; amend Contract No. 35094) (Y-5)</p>	<p align="center">178259</p>
<p align="center">Commissioner Dan Saltzman</p>	
<p>273 Accept improvements to Well Sites Nos. 36 and 37 for a cost of \$1,671,433 and release the Letter of Credit to Wildish Building Company (Report; Contract No. 33122) (Y-5)</p>	<p align="center">ACCEPTED</p>
<p>274 Amend contract for technical services and a third party review on the Forest Park Low Reservoir project with Harper Houf Righellis, Inc. (Ordinance; amend Contract No. 34277)</p>	<p align="center">PASSED TO SECOND READING MARCH 31, 2004 AT 9:30 AM</p>
<p>*275 Authorize the continuance of negotiations for the purchase of easements required for the South Airport Sanitary Trunk Sewer Project - Phases 1 and 3 and authorize the City Attorney to commence condemnation proceedings, if necessary, and obtain early possession (Ordinance) (Y-5)</p>	<p align="center">178260</p>
<p align="center">Commissioner Erik Sten</p>	
<p>*276 Accept a YouthBuild implementation grant under the Office of Economic Development of the U.S. Department of Housing and Urban Development in the amount of \$675,000 (Ordinance) (Y-5)</p>	<p align="center">178261</p>
<p>*277 Authorize the acceptance of a purchase order from U.S. Fish and Wildlife, Oregon Fish and Wildlife Office for \$8,000 to monitor the passage of adult Pacific lamprey at Willamette Falls (Ordinance) (Y-5)</p>	<p align="center">178262</p>

March 24, 2004

City Auditor Gary Blackmer		
278	Approve Council Minutes for January 2, 2003 through December 31, 2003 (Report) (Y-5)	APPROVED
REGULAR AGENDA		
Mayor Vera Katz		
*279	Authorize revisions to eligibility requirements for medical, dental, vision and medical expense reimbursement and dependent care assistance plans for DCTU, BOEC, Recreation Employees and COPPEA union members and nonrepresented City employees (Ordinance) (Y-5)	178268
*280	Accept a grant from the U.S. Economic Development Administration in the amount of \$75,000 to fund the development of a Comprehensive Economic Development Strategy for the Portland Vancouver region (Ordinance) (Y-5)	178264
281	Authorize a revised Intergovernmental Agreement with City of Gresham for city boundaries, urban services and new urban area planning for the Pleasant Valley area (Second Reading Agenda 237) (Y-5)	178265
Commissioner Jim Francesconi		
S-282	Revise Code provisions regarding exclusion from City Parks, define Park Officer, increase exclusion periods for repeat violators and provide for stays of exclusions during appeal (Previous Agenda 250; amend Code Section 20.04.010 and replace 20.12.265) Motion to accept substitute ordinance: Moved by Commissioner Saltzman. Gaveled down by the Mayor.	SUBSTITUTE PASSED TO SECOND READING MARCH 31, 2004 AT 9:30 AM

At 11:50 a.m. Council recessed.

GARY BLACKMER
Auditor of the City of Portland

By Susan Parsons
Acting Clerk of the Council

March 24, 2004

WEDNESDAY, 2:00 PM, MARCH 24, 2004

**DUE TO LACK OF AN AGENDA
THERE WAS NO MEETING**

March 25, 2004

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **25TH DAY OF MARCH, 2004** AT 2:00 P.M.

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

Commissioner Francesconi arrived at 2:02 p.m.

Commissioner Saltzman arrived at 2:03 p.m.

Commissioner Leonard arrived at 2:06 p.m.

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

<p>283 TIME CERTAIN: 2:00 PM – Appeal of Pleasant Valley Neighborhood Association against the Hearings Officer’s decision to approve the application of Michael and Suzanne Lehne for a 21-lot subdivision with adjustments at 7915 SE 162nd Avenue (Hearing; LU 03-142811 LDS AD)</p> <p>Motion to uphold the Hearings Officer with a condition that the access tract be realigned to save the 21-inch red alder tree: Moved by Commissioner Saltzman and seconded by Commissioner Francesconi.</p>	<p>Disposition:</p> <p>DENY APPEAL AND ADOPT HEARINGS OFFICER’S FINDINGS WITH A CONDITION</p>
---	---

At 3:21 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.

March 24, 2004

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.

MARCH 24, 2004

Katz: The council will come to order. [roll call]

Katz: Commissioner Saltzman?

Parsons: He should be here.

Katz: Ok. Let's take communications. 255.

Item 255.

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

Katz: Good morning.

Terry Prather: Terry prather. There are many times I didn't know whether I would be sleeping in a shelter, safe place, or out of the weather. When the shelters were full, I would have to sleep outside and take my chances of getting wet because all the place was overhangs would be full. Sometimes people would drive by and honk their horn or shout and wake everyone up. One night I went to a spot where I felt somewhat safe to sleep and saw a couple people standing across the street and asked why. They informed me two officers informed them they had to wait until 2:00 a.m. To lay down. I went to the spot when a patrol car pulled up. I could see someone's property in the street and it was obvious they were looking for something. Yet they never said I had to wait until 2:00 a.m. To be in that spot. I do know that in the morning around 7:30 a.m. People get woke up. People need more than five hours of sleep to get the rest that they need. I finally got housing by getting involved with a program that helps with chronic homelessness without this help, I would still be on the streets. Thank you.

Katz: Thank you. Item 256.

Item 256.

Katz: Come on up.

Keith Vann: Good morning. My name is keith vann, i'm currently homeless. I'm confused, mayor, that while homelessness is widely acknowledged as severe human crisis, the city cannot provide adequate roofs for its people, all of whom need to sleep. I'm confused about the prevalence of social control policies that assume that homeless people are on the street by choice rather than realizing most are simply awaiting opportunities to secure housing. I'm confused that while the city acknowledges that over 1571 people are obliged to leave on the streets due to a shortage of housing and shelter beds, the city won't allow these people to legally sleep where they quote, unquote, live. I'm confused by the combination of strict park closure policies that eliminate precious sleeping spots and increasing antisleeping enforcement such as the alcove abatement on all nonpark property that leaves absolutely no legal place to sleep for the thousands publicly acknowledged to live there. I'm confused why the city wastes precious police resources in the unproductive activity of moving homeless people from precinct to precinct from neighborhood to neighborhood, when there are actually no legal place to move them to. I'm confused why given the realities, the city refuses to consider creative alternatives such as night use of city-owned parking structures, or a citywide park rotation policy where sleepers would be allowed to sleep in designated areas of a different park each night, thus reducing the inclination to camp. I'm confused why the city's attorneys cannot distinguish camping from sleeping, and allow sleepers to allow peacefully where therefore --

March 24, 2004

wherever they are as long as they vacate by morning. I'm confused by neighborhoods don't allow 24-hour restrooms yet complain by public urination. Public rest tops, if -- i'm confused why the city cannot understand that more waste and higher clean-up costs is generated from people force in addition elicit sleeping spots than those in designated spaces where sleeping is allowed, as long as they clean up after themselves. I'm confused by the city prefers to spend cost of \$60 per arrest and \$60 per night in jail on an individual experiencing homelessness rather than the \$45 a night or lower of a bulk rate, cost of putting that person or family in a motel room. I'm confused about the city's eagerness to come indicate business concerns that visibly homeless people deter customers and tourists by making more and more commercial areas homeless unfriendly. All the while refusing to provide alternative places for homeless people to congregate and rest. Mayor and city commissioner, i'm confused about all these things and more. Perhaps i'm foolish. But I sincerely hope you're willing to help me understand.

Katz: Thank you. 257.

Item 257

Israel Bayer: My name is israel bayer, 4018 north kirby. Homelessness is a complex issue that's continued to plague our nation. After the civil war millions faced homelessness and poverty. During the depression millions more became homeless and jobless. It was then most of the laws criminalizing the homeless gained their popularity. Laws criminalizing the homeless will not end homelessness as history has proved to us time and again. It was public education and work programs created during the f.d.r. Administration that led to many people regaining their housing status, not the criminal justice system. With every ordinance or law we put into place affecting the homeless, we are inviting more homelessness in our city. One of the major barriers to accessing housing is a criminal record. For example, instead of handing out offensive littering tickets we could build public restrooms. This would not just be geared for the homeless population. It would be a great benefit to thousands of tourists, the tourists industry, downtown businesses, and consumers alike. Creating unique pilot projects work programs and markets involving the homeless population focusing on creative solutions can potentially lead to ending homelessness as we know it. It was not so long ago our country put the homeless population to work, building our national parks, dams, bridges, and highways. Today the homeless population could be put to work building and maintaining their own affordable housing, cleaning up the willamette river and creating art installations throughout our city. However, this cannot be done if people are continually treated like second class citizens because of their housing status. We believe Portland has the knowledge, insight, and vision to thrust thousands of people into citizen that's make this city literally a city that works. We cannot do this without you. The first step to ending homelessness as we know it is to create a working environment for businesses, neighborhoods, residents, tourists, the police, the city, and the homeless population itself. Thank you.

Katz: Thank you. 258.

Item 258.

Bruce Anderson: Good morning. I'm bruce anderson, I live inner southeast. I am a management consultant, and I work in the area of change management. I have an interest in complex systems in organizational strategy. Two years ago I had the opportunity to not travel so much because when you're a consultant, you never work in your hometown, so you are always on the road a lot. But things came where I could stay home, and I wanted to work in the community and help more with the community. So I chose the area of homelessness to try to help, to be of some use. I got involved with sisters of the road crossroads, it was street roots, the right to sleep campaign, because of the interest in what was going on in this area. Naturally I applied some of what I learned in my work and one of the things, this is a complex thing, I want to focus on one issue, in my work I found that the assumptions that we make about a problem or an issue directly affect the actions that

March 24, 2004

we take to try to resolve it. So it's really key. You save so much time in the work I was doing if we could understand the assumptions we were making that underlie the action we were taking. So in homelessness, if we assume that the system works fine the way it is, and it's just that certain people choose to be homeless, say, through laziness are, or sloth, or just making bad choices, then when those assumptions, it makes sense to create laws to penalize that activity, sort of skinnerism, if we do -- if we don't let -- move people along enough, they'll stop this activity and get back in the system. But if that assumption is incorrect, let's say that we have the assumption that the economic model has holes in it, and people fall through the holes, or that perhaps early childhood experiences was extremely negative and cause add very difficult obstacle to overcome, with those assumptions, our actions are likely to be more compassionate. And we're more likely to do things that keith or israel was mentioning earlier. I feel, I was really encouraged with what I was -- I was here the day you were talking about dignity village, making -- giving them the opportunity to carry on as an experiment. I was really encouraged by that. I feel Portland is moving its assumption that homelessness is a choice, a bad choice people are making, to one of -- to a view of having compassion toward this because of the complexity, the various things that are going on. And i'm encouraged, and in the right to sleep campaign, we want to work with you and continue to work with you, and the police, who are our front line people enforcing whatever laws we put forward. So I want to say that i'm encouraged, and that Portland can be a place where we can change the history that israel mentioned. Thank you.

Katz: Thank you. 259.

Item 259.

Smooth: Good morning. My name is smooth, i'm a poet and i'm on the campaign to right to sleep. I came to Portland january 6 of 2004. The next morning, I had been released to the streets with nowhere to go during the coldest winter nights. I made my way to the zone community, I asked where's the women's shelters? I was informed that there is only one for women. As the shelters filled up, and overflow is turned away, because no one has medical courage, especially t.b. Cards. As they release women from hospitals to harbor lights, case managers are overloaded, therefore they can't assist with mental health issues or s.s.i. Applications and they can't assist services, which leaves their hands bind together. We need more resources. As it is, harbor lights is on the grandfather clause and too many agencies are shutting down. So we ask for those who are turned away and still falling through the cracks of our system a right to sleep without being ticketed, harassed, or awakened while waiting for temporary or permanent housing. I'd like to share a poem. It's called strange fruit. They called her strange because no one wanted to teas them, smell them, or even love them. Strange fruit. It's the taste you get in life when every inch of you has been tainted, tossed aside, licked, kicked, but never pruned. Strange fruit. It's like never having to cut it open and, no, there's nothing inside. Strange fruit. It's like life. One day you plant me, water me, watch me grow. And then nothing. Nothing at all. It's called strange fruit for one reason. It's not fruit at all. Strange fruit. Love it, leave it, or let it grow. Smooth.

Katz: Thank you, smooth. Let's take consent calendar. 270 is pulled, any other items to be pulled off the consent calendar? If not, anybody in the audience wanting to pull an item off the consent calendar? Roll call.

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

Katz: Mayor votes aye. [gavel pounded] 270.

Item 270.

Katz: The reason I pulled this off, i'm trying to put a balanced budget together, and I need to understand what the potential liabilities would be to o.n.i. Or the general fund. So if somebody can explain that to me, that would be fine.

Leonard: We have -- did I say tom -- did I see tom?

March 24, 2004

Katz: There are a couple of issues. One is a shift in o.n.i. Services to these locations, but i'm more concerned about the potential dollar cost for maintenance.

Leonard: I can explain. I'm sorry tom is not here, but I can explain that. He was sitting there, now he's gone.

Katz: We can come back.

Leonard: No, that's ok. What we've tried to do at the overlook house and at the woodstock community center is find alternative means with which to use the buildings in order to be able to keep them open to the general public. And although this is moving a little faster than what we wanted, because of the potential closure of woodstock and overlook, we're accelerating this trial project of neighborhood service centers so that we will have people who typically work out of offices downtown housing inspectors, fire inspectors, and others occupy the -- those buildings in the neighborhoods that they work in. So the idea being that neighbors will be able to come to the overlook house or come to woodstock and access services they traditionally have to go downtown to access. The benefit to the community is obviously the services are in their neighborhood, but it also keeps the centers open for other purposes so that the -- for instance, commissioner Francesconi and I and the parks bureau and o.n.i. Met recently, and we're going to be able to keep woodstock operating as a community center with all the programs they've traditionally offered because we are going to be paying the rent for the building to be used as a service center. And the same with overlook.

Francesconi: If I could just add to that a minute, as you recall, this was parks didn't have the resources to continue the operation of these small community centers, which aren't as cost effective, nor do they serve as many people in the neighborhoods. So -- but then at the end of the council session, the budget hearings last year, the whole council expressed interest in not cutting overlook and woodstock. And so what we did is, we sought to work with them to try to save them as community centers. So we have been actively working with commissioner leonard and o.n.i. As well as the woodstock neighborhood association and the overlook neighborhood association to see what we could do with these community centers. And fortunately, we've been able to put in the major capital renovations that have happened already in both these places, so we don't anticipate any major capital. So an agreement has been worked out to pay a rental fee by the neighborhood association, and they would maintain them and help program them. Parks would continue in woodstock's circumstance to actually put in programmed activities. But not in overlook, because we didn't have any programmed activities. And it's for a one-year period as a trial, because sometimes neighborhood associations take on something and it's a little more difficult. So we want to see how it works out. But the hope is that it could work out in the long run. So that's it from parks' perspective. So, mayor, it's not going to cost any more from parks' perspective on either of these, and we have the major capital taken care of at both. The minor capital, which I think is going to be minor, is going to be assumed by the folks. But your question about where the money is coming from from o.n.i. To pay the rental fee, I don't have an answer to. I don't know fits part of the budget or not.

Katz: And the agreement that you're going to be signing terminates at midnight on march 31, 2005. So if this is a pilot project and it doesn't work, then there is a termination of the agreement.

Francesconi: Right.

Leonard: There is.

Francesconi: It's just a year term.

Leonard: The idea is that ultimately what we pay in rent, for instance, at the 1900 southwest fourth building, will be a rent we pay for offices that are in different neighborhoods, and that the people that normally report to work at 1900 southwest fourth will report to work in offices in the neighborhoods within which they work. Tom's been working on this quite a bit.

March 24, 2004

Katz: Tom, why don't you identify yourself. The question I have for you, so you are going to leave where you are today and move the operations to woodstock.

Tom Griffin, Director, North Portland Neighborhood Services: No. Let me clarify. A little bit. Give me -- let me give a little background. I'm tom griffin, the director at the north Portland neighborhood services office and employee of office of neighborhood involvement. I think the question, and I apologize for being out, I was trying to let commissioner's staff know I was here. Which I wasn't. But the -- I think the question as I understand it, you're asking whether we're going to move our operations to woodstock. No. We are currently in the -- we're in the facility, the historic kenton firehouse. We will remain there. The -- we -- our office, o.n.i., this contract has nothing to do -- this contract has nothing to do with the woodstock facility. There will be -- i'm assuming there will be another contract that will come along in regard to that. The contract before you is for your approval is only for the overlook house.

Katz: I'm sorry, my error. I meant the overlook house.

Griffin: Oh, ok. There is some -- there has been some questions because the two have been linked together. The overlook house, and I believe that the question is a legitimate question from the office of management finance, is, how can you -- or is there any risk to moving a facility that is not capitalized into our portfolio. And the very short answer is that we are -- we have already collected before we sign this contract, commitments for \$22,000 in rentals, which covers nearly half of the -- covers more than half of it, almost covers 60% of the operating costs before we open the door. So the capitalization that we have, that we've achieved is the result of the hard work of our staff, particularly miss sevy in our office, and the 25-member citizen group that's promoted the heck out of it. So we are -- we're very confident that we can -- that we will make this half.

Katz: And are you going to move one of your staff people --

Griffin: We're not -- I wish I had a better answer for you. We're not totally clear about how we're going to -- if we are going to shift staff around. There is some opportunities for us to house staff there. However, we have not set that up. Our predominant goal here is to support the neighborhood association. The neighborhood association as you heard in the springtime, was stressed by the fact that the parks bureau, given its budget shortfall, needed to look to save money and chose to look at shuttering overlook house. The neighborhood association made a compelling argument that they could keep it open. Our job, our job is to provide service to those neighborhoods and our job is really to support them and keeping that open as a community center. So we are looking at ways of being creative of pulling that off, but it's a very large group of citizens that is really going to make this happen. And we're working with them. So i'm sorry I can't give every specific --

Katz: For both this and the woodstock, it would -- the council will need to know how you're going to manage that. And -- with what kind of resources.

Griffin: And I think that I can answer that in a general sense. We are dedicating, again, as part of our service mission to neighborhood associations, we're dedicating our -- some of our staff time from general fund citizen outreach monies, to manage the -- to work with volunteers, to manage the financial resources for it, and to -- to be able to communicate with council and the administration about the success of that. This is a pilot project. We have great confidence it will happen.

Katz: I wish you much luck, but somebody needs to be at the facility to manage the facility. And that's the question that I have.

Griffin: And I -- and we will -- we will be there, whether that will be volunteers or whether that will be staff --

Katz: But you're not sure of that?

Griffin: At this point we don't.

Katz: Further questions? If not, roll call.

Francesconi: --

March 24, 2004

Katz: I'm sorry, does anybody else want to testify? If not, roll call.

Francesconi: Actually, you brought it out, mayor, in the questions of tom, the advantage of overlook is they can rent out the facility for weddings and those types of things. So there's a pretty secure source of revenue for overlook. So thanks, neighborhood, for working with us on this. And I know you're excited about it, and this is good. Aye.

Leonard: And I want to thank tom as well. He's been heading up the pilot project at kenton, bringing together employees from different bureaus, and we had a lot of cooperation from -- we have a fire inspector assigned, we're going to have house inspector, we've talked to the bureau of planning about getting the north Portland planner housed out there, and we think that's possibly going to happen. They were very interested, and the idea is that we can, through better use of our resources, have these neighborhood centers throughout the city ultimately at no more cost and maybe even less cost than housing folks downtown. That they actually are assigned in the neighborhoods they work. And the success of this is going to be in large part due to tom's great work. Aye.

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

Katz: Mayor votes aye. [gavel pounded] thank you. All right. We're on time certain. I'd like to unanimous consent to move item 280, so we can be discussed with item 260. Any objections? Hearing none, so ordered. [gavel pounded] ok. Come on up. 260. Why don't we read 260 and 280.

Items 260 and 280.

Katz: Good morning. Let me start by saying we promised you that about once a month, has it been once a month?

Don Mazziotti Director, Portland Development Commission: Every two.

Katz: Every two. We started with once a month, and we promised we would come back on a regular basis and share with you some good news story. And this is the time for that to occur. Let me, before don turns it over to -- before I turn it over to don, I need to tell you that I was going to invite a young man who has made a decision to move his software company from new york, looked all over the country, and ended up here in Portland. He had to go back to new york, but he will be back here, and I wanted him to share with you why he and his roughly starting with 10 employees, have chosen Portland over san francisco, seattle, and I must add, newark, new jersey.

Mazziotti: Thank you, mayor. For the record, don mazziotti, director of the Portland development commission. This is the third report i've provided with regard to our economic development projects, activities and successes. This month i'll talk about three things. First, p.d.c.'s efforts on business retention, expansion, and recruitment. Second, since my next report will come after the interstate light rail opens on may 1, I want to share with you some of the economic development successes that are occurring on and as a result of that project. And third, ray kerridge, director of the bureau of development services, will join me in reporting on some of the economic development and business climate successes we have experienced together and how we're working together in that regard. In the area of business retention expansion and recruitment, i'm very pleased to report that activity on the business finance side of our activity has increased dramatically. So far this year, which is since july of 2003, we've provided assistance to 28 businesses in the form of loans and incentive programs, and have nearly as many applications in the pipeline currently. This level of activity already exceeds the total of all business loans last year. So basically we're seeing a doubling in demand, and a doubling in activity which is of course very promising, it's a good indication of companies viewing the city as a helpful resource as well as business optimism and seeking added investment. The 28 deals that we put together so far this year have resulted in the retention of 600 jobs and the expected creation of another 592 jobs in the next 12 months in the city. And so we're talking on the order of 1100 jobs as a result of those projects that we've worked

March 24, 2004

on just in the past six months. I also want to make you aware of a project taking shape in our target industries work. This is called the early stage business accelerator, it's a cooperative effort between p.d.c. And p.s.u. It will house start-up companies seeking to do research and biosciences, information technology and high technology, principally medical device and their instrumentation and method of making them work or operate. Several start-up companies have toured the facility, housed in the former david evans building on southwest corbett in the north macadam urban renewal district. Three leases for space have been signed by firms at this point in time. And we're working with p.s.u. To determine how we can do the upgrade and put the accelerator into operation this year or early next. Business retention outreach is also a key part of our work, as you know. Some of you actually accompany us on visits or meet with other businesses as we identify them. At three-quarters of the way through the fiscal year, p.d.c. Staff has made more than 300 on-site business retention calls with individual businesses until the city. We've gained ground on the 357 total businesses that we assisted in 2002-2003, and we're hope that we will visit 400 companies before this fiscal year is out. These are to both large and small companies, and they enable us to assist a wider variety of businesses. I want to thank each of you for sending us suggestions on companies who in your experience you believe would be assisted or encouraged or in some how provide a technical assistance. Keep those references coming, we will meet with those companies and provide them whatever assistance we can. I can also report that another important success story, silver eagle manufacturing, a company which makes truck trailer dollies in the columbia corridor on airport way, they were stalled in their efforts to get a contract that actually threatened the existence of the company with the u.s. Army. P.d.c. Economic development staff arranged a meeting with senator smith in order to help move things along. The technical support group making the decision has now awarded the contract to silver eagle. It calls for 573 trailers this year. The estimated value is somewhere between \$80 million and \$100 million, and this means 25 to 75 new jobs will be created as a result of that action. We continue to work with our regional partners in a number of ways, and the e.d.a. Grant that you'll consider after this item is a grant which we've secured from the economic development administration to complete a regional strategy which when completed will qualify us and the region as an economic development district which means we will then gain access to public works funding from the u.s. Department of commerce, something we haven't seen for 20 years. The regional partners are also helping to underwrite the costs of two marketing efforts, semicom, the largest semiconductor trade show in the world, in april, and cornet, the largest corporate real estate conference in may. P.d.c. Will, with the Portland business alliance, be attending the i.c.s.c. Conference, and -- in las vegas during that same time period. And i'm waiting for one of you to reply to our invitation to participate as well. Now in the area of the interstate revitalization and job growth, tri-met reports that there were 106 businesses along interstate at the start of the light rail construction several years ago. 51 businesses have started up or been added since that time along the interstate corridor for a total of 157 businesses. A good deal of the credit needs to go to tri-met, who have just done a great job in working with the businesses along that corridor and with other neighborhood associations and the city itself, even when you look at this in light of the fact that 24 businesses in the corridor left during this period, not -- none the result of the construction activity, this is a cygnet increase, and we think that our part in this success story, and we've been working with these businesses all along the way, we've assisted 25 of the companies directly on interstate. It's also interesting to note that 31% of those firms locating on interstate are women or minority-owned companies. I would now like to ask ray kerridge to join me at the table. Ray is here. Ray, as you know, is the director of b.d.s., the bureau of development services for the city. He and I work together increasingly, and our collaboration is on business retention, expansion, and recruitment. I want to acknowledge the work that ray has done in a cursory review of a customer satisfaction survey which was done last year. He's too modest to

March 24, 2004

mention these things, but in that survey, I found that out of 106 measurable service areas, the survey reported that virtually all saw improvements in 2003. This is pretty important to us. The problems formally associated with permitting in Portland I believe have been greatly improved. The notion that we have an unfriendly permitting business environment I think has been largely reversed, and needs to be sustained. A number of months ago ray and I got together and decided to team up on these improvements and actually utilize them to market our economic development program. This has become so successful that we've developed at p.d.c. Two brochures, one on the innovation and development services and business assistance description of the permitting program that ray has and his group has run, and a special program, the facility permit program, and we're using these as we mail out information to our economic development prospects, telling them this, from our standpoint, is a competitive advantage for the city, improvements have been so substantial. We also work to strengthen bonds between our organization, we have regular meetings. It's been a really great partnership, and I think ray would like to describe some of his thoughts and how we're using it to promote economic development.

Ray Kerridge, Director Bureau of Development Services: I'm going to be really brief. Just want to appreciate don's and p.d.c.'s support and the opportunity to partner with them. It's been great. Our joint goal is to make the city successful. And we realize that b.d.s., the economic vitality of the city is an important part of that equation. And we also realize that the permitting system is pretty crucial to that economic vitality equation. So we're conscious of the fact the better we are, the easier it's going to be for don to be able to market the city and bring the prospects in. So we're focusing on the goal of making our system better. I'm going to finish up by saying, look august head, we see a situation where one day in the future where the reason people come to Portland is because -- not because it's a great place to live, but because the permitting system is the best in the country.

Katz: That's a rather narrow outlook, but positive. [laughter] thank you, ray. I do also want to thank you for all the work. I've had a chance to work with ray on some of the efficiencies that we've looked at, and appreciate it.

Kerridge: Thank you.

Mazziotti: If I could close my report on some very good news about Oregon and Portland unemployment rates that may signal the beginning of a turnaround for the region. Our unemployment rate dropped to 7.1% in february from 7.7 in january. This is the lowest rate that our unemployment rate has been in 29 months. The last time Oregon's unemployment rate was this low was september of 2001, when the state was also at 7.1%, a long, long grueling time, obviously. But there has been an uptick in employment there. Were 4500 jobs created in Oregon last month, which is a significant increase. But as good as this message is, we've got to recognize we've got a long way to go to catch up with other metropolitan areas of our size. The metro area share of manufacturing jobs grew by 31% from 1980 to 2000. Manufacturing is a huge part of our economy. But in february 2004, the same time period we're referring, to manufacturing employment is down 17.5% from february 2001. So not all sectors are recovering evenly. Information sectors down 20%, business services are down about 9.8%. Our strategy is to systematically work on each of the factor that's go into the key ingredients to attracting and retaining firms, helping them grow. We think we're having significant success. We think that the permitting system improvement which have been made are fantastic from our standpoint, and if we can sustain our efforts and maintain our budget or even increase it, we'll be more successful in the months ahead, and i'll report that to you at the end of may.

Katz: Thank you.

Mazziotti: Thank you.

Katz: Questions?

March 24, 2004

Francesconi: I just wanted to make a comment. There's a lot of good news here. So you've done - - this is very good work by both of these bureau managers. The fact -- you got specific numbers in here, retention of 600 jobs, and expected creation of another 592 jobs. That's terrific. I think the

p.d.c. Commission should be commended for the establishment of the economic opportunity fund and the changes to the quality jobs program, which they did in July of 2003, which you give them credit for in this report. I also appreciate the -- that you've been going out and talking to a lot of employers, offering your assistance. I actually have been talking to a few myself. But I visited one on Friday. Harry's fine foods. And if it wasn't -- they told me it wasn't for p.d.c., they would have not been in the city. They would have chosen to locate somewhere else. So they have about 225 jobs, they have a lot of Latino workers, and it's a great success story. In fact, they wanted me to tell that you they would be willing to help you market Portland in terms of what a good place it is. So I wanted to thank you. I appreciate that you've acknowledged -- we've got -- that we've got more work to do, given the numbers you said at the end, but we have a strategy, and there's some good things happening. And I really appreciate your working with Ray to try to change the perception now that the reality is better on the permitting side. And I want to give credit to Commissioner Leonard for his leadership on this. My only suggestion on the -- on this is that on the permitting story, we still need to be a little more proactive. There's still some issues to address, which we're working on, but the perception out there that it's -- the permitting process is not good, is still very real. So the proactive approach through brochures, etc., about how we market this is really important. Because it's still very real. And so there's some more we have to do, but we're making progress.

Leonard: If I could make a couple comments on that as well. I really appreciate this relationship between Don and Ray, these will be two high-energy, type A personality guys that are pushing in the same direction, and it's --

Katz: We have two bosses -- [laughter]

Leonard: Quite a relationship. But it works well. And I hear good things about it. I'm also pleased to let the council know that yesterday at Governor Kulongoski's request, Ray and I and my chief of staff met with him and his staff because they wanted to know what it was we were doing to improve as much as we have the permitting process. They wanted the specific changes that have occurred. So I know the perception exists out there still that there are problems, because once you gain a bad reputation, it is a hard thing to get rid of. But the frequent users of the system have -- these are not necessarily people who just say nice things. Don will tell that you he refused to do business in the city. He wouldn't do business here anymore, and that at now he prefers to do work in Portland than other locales in the region because of the change in philosophy that Ray has overseen at B.D.S. One of helping people get through projects, not creating barriers. So this is -- these are -- I'm very hopeful that if we stick to our message and I'm sure that we will, and do the things we've been doing, this reputation that we had justly acquired will be replaced by a different reputation. That is one that people find facilitating as opposed to creating roadblocks to development. So thanks very much for your work, both of you, very much.

*****: Thank you.

Katz: Do you want to -- did you have anything else? You're finished? Did you want to add anything on the E.D.A. Grant?

Mazziotti: I don't think so. So that you understand, p.d.c. is the administrative agent for a nonprofit entity of 27 municipalities called the Regional Economic Development Partnership, which spans Clark County and include the three county metropolitan area. We applied for a grant at the suggestion of Assistant Secretary of Commerce David Sandstrom, I met with him in Washington and asked him if this would be possible, he said apply for funding, put together the regional strategy

March 24, 2004

piece that's are required, turn it in, and then we'll convert to you an economic development district. We're the only area that is not an economic development district basically on the west coast, and so we're on that track, if you approve the grant we'll proceed to complete the work, then we'll get classified as a district, and then we can go after funds like the going street bridge historically, that was built with e.d.a. Dollars back in 1976. And we can do similar kinds of things that we can't do today, so this will enable us to follow through with some infrastructure dollars that just are not otherwise available in areas where we're not -- are not renewal areas, or you don't have a capital improvement program going. Let me just say that commissioner Francesconi gave us two business leads last week, both of which we're following up on. One of which is a very interesting company whose name I won't mention because they haven't released me yet to do so, but they're a glass company that's engaged in glass -- they're glass suppliers as well as creators of artistic glass for light fixtures. Headquartered in Portland, they -- they could locate anyplace they wanted to, they actually send their product to venice to be fabricated into other products. They're going to consolidate their operations, we hope, and probably locate an industrial facility on the central eastside that will be just employ 100 people. And we're in the process of discussing that and commissioner Francesconi brought it to us, it's a good example of how you give us those leads, we will follow up. Commissioner Saltzman's done this in the past as well, where we've -- it turns into success. The other thing i'd mention, we haven't documented this yet, but I think as everybody knows, the mayor has a special program inside her office for tough issues where they cross many boundaries of many agencies, and called sdot that doesn't intervene, but assists in commissioners where a business is stuck in the pipeline somehow. And we're in the process of documenting that and developing that into a story, because it's been greatly helpful to us.

Katz: That would be a good third brochure.

Mazziotti: We're working on it now.

Katz: All right. Questions? I think everything was answered. Good. Glad. We'll continue to do that, and I hope to bring this young who made this decision so we can poke a little bit at him and find out what it was, because that we need to market as well. Don, thank you, and ray left, but I want to thank ray as well. I'll take a motion to accept the record.

Leonard: So moved.

Sten: Second.

Katz: Roll call.

Francesconi: I made my comments. Thanks. Thanks for your quick follow-up on some of this. Aye.

Leonard: Aye. **Saltzman:** Aye. **Sten:** Great work. Aye.

Katz: Good work. Let me just add, I really do appreciate the work that ray and commissioner leonard have done, but I also need to thank sam adams, who worked with the bureau a year in trying to set the foundation for a lot of these changes. Just like yesterday, when we celebrated the holman park, I reminded the audience, commissioner Francesconi was there, that it's nice we can take the credit for it, but it really was mike lindbergh who had the vision and the early drawings that we brought to fruition. But there is a lot more to come, and I would hope that the entire council would provide leads to us so that don and his team could follow. Thank you, everybody, aye. [gavel pounded] anybody want to testify? On 280? Roll call.

Item 280 roll call.

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

Katz: Mayor votes aye. [gavel pounded] 261. Whoops. It's not 10:30. Let's go to regular agenda, assuming -- well, I hate doing this, because people look at the agenda and see time certain, and are not necessarily here. Let's do 281, it's a second reading.

Item 281.

March 24, 2004

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

Katz: Mayor votes aye. [gavel pounded]

Francesconi: Is parks here?

Katz: Is parks and richard and jory lakeman and david orkney here?

Francesconi: No.

Katz: Let's take a break. We'll recess until 10:30. North Portland.

Item 261.

Francesconi: If it wasn't for the system development charges, we wouldn't have about to have another 48 acres that's going to be part of a regional habitat, not only inventory, but place for our citizens to have and own. It's the will rogers quote, buy land, they ain't making any more of it. And when it comes to our natural resources, the habitat value, that is particularly important here. So it was the s.d.c. Program that contributed the bulk of the money, but the other commissioner, commissioner Saltzman and the bureau of environmental services, also helped. Since the s.d.c. Program began, we've been able to purchase about 50 acres in 1998, 50 acres of active parkland, and 124 acres of habitat park. So this is a terrific thing. I also want to thank the property owners for choosing to let the public be the purchasers. And i'd like to thank the citizens of southwest and the whole city and the parks staff who are so terrific at being stewards of our city for future generations. And this is a major purchase. And commissioner leonard, what you're about to hear is one of the real values of our parks system development charge program, which was the payer for this. Zari?

Zari Santner, Director, Parks and Recreation: Good morning, mayor, members of the council. The ordinance before you requests authorization to purchase a piece of property owned by lakeman orkney and known as the sunrise property. As commissioner Francesconi mentioned, it's over 48 acres of land, in fact, if you include some of the right of ways that are included in that piece of property, it's about 56 acres of wooded hillside adjacent to marquam nature park, and within carolina terwilliger watershed. This purchase will protect highly valuable natural resource from development that was very imminent. This purchase also advances several regional and city natural resource protection goals. Metro's recently completed inventory of riparian and wildlife habitat resources estimates that more than 10,000 acres of land within the willamette watershed provides regionally significant riparian resources or wildlife habitat. As you can see from this map, the darker blues are the areas that were identified by metro, properties with high value, natural resource value. It shows that this piece of property is a very, very critical link within the identified sites. The willamette river condition reports from river renaissance project. Report that's almost 7600 acres of land in Portland's willamette watershed is within environmental zones. This report suggests acquisition as one of the means to influence the condition of the riverbank and the upland areas that affect the health of the river. The recently adopted marquam hill plan includes the policy that calls for enhancing -- enhancing the marquam hill area through the preservation, protection, stewardship, and enhancement of open spaces and natural resources. This acquisition as you can see fulfills the objectives of protecting the wildlife corridor on the west hills, it protects the city and other partner organizations existing assets, such as the marquam nature park, terwilliger parkway, and the three rivers land trust property nearby. It contributes the advancement of the marquam hill and the southwest community plan, and it expands the recreation opportunity for all citizens of Portland. It's also very befitting that at the conclusion of the centennial year of the olmstead plan for Portland's parks, we are advancing yet another one of the reports recommendation. I would like to end with this quote from that report. The investment of the comparatively moderate sum in the acquisition of these romantic wooded hillside for a park or a reservation of wild woodland character would yield ample returns in pleasure to taxpayers and to those who depend on them. It is true that some people look upon such woods merely as a troublesome encumbrance, standing in the way of

March 24, 2004

more profitable use of the land. But future generations will not feel so and will bless the men, and I would like to add women, who are wise enough to get such woods preserved.

Katz: They didn't get it in those days.

Santner: They didn't. I would like to express my gratitude to bureau of environmental servicing who partnered with us, and came up with some funding to acquire this, and as commissioner Francesconi mentioned, without the system development charges, we would not be able to buy this. Thank you.

Katz: Thank you, zari. All right. Who wants to come up and talk to us about this? How about the property owners? Are they here? They're shy, they're not here? Come on up. Do we have a sign-up sheet?

Francesconi: If barbara walker could come on up.

Katz: Barbara, why don't you come up. We have three chairs, so whoever wants to come up, come on up. Barbara, we'll let you start.

Barbara Walker: My name is barbara walker, 1891 southwest hawthorne terrace, 97201. It is incredibly fortuitous when outstanding neighborhood, civic, and city leadership converge with a long desired opportunity. This is just that. It is obvious from this presentation and the maps why from so many perspectives this piece of property has been the top priority for natural spaces open acquisition. Its size, its location, the unique quality of its natural habitat, its roll in storm water and surface water management and passive recreation. Above all, the quality and the connectivity of this piece. Just consider this -- it's the largest piece of this caliber land left within the city. It is the missing link between forest park, mcclay park, the pittock mansion property, council crest, then this piece of land, the only missing link, and then the school site, the 43-acres that were donated -- not donated, but dedicated by ohsu to open space, the keller property, which went through the nature conservancy and is now in three rivers conservancy ownership, the property purchased by metro for its wild space, all -- and terwilliger parkway, all because people recognize that the connectivity is what we need, whether we're two-footed, four-footed or winged creatures. Great city and civic leaders made this possible. The right people at the right time. First the cooperation and generosity of richard lakeman and david orkney made it possible for the city to acquire the site for less than its appraised value in spite of competitive development offers. 25 years ago, dick lakeman offered the friends of marquam nature park and the city a trail easement through this property. In spite of the fact they didn't know how it might hamper development. Perhaps it was no surprise, because lakeman, a former city planner, was an original prone of the willamette greenway, which was then nonexistent. Mr. Orkney and norm daniels of g.i. Joe's, when I went to ask them if they'd put an ad saying, would they please support marquam, say they would join us in supporting the nature park, and one of their ads, because we couldn't afford an ad in the newspaper, said yes, gave us several thousand dollars, and then printed t-shirts to help us promote the cause. And when I went out I said, which ones aren't selling, what's the poor -- we don't need the best quality, he said, oh, yes, you do. This is the best color, this is the -- that's what you want. For a fledgling project that no one knew about. Thank you once again, richard lakeman and david orkney. They are city civic heroes. Riley whitcom from the park bureau coordinated and negotiated the this bargain sale and donation so professionally, and in time, not to lose the property to another bidder. In the 30 years i've been around, this place, I mean, this kind of thing, will it's the best. With the low-interest rates the property has become value automobile now for upper end development. Instead, it will become a most beneficial asset for the bureau of environmental services program to use natural resource lands to hold back, cleanse, and filter surface water run-off. Thanks to bureau of environmental services for investing \$350,000 in this sustainability project. Most of all, however, I want to thank zari and jim Francesconi for their appreciation of our parks heritage and their sense of responsibility for continuing this legacy for our growing population and future generations. Jim and zari and the

March 24, 2004

foresighted citizen committee, with the blessing of the city council, this city council, prepared for that kind -- this kind of opportunity by adopting the citizen development charge. It is on new residential construction and allows new residents to share in the cost of providing additional parks to serve a growing population. It's fair. Which shouldn't saddle everyone who's there with the new growth, nor the new growth with everything that's already there. Mike Houck, an outstanding member of that committee, as you probably know, never let us forget that natural areas should be part of this package. Now, the five of you have the opportunity to be the city council that approved this purchase finally available after 100 years. This one last-time opportunity before it's developed. Future generation and civic historians will lodge you, I think, for your leadership. Thank you for allowing me to count my chickens before you've hatched them. [laughter]

Katz: I think you know us better than most people. Thank you, Barbara. Go ahead.

Doug Weir, Friends of Terwilliger: My name is Doug Weir, today I'm speaking on behalf of the Friends of Terwilliger. There are moments in our lives where we do things that are larger than we are. And this is one of those moments. As one of the original settlers of Portland in the 1840's, James Terwilliger established land claim in southwest Portland. The southeast section of this property is part of that original land claim. About a century ago, the early 19 -- in the early 1900's, his descendants, the Terwilliger family, donate additional section of their property to help establish the Terwilliger Parkway. Since then, other parts of the Terwilliger land claim have also been preserved as open space. Part of the OHSU property that they've rezoned is open space. The natural area that is now in Stewardship of Three Rivers Land Conservancy, and the former Melitas property that we as a community purchased through the Metro Spaces Open Bond measure back in the 1990's. So this purchase continues the legacy of the Terwilliger family to the City of Portland, and it is a rich legacy. This property also has a very bright future. The benefits of which we as mortals cannot truly fathom. With this protection, it is likely that hundreds of years from now countless people will walk these trails of this area and praise the wisdom of their forebearers to preserve this land for them. As the city continues to build up, these natural areas will continue to become more precious to the people who live here. So on behalf of Friends of Terwilliger, I want to join those future generations and acknowledge the power of this moment. I want to thank the property owners, the Lakemans and David Orkney, who worked with the city to sell their land. I want to thank you, the city council, I want to thank Commissioner Francesconi, Parks Director Santner, Robin Grimwold, a parks planning, who works on this project, and all the others who worked so hard to make this happen. And of course B.E.S. as well. This effort is especially commendable considering the formidable current budget constraints. Lastly I'd like to thank Jim. His leadership working with Steve Bricker on working on natural resources for the city is inspirational. It's been a true pleasure to work with him over the years, and I think he's a public treasure that the city genuinely appreciates and values. Thank you.

Katz: Hi.

Janet McLennon, Three Rivers Land Conservancy: Mayor Katz, members of the council, my name is Janet McLennon, I and I appear as a resident of southwest Portland and representing Three Rivers Land Conservancy. On which I serve as a member of their advisory committee. Three Rivers and I personally think this is a perfectly marvelous opportunity for the City of Portland. And we support it and endorse it wholeheartedly. The benefits have been repeatedly told to you today, and I can't add to them, though I agree with all that has been said. Three Rivers is a fairly new in particularly in owning property in close proximity to these properties, the Lakeman-Orkney properties. But as a resident and one whose property joins the Three Rivers property, I can say that their stewardship over the last several years has really brought remarkable management and improvement and attention to that land, and the acquisition by the city of this land will further

March 24, 2004

enhance their ownership, and we're very pleased that you're considering, and I hope will approve this. Thank you very much.

Katz: Let me add, I don't know how many of you know this lady. Probably many of you don't. I have worked with her in the Oregon legislature, and she's one lady that educated many of us newcomers about all of the discussion we just had this morning, about the greenway, about protecting parkland, about the river, about all of the environmental opportunities that we need to grab and preserve for the state of Oregon. And it's nice to see you. Thank you. All right.

Lind Bauer: Linda bauer. I live on the other side of the city, but I really appreciate the park bureau's global look at trying to get as much park land for all of the people of the city of Portland. And thanks to b.e.s. Too. Thank you.

Katz: Thank you, linda.

Dawn Uchiyama, Bureau of Environmental Services: I'm dawn uchiyama, the willamette watershed manager. On behalf of dean marriott and mary wahl and the rest of b.e.s., i'd like to add my support. Zari and barbara have stated all the things that our interests are, and I just wanted to call to your attention that this past spring this property was identified in the willamette watershed characterization as the highest priority for acquisition, and very shortly after that, we were looking at development plans for this property close to 129 units were being proposed here, in addition to stream crossings, and canopy removal, and very steep grades on streets. We had serious concerns about putting in a pump station that would have to accommodate the development here. The effective storm water management would be virtually impossible, we were very concerned, and knew there was a really high potential for this property to be severely altered. So very shortly after reviewing those proposals we learned that parks was here and interested, and we're rallying the troops to get the funds together and have this happen. I'm just very pleased that the willamette team could be a part of this, and support parks very much in this effort.

Katz: Thank you. Anybody else?

Tom Guinon, Marquam Nature Park: Tom guinon, president of the marquam nature park. I am also a resident of Portland, I live in actually 8528 north tioga avenue in Portland. That shows you something about how special this area is to me, and should be the people of Portland, that even though I bought a house in another part of Portland, I still remain involved and I travel to this place for recreation. Let's -- i'm going to confine myself to issues that haven't been discussed as much. Definitely thank you to all the many people involved with b.e.s., parks, and lakeman and orkney. But this area, if you've you add up all the numbers this, is over 150 contiguous acres without any sort of road crossing it, between all the various landowners who have dedicated the land adjacent to this property as open space. I've also been looking recently at the last -- last few days looking at the maps and just sort of going hypothetically, ok, where could you put a trail here and suddenly you realize the potential great connectivity from some of the neighborhoods around there down to barbur, which represents -- has very high quality transit service, and come on, especially on a day like today, can you imagine walking, let's say, half a mile down a trail to the bus stop? It strikes me as a wonderful way to begin your day. And also introduce, the value of this -- the value this represents. Much of southwest Portland in that area, a lot of quarter acre to a third of an acre will be offered with the stated selling price of \$100,000. We are getting effectively 55, 56 acres for far less than that. Thank you.

Katz: Thank you.

Anton Vetterlein, Homestead Neighborhood Association: I'm anton vetterlein, 430 southwest hamilton street in Portland. I'm the president of the homestead neighborhood association, i'm also a board member of friends of terwilliger. And this purchase of the property is really a dream come true to many of us in the area there in the homestead neighborhood. As you know, this property is on the -- within the homestead neighborhood on our western boundary. And it's part of a very large

March 24, 2004

contiguous green space that only recently has gotten the protection it deserves, and as I mentioned, I think once before you -- if you head out of city hall and you're looking for some wild undeveloped area, that would be the closest one you could get to going up sixth avenue to marquam shelter and it's contiguous from there all the way over to terwilliger. This creates a green belt around ohsu and the really dense development that's happening up there. And I think it also is -- it carries out the holistic vision that the homesteads had of linkages between parks and other parts, you know, we have potential linkages to the south park blocks, and down to the waterfront as part of the tram project. The only other thing I would hope we could see happen in the near future is for the ohsu property to come into park's ownership. I think that's really important still. It was great to have it zoned open space as part of the marquam hill plan, but we know that ohsu could petition at some future point to change that zoning, and I think it makes sense to consolidate those properties into something that we can really count on being there for a long time. And I don't think it would be too much of a burden for the city to do that. There's a lot of volunteers that are already working in this area. Lots of work has been done by friends of marquam nature park and john stevenson has done - - put in hundreds, thousands of hours working on trails up there. Ivy pulling has been coordinated by friends of terwilliger, and the three rivers land conservancy is planning an ivy pull up in this area I think on the ohsu property on april 24. And if you haven't been up there recently, now is a really good time to walk up the marquam nature trail. The trilliums are blooming, it's about as beautiful a time of year as you could find up there. And I hope we can remeet this success in other parts of the city through the system development charge program. Thank you.

Katz: Thank you.

Joe Poracsky: My name is joe poracsky, I reside at 1826 22nd avenue. I emphasize my home is in southeast Portland, since that fact relates to my testimony. I'm here to strongly support and implore the city's acquisition of the lakeman-orkney property in the west hills. The acquisition and protection of this parcel is important for a number of reasons, including the parcel's value as wildlife habitat, its function as an interceptor runoff, and its role as a connector between adjacent green spaces. I would like to emphasize an additional equally important value. The regional aesthetic. On the one hand, properties in the west hills are heavily marketed for their views looking down on the willamette valley. With the conditioning development in the west hills, we're seeing an increased rate of removal of trees. Both to make room for the development and to open up the views on the already developed properties. On the other hand, I would like to note that for myself and tens of thousands of others who live on the east side of the willamette, our view is looking back up at the west hills. And for many of us, we much prefer the calming green of trees to the towering facades of thousands of hillside stilt homes. We're nearing a threshold in west hills development where soon we have more facades than trees. Once that threshold is crossed, there's no turning back. The west hills landscape is one of the treasures of Portland. I'm delighted to see this acquisition, and I urge that there be many more like it. Thank you.

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

Alice Bladd: I decided as long as I showed up I would take one minute. I can never take one minute.

Katz: I know you can't, but that's wonderful. Come on, grab the mike.

Bladd: Alice bladd, 15231 northeast holladay. I'm here as a representative of outer northeast. And i'm very pleased to be in favor of this acquisition. It truly is one of the olmstead emeralds. I love the quote from will rogers that commissioner Francesconi has already given you regarding their there not making this stuff anymore. I wanted to mention a couple things. The outer northeast, which about 15 years ago was pushing and promoting the corridor function, the connectivity function of natural areas, we are so pleased that over time these have become the objectives of b.e.s., of the parks bureau, of planning, and we have been the beneficiaries in the outer northeast

March 24, 2004

recently of several acquisitions for which we are most grateful. So under those -- at any rate, the -- obviously the acquisition of areas in all parts of this city benefit all of us, and this is definitely one of those actions. I did want to mention that jim from parks has been a major mover for our area as well as for the downtown, & other areas, and we would like to thank him, b.e.s., nancy hendrickson, susan, I know this is -- one shouldn't start mention names, one leaves everyone out. But we -- and we do appreciate the emphasis of this council in what it has done to promote environmental improvements and beauty in this city. Thank you very much.

Katz: Thank you, alice.

Rich Davidson: I'm rich davidson, I reside at 3434 southwest 12th. I've been a member of homestead for the last 30 years this year. And past president. I just make my comments very short. This is a moment in history that we have waited for for a long time. In particular, I would like to give my special thanks and recognition to barbara walker and doug weir for hundreds and hundreds and hundreds of back-up work in the years and years of putting the little pieces together that come to a moment like this in history, and this will be a moment in Portland's history that will be a significant moment for a hundred years from today. If I could volunteer my services to raise a committee or something, main to put a park bench up or a bronze plaque or something like that to those two people, I would be very happy to volunteer to do that, or something raw long a terwilliger memorial, because I see those two names as significant as the terwilliger names as their names came up 100 years ago. Thank you very much.

Katz: All right, everybody. This is a wonderful moment. Roll call.

Francesconi: It is a wonderful moment because of all of you folks. Three quick points. "the Oregonian" had a great editorial on january 1. They said that public transit, public schools, and public parks are institution that's were really proud of in Portland here. And they keep us together. They're not repositories of the poor, like other american cities. So this is a public park, a public natural area park that will be there for our kids, and our grandkids, and everything else. So it's terrific, because of your efforts. Secondly, one of the strengths of Portland really is the diversity of Portland. Diversity of neighborhoods. Diverse testify -- diversity of landscapes, diversity of parks. It's an exciting place right here in our city. So it is true, we do need more density and some -- in some neighborhoods. We need more jobs in some areas. But we also need more natural areas. Especially in places where it would be very bad to develop as was said this, is very fragile area, it's a habitat corridor, it's contiguous to a lot of other natural areas. And here we need a natural area. And I guess the last thing is, the citizens. I actually visited friends of marquam hill and friends of terwilliger about four years ago, and doug and barbara were telling me, this has got to be in the public ownership: And you were persistent on this. And you wanted this to happen. And what I was also touched with, and anton mentioned it, people have been building these trails, citizens have been building these trails maintaining these trails, pulling ivy, taking care of hundreds of acres on their volunteer time. The council did a great thing about four years ago when we put money, \$300,000 into maintaining our natural areas, but that's just a drop in the bucket. And it was all these citizen hours. So if you loved it so much, and you demonstrated it for so many years, the least we can do is add to it like we're doing today. And the last thing is, I do want to recognize two people, and that's riley whitcom and jim. Who make sure natural areas get their fair due within the parks structure. And our partners, b.e.s. As well. So thank you, everybody. Aye.

Leonard: I've had a conversation with some of the development-minded members of our community, and have reminded them that the environment is not a subsidiary of the economy. That we have a few opportunities to do things as we're doing here. I know, for instance, alice has been involved in the columbia slough watershed council, and the work out there, which is not as easy to observe from around the city as what we're doing here, but is equally as important. And for those of us who grew up around that area and see the changes there, it is heartening to see. So I have an

March 24, 2004

opportunity to vote for this today is really one of the few fun things I can say i've had to do in the last 16 months. Aye. [laughter]

Saltzman: This is really a great treasure coming into public ownership, and I appreciate first of all the property owners for finding the way to negotiate a deal with the city, but i'm sure with people like barbara walker and doug weir, sort of paving the way, i'm sure the negotiations probably went really smooth, and i'm glad that b.e.s. Was able to play a role in coming up with this deal. This truly is an asset. Short and simple, it's good for water quality, it's good for wildlife, and it's good for walkers. Aye.

Sten: I want to try to congratulate the whole team, particularly commissioner Francesconi for persevering with the s.d.c. Program. This is a great instrument, and people will love this for many generations to come. Thank you. Aye.

Katz: I want to thank the property owners for something that wasn't mentioned that's in the ordinance, that they will make a charitable contribution to for \$300,000. Zari, don't worry, i'm not taking it away from you to balance the budget. But that's a wonderful gift too, because that will add to the pot of money that hopefully we keep to continue purchasing parks property. All of you and barbara especially, thank you so much for staying on top of all of this during all of the years of your public service as a private citizen. And certainly to lakeman and orkney. Yeah, could you have sold it for development, and it would have given b.e.s. Heartburn, it would have given us a real difficult probably land use decision that we would have to make, who knows what the future of that would have been. But you made the wise choice and you gave a part of you to the 70 for hundreds and hundreds of years to come. So thank you. Aye. [gavel pounded] all right. 262. [applause] [gavel pounded]

Item 262.

Katz: We have a substitute.

*******:** Yes, we do.

Katz: I've got 262 substitute. Jim?

Francesconi: I'm here. Yeah. Can I offer that?

Katz: Why don't do you that.

Francesconi: I guess i'm just offering the substitute.

Katz: All right. The motion is to substitute item 262. Does everybody have the language? You have it as a substitute?

Parsons: As an amendment.

Katz: Let's do it as an amendment.

Francesconi: Ok. It actually an amendment. We're changing northwest everett to northwest hoyt in paragraph c. And we're changing a map, so i'll move the amendments.

Saltzman: Second.

Katz: I hope you're not changing -- you're going to confuse everybody. [gavel pounded] aye. Amendment is adopted. Go ahead.

Randy Miller, Office of Transportation: Good morning mayor and commissioners. Randy miller, office of transportation. The item before you is an ordinance for the establishment of a p.g.e. Park area parking permit program in the area known as zone l. Each year for the past three years, the office of transportation has brought before you a similar ordinance to establish the zone l area parking permit program which was originally established as part of the implementation of p.g.e. Park. In preparation of this coming baseball season, we once again have prepared this ordinance but there are differences between this year's version and past versions. The first is the way in which it operates. Hereafter it will automatically recur annually each year, thereby obviate the need for an annual ordinance. Each spring it will go into effect with -- at the onset of baseball season and the -- and conclude at the end of the baseball season. An important distinction is that the zone l is not a

March 24, 2004

permanent area parking permit program as defined in title 16 of the code, unlike typical area parking permit programs, which are permanent in nature and operate year-round, zone l only operates for six months of baseball season. It has been adopted annually for the past three years and we are now reaching a point of stable implementation and in addition, the northwest district parking plan is no longer pending as a result of council action on february 25. Given these circumstances, we are recommending this passage on an annual recurring basis. This eliminates the redundancy of returning each spring with an ordinance to establish a six-month program. We don't anticipate any significant changes in either program operations or the time frame from year to year, but if there are material circumstances which change, we can bring back a modification to the zone l ordinance. The second change is that the directive that the spectator facilities fund provide an annual budget allocation to support event parking enforcement. This demonstrates the city's commitment and assurance to neighborhoods of the city's intent and maintaining an effective enforcement presence during baseball season. The current financial plan for spectator facilities fund includes an allocation of \$40,000 to support enforcement. This provision would continue also as an annually recurring basis as a result of this ordinance. The last of the changes came about as a result of a problem between the boundaries, the overlap between zone k and zone l. If you look at exhibit a, that might help you follow along. Zone k is an area of permit parking program bounded by burnside, northrup, northwest 16th and northwest 18th. The overlap has caused enforcement problems in so far as the complexity of the signage required to explain the parking regulations has often resulted in citations being dismissed. The proposed change will simplify the signage and create a more difficult situation for residents just outside of zone k west of 18th between everett and burnside. The northwest district association made a request on behalf of the residents west of 18th to include within the boundaries of zone k. The zone k committee met on march 12 to consider a request. They understood that the original ordinance which established zone k prohibited the change of boundaries in zone k. However, they were aware sympathetic to the polite of the residents west of 18th and wanted to offer some relief. They made the recommendation that the entire overlap area of zone l overlaying zone k be removed and the boundary of zone l be changed to northwest 18th. As a result of that, we are recommending this additional change to the zone l boundary. Based on the forgoing, we have prepared this ordinance and recommend its passage. We understand there are representatives from the neighborhood who may wish to testify and we are prepared to answer any questions.

Katz: Thank you. Questions by the council? All right. Let's -- I know chris is here.

Alan Costly, Chair Parking Permit Committee for Zone K: My name is alan costly, i'm a resident of northwest Portland and the chairman of the area parking permit committee for zone k. We've been extremely pleased -- zone k has been pleased with the success of zone k as a mitigation factor in terms of commuter parking and increasing -- generating turnover into parking spaces within the zone k area during the daytime. The hours that zone k is in effect have been 11:00 -- 8:00 a.m. To 6:00 p.m. Obviously key to this success is enforcement of parking, the parking regulations, and the signage has been too confusing when zone l comes on board, and suddenly we have a mishmash of regulations. It was proposed, suggested that maybe a solution to this would be to increase the hours in zone k so that it would be in effect from 8:00 in the morning until 11:00 at night so that it would correspond to the zone l hours from 6:00, which is -- which are really 6:00 to 11:00 and saturday and sunday. That seemed to -- that potentially created a hardship for people outside of the borders of zone k who would no longer -- residents of northwest who would no longer be able to park in zone k after 6:00 p.m. So as a result of ensuing discussions, we essentially decided to request that on a trial basis we opt out of zone l, which is really created as a mitigation for p.g.e. Park events and parking, and for a variety -- I think for obvious reasons, the mitigation that was -- that we thought was going to be needed has not been needed to this point. If

March 24, 2004

circumstances change, we'd like to reconsider our opt-out, but at the present time, this -- what we are saying is zone k would have one set of parking regulations that would exist basically from 8:00 a.m. To 6:00 p.m., regulating parking during the day, only one sign, there would be no overlapping area and mishmash of regulations so that it would be straightforward if you have a zone k permit you could park there. Zone l would not be signed in our -- within our area. We're willing to take the chance of -- and to allow other residents of northwest Portland obviously to park in zone k after 6:00 in the evening. So that is -- that's essentially the proposal that is before you.

Katz: Thank you. Chris?

Chris Smith, NWDA Board and Chair of NWDA Transportation Committee: Chris smith, 2343 northwest pettygrove street. Member of the nwda board and chair of its transportation committee. I'd like to comment on a couple of aspects of this ordinance which I am here to support.

The 1st is the annual renewal be automatic. The original recommendation of the c.a.c. Was for an annual sunset to make sure that we had some annual examination to make sure we eventually got to a permanent plan. Of course the -- since the plan is now in limbo at the request of my association, I can't criticize too much the fact that we're removing that annual review, but I couldn't let this go by without noting that. We appreciate the efforts of pdot to streamline the enforcement of zone l. The idea of getting rid of the multiple signage makes a lot of sense. And we also appreciate the budgetary commitment to enforcement funds, that's very important. Having said that, we do still have a boundary issue with zone k. Zone k was the first experiment and permit parking in northwest and I think we learned some lessons. One is, don't draw boundary lines down the middle of streets, it makes one side of the street angry. There is a group of neighbors between burnside and everett along the west side of 18th who feel like they have been disenfranchised by zone k. They come back to us every year and remind us of this. In the evolution of the streamlining project, we had suggested a remedy that might accommodate them. The zone k committee has opted for a different remedy. We have some concerns that the -- while the zone k folks feel they don't need the p.g.e. Park mitigation, we're not going to know that until we don't have zone l on their area, so i'd like to ask you to be open to a revision to that at some point in the future, if that proves necessary. We think it's also time to do a process in the neighborhood to look at the boundary issue for zone k, particularly with respect to how it interact with zone l, and come back with a neighborhood recommendation on that. We didn't have a chance to do that in the process leading up to this ordinance, because we kind of went from one proposed solution to another proposed solution to get another, and didn't get all the parties in one room at one time to look at the final results. So we'd like to do that and reserve the option to come back to you with a recommendation on that in the future. But passing this ordinance is certainly the prudent thing to do today.

Katz: Thank you, chris. Did you want to respond to that?

Costly: The only thing I would say is the discussion about border adjustments on zone k, i'm aware of the fact there have been people on the other side of the -- outside of the border who have had issues. I would like to make one point, and that is that in the 41/2 years that zone k has been in existence, we have had zero complaints from inside zone k from residents, tenants, businesses, commercial development, property owners. Everyone within zone k has been extremely pleased with the success of zone k.

Katz: Ok.

Costly: And i'm -- I guess I see border changes there, the potential success of those would need to be part of an overall northwest parking plan.

Katz: Ok. Questions by the council? Anybody else want to testify? If not, roll call.

Francesconi: Thank you for all of your work on it, all of you aye.

March 24, 2004

Leonard: I too want to thank you, but really encourage you to get the overall parking plan -- I more than anybody get the politics of it, but we need to have a balanced plan for the residents. Aye.

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

Katz: Mayor votes aye. [gavel pounded] thank you. All right. 279.

Item 279.

Katz: Ok. What do we have here?

Peggy Anet: Good morning, i'm peggy anet at the city's benefits manager. I'm here today to request approval of this ordinance that simplifies the city's eligibility requirements for its health plans. It will affect the majority of the city employees and the unions that have been noted in the title of the ordinance, which includes dctu, boec, the recreation employees, coppea and all nonrepresented employees. You actually have heard about this change before because it was part of the negotiations for the contract extension with dctu. And we worked through the issues at that point. As a result of work on the new open enrollment system, online enrollment system, we requested early implementation of this change to simplify some of our programming requirements. The dctu have supported that as well as these other unions that i've noted. Currently the eligibility for city benefits is based upon what we refer to as the 80-hour rule that. Means after an employee becomes first eligible for benefits, they must have 80 hours of paid time in the previous month in order to maintain their benefits. This is confusing for employees and difficult for us administratively. What we are proposing -- and this is particularly difficult I should say for those individuals who are on various forms of unpaid leave, because when they come back, they often times are not aware that they must have had 80 hours of paid time in the previous month in order to be eligible for benefits. What we are proposing here is that the simplifications will include first that new employees will be eligible for benefits the first of the month after they become employed. They then -- the benefits will then be continuing for these individuals. We will not be tracking whether or not a person has worked actually 80 hours. The area where I think that there's a lot of support from the unions as well as for ourselves, for those people that are on leave, when they leave, they will have coverage on some form of unpaid leave. They will have coverage through the end of the month in which they have been placed on leave, and then when they return from that leave, their benefits will be effective retroactive to the beginning of the month. So we're no longer tracking hours for all of these individuals. There will be no changes in the benefits eligibility who have continued coverage under the family medical leave act, which is a federal law, and then there are various contractual provisions that extend city paid benefits for people who are on a worker -- work-related kind of leave. So again, there will be nothing in this that diminishes that provision. I will also point out that in discussions with the unions, I had a number of questions as to when this was going to be on the council agenda, and they were very much supportive of this and they were also interested in having a joint letter going from the city and from the various union leadership out to their members explaining what this change is. And we're proposing that it go into effect immediately and I should also point out that we don't anticipate any financial consequences for the benefit program as a result of this. I would be happy to answer any questions.

Katz: Thank you, peggy. Nice discussion. Questions by the council? Anybody else want to testify? Roll call.

Francesconi: Thanks for doing this. Thanks for your work on this. We need more than ever your expertise right now. Aye.

Leonard: And I want to acknowledge peggy, the good new refreshing approach you've taken in dealing with employees. It's been reported back to me that they're very appreciative of the more open, collaborative approach on these sensitive issues. Aye.

Saltzman: Aye. **Sten:** Thanks. Aye. **Katz:** Nice job. Aye. [gavel pounded]

March 24, 2004

Anet: Thank you for the compliments.

Katz: Item 282.

Item 282.

Katz: Commissioner Francesconi.

Francesconi: We made more changes. Especially on the issue of making sure parks supervisors sign off.

Katz: I need a motion to substitute.

Saltzman: So moved.

Katz: Hearing no objections, so ordered. [gavel pounded] Harry, why don't you explain what you all did.

Harry Auerbach, Sr. Deputy City Attorney: Thank you. Following on last week's hearing we went back and tried to address the concerns that you all raised. And I think we've done that. I just distributed a memo to each of you highlighting what we did do, and the one thing we didn't do, and I'll just go quickly through and it answer any questions you have.

Katz: Ok.

Auerbach: The first thing is, we made two changes to try to deal with the concern that was raised about who gets to issue park exclusions. The first is that we've provided an explicit direction from the council to the Portland police bureau and parks and recreation to train everybody who's going to be issuing these things on the proper way to do so. The second thing is, in the code we're going to provide that nonsupervisory parks employees will only be issuing exclusions at the direction of their supervisor or with the approval of the supervisor. Or the manager of the facility. So that should narrow it down, the scope of who potentially will be issuing them and prevent the willy nilly exclusion problem. The second -- the next thing we did was to further clarify what applicable law means to make it explicit that the law is applicable only if it relates to the person's conduct in the park. The third change was one I made at the request of the Oregon law center folks, I had a conversation with Marc Jolin, and he continued to express concern that the exception in the warning requirement for other situations in which it was impracticable to give a warning before excluding people created a potential where the exception would swallow the rule. So I consulted with parks and the police and they were both willing to give up that exception, so we were taking that out. And so it's only in the express instances where there won't be a warning before there's an exclusion.

We added a provision to subsection f of the code section to define the code hearings officer's scope of review, which is consistent with its current practice, but it will now be explicit so everybody will see, and it's essentially a preponderance of the evidence standard and the ability to review the legality of the exclusions. Finally, at Commissioner Francesconi's request, adding a direction in the ordinance for parks to return in a year with a report on how we're doing and if we see any changes we think are warranted we'll bring them to you at that time. The things that we did not do was to change the effective date of when the exclusion start. That is, the way this ordinance is drafted, a person is excluded immediately, but can get a stay by walking down and filing an appeal of the exclusion. It was suggested we might try to categorize offenses and have the more serious ones effective immediately and wait on the others until the time for appeal ran out. We looked at that, and decided that it's not a good idea to do it and we're not recommending it. And there's a couple of reasons for that. First of all, it's based on the tri-met model and the way the tri-met ordinance was crafted, and I'm not sure if they -- this is the way they finally enacted it, but they divided the world into these two categories. The more serious and the less serious. And the less serious didn't go into effect until there was a hearing on the -- on their exclusions. The more serious went into effect right away. But they didn't have a stay provision in theirs, so the people who were excluded for more serious violations had no means of getting a stay of that exclusion until after they had a hearing. And so in that sense, we think our proposal provides a greater opportunity for everybody

March 24, 2004

who gets a park exclusion to have that -- the effects of it stayed because they control when they file their appeals and can get it stayed almost immediately by filing an appeal. The other thing is that there's a substantial difference between the way tri-met does exclusions and the way we do them. The -- in the tri-met system, they -- their ordinance provides that an exclusion can be for any period up to 180 days, or up to six months. The issuing officer determines the period. And the exclusion can be for any or all of their facilities. The excluding officer determines how much of the system the person is excluded from. We don't do that. We have provided in our code for the specific periods of exclusion and we limit the exclusions to the park in which the offending conduct takes place. So we think overall the burden on the system from trying to have everybody have a hearing before their exclusion is effective doesn't give people any greater benefit than what the system is that we're recommending to you, which allows them to get a stay more or less immediately if they're willing to go down and appeal immediately. While at the same time it would be extremely burdensome and I would say even impracticable in terms of administration. So that's the summary of the changes we are recommending, and the one that we're not, and if you have any questions, I'd be happy to answer them.

Katz: Questions by the council?

Saltzman: So now the employees who have the ability to issue exclusions by the city or concessionaire employees will have to have training, that's new, right?

Auerbach: Yes.

Saltzman: But we're still -- and supervisory sign-off is required for anybody except park rangers and golf concessionaires?

Auerbach: No. Golf concessionaires will have to. The only people that won't have to get sign-off are police officers, park rangers, public safety officers.

Saltzman: So you took -- so the golf -- so they do need sign-off by somebody.

Auerbach: Yes, by the -- whoever is in charge out there.

Saltzman: Ok. Great.

Katz: Further questions? Mark, did you want to say anything? And rosie, did you want to come down and say anything?

Rosie Sizer, Portland Police Bureau: Only if there are questions.

Mark Warrington, Public Safety Manager, Portland Parks and Recreation: Very quickly, we spoke last time with the need to get it right. I have worked with mr. Auerbach last week, I'm satisfied the issues have been address order his side of the operation. We're ready to implement with central precinct, commander sizer, officer jeff meyers to coordinate procedures, police status systems and training to make sure this is applied properly.

Katz: Thank you. All right. Is anybody signed up? Thank you. Mark? Did you sign up?

Warrington: No, I didn't.

Katz: Go ahead.

Norman Wicks Sr.: Norman wicks sr., norman wicks jr. Our mailing address is 4117 southeast division number 431. My concern about your exclusions from everything under the sun is that it's going to be used towards homeless people as it has been exercised in the pass. -- in the past. I'm not sure you folks are aware, but I received another camping ticket after judge gallagher's decision that his opinion was that your camping ordinance is unconstitutional and you continue to use other city ordinances to enforce that. And everybody knows it, everybody is saying it, it's vocal all over the city. And then you go up with this putting gates up while you offer no solutions for the homeless to ho can't afford the housing, or can't afford to live in certain kinds of housing, ok? There's a story behind every homeless person out there. Why they are homeless. You don't bother to ask the story and find out what the reasons are, you push them around and you condemn them to further homelessness and further sickness from living out in the streets. My son now suffers from

March 24, 2004

post-traumatic stress disorder from living on the streets with me, protecting me from the public that would hurt me, rob me, i'm 60 years old and i'm disabled. For god's sake, give a guy a break. Give the homeless a break. Stretch out your hand to the homeless like you do to all these rich folks back here that come in with park inclusions. Giving you parks, giving you space. Where's the space for the homeless? Is it down there? At dignity village where they're condemned to live there? Some of them people have been there for three years with no hope of getting out of there. I've been down there, I know. There's little children down there. There's teenagers down there. Living in squalor.

How dare you sit here and let them live like that and not offer them solutions to that: I've been down there recently. I've seen it. And you're going to give them a lease on what? On a new life? What kind of life is it? They have nothing down there. And you folks all know it. Every one of you know it: Do something about it besides exclude them from everything under the sun. What you need is a federal lawsuit and a federal courtroom to force you to deal with the homeless: To flake you deal with the homeless: That's what you need:

Norman Wicks Jr.: We're not homeless by choice.

Katz: Thank you. Did you want to testify?

Wicks Jr.: No.

Katz: Thank you. Go ahead.

Ed Johnson: Good morning. My name said johnson, I work at the Oregon law center. I want to thank harry and the city attorney's office, you have a better ordinance in front of you, I would say closer to being constitutional and leave it at that for now. The warning provision in particular, if it -
- [laughter]

Katz: You need work, don't you?

Johnson: Yeah, well, I don't want to concede too much. The warning provision in particular could be a big help to people on the street, I think. And -- but there's still a couple of problems that I foresee. I think that most people have always used their discretion wisely. There are hundreds if not thousands of potential excluders out there. Not just public employees, we've all gone through golf course concessionaires over and over again, I don't think that's a big problem in reality. The problem is there's nonpublic employees who can issue these things, folks that are employed by and paid for by the Portland business alliance who may also want to keep our parks safe, but they may have other interests as well, like keeping homeless people out of view of their customers. And so those folks give us some concern. Although even they probably exercise their discretion wisely in most cases, it's just when you have an ordinance that's too broad, some people can exercise their discretion inappropriately. And our concerns are that there are too many excluders, and there are too many offenses that can lead to an exclusion. If the precursor offenses were limited to safety-related incidents in the park, then I think the city would be getting at its objective, which is certainly to keep the parks safe. The -- I appreciate commissioner Francesconi asking for a review, and I can tell you what I would be looking for in that review. I might do it in six months, just to see how this should you choose to pass it, just to see how it's working, I would look at the reasons why people are being excluded. If people are being excluded for safety-related reasons, you've probably hit your mark with this new ordinance. If people are being excluded for having weapons in the park and threatening children and selling drugs, then you guys have hit your mark. If on the other hand you continue to see hundreds of people excluded from public places for reasons like disobeying a park officer, or disorderly conduct, or sitting on a railing, or having a skateboard, you may consider changing the ordinance again and simply giving tickets instead of lengthy park exclusions in those cases.

Katz: Thank you. Thanks for your help. Anybody else?

March 24, 2004

Paul McAdams: Power the camera and power the video camera. The power of the video camera is a lot. I've seen people excluded for sitting on a blanket, or young people because they were camping. There's a thing down, they removed it by the burnside bridge, like a chair type thing. That's what I do, I take pictures. You know, i've been in this town for all my life, and, you know, I don't -- a number of years ago -- I feel, I see the effect on the homeless. And what is needed to be done -- the camping ordinance -- you know, when someone has a blanket over them, you know, they're excluded for camping. So I think what should be done, get 500 homeless people together, go to every shelter, document those people going to that shelter. When they're turned away, then come here to city hall, camp out here, and then when they're excluded, then you go into federal court. And I hope there's some lawyers out there that will, you know, do this, because, I mean, you got 1500 -- I mean, people homeless. Maybe more. I don't even know how many, you know. I slept for 17 days out here when bud clark was mayor, for 17 days, with a man named jeff. We organized some of the demonstrations here. And -- you know, and nothing -- how many years ago, erick? Many years ago I went to Washington, d.c. Been arrested twice in the u.s. Capitol for the homeless, with mitch schneider. You know, it's not changing. I mean, there's not enough shelter space. In florida, what happened, a federal judge -- what happened, they filed a lawsuit against the city of miami, and a federal judge ordered the city of miami to set up a homeless camp and give them everything. So, I mean -- I mean, I -- I don't know. I mean, I know all the stuff with Portland development, how they were going to end homelessness. You've torn down most of the hotel, and the buildings that are -- they're gone. And you're not building affordable housing for people, having places for them. I don't know what can be done. It's going to get worse. I see so many kids out there.

Katz: Thank you.

Teresa Teater: Good morning. Teresa teater, Oregon city, Oregon. Martin sheen was recently asked what his best day ever was, and he said when he was arrested for standing up for civil rights. And your park exclusion, with measure 30 failing, police officers everywhere, don't have enough time to book these people into jails, into courtrooms, etc., from serious violations, I really believe that you ought to reinstate the learning issues, and then with a warning ask them to leave the park that day immediately with the warning issues, like, you know, immediately that day, 24-hour warning exclusion for that day, and if the behavior -- you know, three 24-hour exclusions in a row, and then courts, jail, whatever, but you can't be putting these people in jail immediately for a major violation, because you don't have the jail space down here. You don't have it in surrounding communities. I know this because this problem's going on. We now have believe it or not 6,000 homeless people in clackamas county. And the officers don't have time to deal with it. I understand that tri-met comparative study, and we can't rid of the kids at the Oregon city transit center out there. Yesterday I was threatened to be beat up on the way home, waiting there for a bus, a girl peeled off three layers of clothes and was ready to go at me. And the cops wouldn't come. They didn't have time. They had -- they had other important issues to get to. And so I know you have to water your parks at night and I know earlier today dignity village asked for the right to do park rotations at night. If you've got to water your parks at night, these people are going to be ticked off anyway. They're going to be wet when they wake up. I don't see that. I'm sorry they'll be mad at me if they hear this, but that's not a viable option for them to rotate parks. You've got to water those lawns. In the summertime I see people getting married during the daytime at these parks and I see the homeless people in the background in their photo albums. I'm sorry about this. We do have to find somewhere to put the homeless people in this town. Thinking these parking lots at night that the people that work 40 hours a week, when they go home at night, these parking lots are empty. Why not use a fenced-in parking lot and put the green slots in it, and they aren't seen and they can go in there and sleep and get them out by 6:00 in the morning so these people can park their cars

March 24, 2004

back in there. And they've got their tarps to put down. Pick them up, get them out, get them out of there by 6:00 a.m. I'm giving you solutions, people. I don't just come with a complaint. Fence them in, lock them in for the night, have a portable outhouse there, have a supervisor there. Thank you.

Katz: Thank you.

Francesconi: I don't want to comment on the substance, but I'd like to say very briefly on the process -- first, let me thank commander sizer for your patience, and Harry, thanks for your terrific work on this. But the discussion last week was really terrific. The Oregon law center, you know, you have to represent your clients, and if you choose to take it further with the courts, you know, you'll make sure we're doing the right thing. But I appreciate your work to make this better now. The one process I also want to remind folks of is looking at the regulations themselves to see what we can eliminate. I'd rather eliminate them completely than not enforce them. So in addition to coming back within a year on the report on the exclusion, Harry's also coming back about what regulations we're going to get rid of. So it's a two-part process.

Leonard: If I could, as well, the point made about the analysis of what kinds of exclusions are given, what the -- would be important for me as well to be able to look at. Listening at this discussion reminds of the ongoing discussion we've had at the bureau of development services about what causes the slowness of a permit, and there's one side that says there are too many regulations and there's another side that says whatever amount of regulation you have, if you don't have people to help you get through the process, you're not going to get through the process. The point being I don't want people that have the ability to enforce this ordinance to use it against people they don't like.

Auerbach: Right.

Leonard: Or people they might find offensive or people that say things they may not agree with. I will in a heartbeat vote to repeal this if we have evidence to that end. So what is reassuring to me in here is training, because what I heard last week what is the -- was the Portland police bureau is recognized as being fair and balanced in applying this because of their training. So I hope this training aspect is really focused on refresher training, those kinds of things, because, you know, while, you know, mime mindful -- I'm mindful that the right to free speech doesn't allow one to go into a crowded theater and yell fire, I also am mindful that at times people's expressions have offended those in authority, and enforcement actions have been over the top. I'm not -- I'm not for that.

Auerbach: I think everybody agrees with you.

Katz: One second. Does anybody have any questions? Did you want to add anything?

Auerbach: No. Commissioner Leonard makes a good point and we're working very hard to make sure that won't be a problem. There's not a regulation that anybody can write that somebody else can't misuse, and we're doing the best we can to make sure this one is used appropriately.

Katz: Harry, thank you. This passes on to second. Everybody, we don't have business this afternoon. We'll adjourn until 2:00 on Thursday. [gavel pounded]

At 11:50 a.m. Council recessed.

March 25, 2004

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.

MARCH 25, 2004 2:00 PM

Katz: All right. Item 283.

Item 283.

Linly Rees: This is an on-the-record hearing. This means you need to limit your testimony to issues in the record. You can also talk about testimony, exhibits, that were presented at the earlier hearing before the hearings officer. You can't bring up anything new. This hearing is designed only to decide if the hearings officer made the correct decision based on the evidence that was presented to him. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded that you must limit your testimony to the record. We will begin with a staff report by bureau of development services staff for approximately 10 minutes. Following the staff report, the city council will hear from interested persons in the following order - the appellant will go first and will have 10 minutes to present her case. Following the appellant, persons who support the appeal will go next. Each person will have three minutes to speak to council. This three-minute time limit applies, regardless of whether you're speaking for yourself or behalf of a business association or neighborhood association. The principal opponent will have 15 minutes to rebut the appellant's presentation. After the principal opponent, the council will hear from persons who oppose the appeal. If there is no principal opponent, the council will move directly to testimony from persons who oppose the appeal after supporters of the appeal conclude their testimony. Again, each person will have each three minutes each. Finally, the appellant will have five minutes to rebut the presentation of the opponents on appeal. The council may then close the hearing, deliberate, and take a vote on the appeal. If the vote is a tentative vote, the council set a future date for the adoption of findings and a final vote than the appeal. If the council takes a final vote today, that will conclude the matter before council. If you wish to speak to city council on this matter, and haven't signed up on the list located outside council chambers, please sign up at this time with the council clerk. There are several guidelines for those who will be addressing council today. First, this is an on-the-record hearing, which means you must limit your remarks to remarks based on the record compiled by the hearings officer. In presenting your argument it is permissible to refer to evidence previously submitted to the hearings officer. It is not permissible to submit new evidence today not submitted to the hearing officer. If your argument includes new evidence or issues the council will not consider it and it will be rejected in the council's final decision. If you believe a person who addresses city council today improperly presents new evidence or presents a legal argument that relies on evidence that is not in the record, you may object to that argument today. Finally, under state law only issues that were raised before the hearings officer may be raised in the this appeal to council. If you believe another person has raised issues today that were not raised before the hearings officer, you may object to council's consideration of that issue. Additionally, if the applicant fails to raise constitutional or other issues with enough specificity to allow council to respond, the applicant will be precluded from bringing an action for damages in circuit court to challenge the conditions of approval.

March 25, 2004

Katz: All right, everybody. Declaration of conflict of interest by members of the city council? Declaration of ex parte contacts by members of the city council? Anybody want to challenge our silence on either one of those two issues? If not, then we'll start. Hi.

Stephanie Beckman, Bureau of Development Services: Hello.

Katz: Is this your first time here?

Beckman: It is.

Katz: Oh, are you going to be sorry. [laughter] nice to see you.

Beckman: Thank you.

Katz: You need to give us your name. You have roughly 10 minutes.

Beckman: My name is stephanie beckman. I'm the bureau of development services staff person assigned to this case, which is under appeal. And as you know, the purpose of today's hearing is to consider an appeal of the hearings officer decision to approve, with conditions, a subdivision. It's a 21-lot subdivision, and it did have a concurrent adjustment request with that. The appellant is the pleasant valley neighborhood association, represented by linda bauer. The applicants are michael and suzanne lehne represented by kevin partain with urban visions. The decisions before council are to uphold, uphold with modifications or overturn the hearings officer's decision. I'm going to give you a brief overview of what the applicant's proposal was, the hearings officer decision, and then respond to some of the appeal issues raised. So to start with, the summary of proposal, the site is a 5.86-acre site, was going to be subdivided into 21 lots, new public streets, a small private street subtract and environmental resource tract. Lots range in size from 6,000 square feet to a little over 15,000 square feet. The existing house on the site was to remain on one of the lots. As I said, there will be new public streets. One would be going in the east/west direction, intersecting with southeast 162nd. I'll provide you a map in a minute. Another north/south street would be provided to -- for future extension to serve adjacent sites. As I said, there will be a private street tract to serve two lots. An environmental resource tract, containing the resource area of the environmental conservation overlay zone. And there was an adjustment request to modify side setbacks on six lots. The approval criteria that applied to this, this application, are in the zoning code section 33.650.120. That section refers to a bunch of land division code sections including 33.651 through 654, includes water service, sanitary sewer, stormwater management and rights-of-way, as well as 33.641, transportation impacts. I'm calling those specifically out because those are some of the approval criterion standards that the appeal deals with. This application also had to meet the approval criteria for adjustments, which applied to the side setback adjustments that I mentioned. That's not subject to the appeal at this time. There were also some development standards dealing with environmental standards and the johnson creek basin plan district that were also addressed in the hearings officer decision. Here's a zoning map, which shows the site. You can see that it's zoned r-10. The western portion of the site has environmental conservation zoning. You'll notice that the city boundary is on both the western side and the eastern side of the site. To the west, it's a Multnomah county urban pocket, so you'll see city zoning on that. Then to the east is actually the pleasant valley planning area in an incorporated county. This is an aerial photo, which shows basically that there's a lot of development potential in the area. This is a preliminary plan provided by the applicant. And you'll see new public streets --

Katz: Is that a cul-de-sac at the other end?

Beckman: It is a cul-de-sac at the end.

Katz: We don't do cul-de-sacs.

Beckman: This site has environmental zoning to the west, so the idea -- it was determined that it didn't make a lot of sense to extend the street, because it would have to be extended through environmental zoning, and then the adjacent properties to the west are zoned r.f. Currently, also have environmental zoning on them. You'll notice, if I go back to the zoning map, that there's also

March 25, 2004

environmental protection zoning to the north, and then further to the west. So there wasn't a lot of development potential to the west. That's why the cul-de-sac was ok'd.

Katz: Ok, thank you.

Beckman: You'll see that the north/south street does provide for future extension on to adjacent sites. I'm going to go over the sanitary sewer and stormwater proposal in a little bit more detail, because that is subject to the appeal. The applicant proposed sanitary sewer extensions of approximately 1,000 feet just to reach the site. And then within the new public -- within the new public streets to serve the proposed lots. The public stormwater proposal includes storm sewer in the new public street, a detention tank and storm filter unit, which is a water quality facility, within the new public streets, and then the proposal was to overflow that water to the ditch in southeast 162nd. For private stormwater, all the lots will have individual stormwater facilities that meet the stormwater management manual, and that was a combination of flow-through planters, soak trenches and tree planting for mitigation for the private street. This is the utility plan, which you probably can't read very well at this scale, but it does show the sanitary sewer extensions and the stormwater facilities that i've mentioned. I have a few photos of the site. This is southeast 162nd, along the frontage of the site, and you see the driveway entering here. This is the access to the site. There are houses on each of the lots in -- to the west of the property. This is also southeast 162nd, looking in the opposite direction, looking south. This is the entrance to the property. This is an existing driveway, looking east, back toward 162nd. This is looking south. This is about the proximate area of the southern street stub. Looking west at the existing house that would be retained on the site. All other structures are proposed to be removed. This is looking west. This is the area of the environmental conservation zoning. And you see the house on the neighboring property further to the west. This is looking northwest from the interior of the site. You can see a portion of the hawthorne ridge subdivision, which you may be familiar with, up to the northwest on the hill. Looking north and looking northeast. So the staff recommendation on this proposal was approval subject to a number of conditions. Mainly dealing with provision of services to -- to the area. The hearings officer decision was for approval subject to the conditions recommended by staff, and there was testimony provided at the hearing about a number of issues, and the hearings officer addressed those in his decision, primarily on pages four, five and six of his decision. And those included issues of adequacy of sanitary sewer service, stormwater management, and transportation impacts, which are some of the things i'm going to talk about today. The primary issues raised in the appeal statement were regarding sanitary sewer capacity and stormwater disposal. And the applicant believes that sanitary sewer service was verified in error and therefore does not comply with the -- with chapter 33.652 regarding sanitary sewer disposal service. They also believe that there's inadequate capacity in the existing ditch in southeast 162nd to accept the additional stormwater from the site, and therefore it doesn't comply with the stormwater management approval criterion --

Katz: You said applicant? You meant appellant.

Beckman: I did. I'm sorry. Appellant. So a little bit more detail on sanitary sewer capacity. The standards in the zoning code require that b.e.s. verify the availability of sewer and preliminarily approve the location design and capacity of the sanitary sewer disposal system. As I said, the appellant believes that b.e.s. verified the capacity in error. They cite a public facility plan that identifies possible future capacity problems, and then also some current capacity problems that are downstream from the site. And these issues were raised at the hearing. And b.e.s. did investigate these issues and provided an additional response to the hearings officer in which they acknowledged the capacity issues downstream and indicated to the hearings officer that they are not limiting development at this time. That's included in an exhibit in the record.

Katz: Do we have somebody here from b.e.s.?

March 25, 2004

Beckman: Yes, we do. Kelly Hyde from b.e.s. to answer any questions that you have.

Katz: Ok.

Beckman: I want to emphasize that the sanitary sewer standards that I just read to you require that b.e.s. make a decision. There's no approval criterion that requires the decision-maker to provide detailed findings or make a decision based on their discretion. So there's no requirement for a detailed analysis of how the b.e.s. decision is made. Based on the b.e.s. response, the hearings officer found that this sanitary sewer standards were met. Since the appeal, there were some specific issues raised by the appellant --

Francesconi: I'm a little confused here for a minute on this point. So b.e.s. does have to make a finding that it's adequate.

Beckman: Right.

Francesconi: That can be appealed, that's grounds for appeal as to whether it's adequate or not, but then they don't have to explain how they got there?

Beckman: Actually, b.d.s. would contend that it is not subject to appeal, that this is a technical decision to be made by b.e.s. staff, and it should not be an appealable decision, except perhaps going through b.e.s. directly.

Francesconi: Well, I guess b.e.s.'s opinion on that matter might not be as persuasive as our city attorney's opinion on that matter.

Katz: We'll come back. Do you want an answer right now?

Francesconi: No, not necessarily.

Katz: We both interrupted you. We probably should wait.

Francesconi: I was just testing, to see how you responded.

Katz: Because it's her first day. [laughter]

Leonard: Be nice to my employees.

Katz: Go ahead.

Beckman: Ok. B.e.s. has also provided additional information about the specific issues raised in the appeal. They have let us know that current sewer models do not identify sanitary sewer capacity issues in this area. The capacity problems that arise downstream where the sanitary sewer and stormwater systems become combined, and that's quite a bit further downstream around southeast 89th. And the stormwater from Lehne Estates will not enter this combined system. In the area of Lehne Estates they're separated, and so the capacity issues really deal with stormwater and therefore would -- the Lehne Estates subdivision would not exacerbate that problem.

Leonard: So the system is part of the east county, mid county sewer system?

Beckman: I believe so, but I'm going to let b.e.s. respond to that.

Leonard: It does not end up in a stormwater overflow?

Beckman: The stormwater from Lehne Estates I understand goes to Johnson Creek.

Leonard: Ok.

Beckman: I'm going to move on to stormwater disposal. There are both standards and approval criterion for stormwater. And the standards require that b.e.s. preliminarily approve the stormwater system and connections to offsite facilities like the ditch in southeast 162nd. There's also an approval criterion that requires that the applicant show that a stormwater system can be designed that will have adequate capacity to serve the site. The appellant believes that the ditch in southeast 162nd does not have adequate capacity to take the additional water, and they -- she's citing testimony at the hearing that the ditch currently has flooding problems. So as I said, this issue was raised at the hearing, and -- well, first of all, the applicant did provide some water calculations and ditch capacity analysis to demonstrate that the proposal is adequate. And those are included in the record. And prior to the original land use hearing, b.e.s. did review those and find them to be adequate. After the hearing, when these additional issues were raised, b.e.s. investigated the issue

March 25, 2004

further and provided additional comments to -- I think to the hearings officer, which again stated that the ditch capacity had been evaluated and found to be adequate. They looked into the maintenance records that indicate that the ditch has required periodic maintenance due to sedimentation and debris accumulation. They explained that the flooding problems that the neighbors are experiencing are likely caused by this accumulation. They also explained that during the technical review of the public works permit the applicant would have to further evaluate the ditch, and if needed the permit would require that they clean it out in any locations needed so that the flooding problems would not continue. Based on this response from b.e.s., the hearings officer found they had provided a logical explanation for the flooding problems and how they would be taken care of, and found that the standard and approval criterion had been met. I want to briefly touch on transportation impacts, specifically traffic issues, because that is an issue that was raised briefly in the appeals statement and was one of the concerns raised by neighbors at the land use hearing before the hearings officer. Basically concerns have been raised about traffic impacts. That's one of the factors addressed in 33.641.020. The applicant has provided a traffic impact study, included in the record. And Portland transportation has also reviewed that study and provided a response that the traffic impact study indicates that there's adequate capacity to accommodate the traffic from this -- from this site. And based on that information, and the traffic study and the record, the hearings officer found that that approval criterion had been met as well. And there is someone here, Rodney Jennings from Portland transportation, to answer any questions that you do have later on. That's all I have for going over the appeal issues. The alternatives facing council, like I stated before, are to deny the appeal, uphold the hearings officer's decision, or uphold the appeal and over the hearings officer decision. I did have one more thing to go over, and that's the review time line. State law requires that local jurisdictions make a decision within 120 days of the application being determined complete. At this point, as of today, we're at 113 days in our 120-daytime line. So if we need to have additional hearings, etc., to adopt revised findings, we would need to get permission from the applicant to do that.

Katz: We will do that. Thank you. Don't go away. Did you want an answer to your question from the city attorney? Yeah, why don't you prepare to answer commissioner Francesconi.

Rees: I will. And then I think it's appropriate for the parties -- it will be part of the appellant's presentation, I assume, the applicant's response.

Katz: Absolutely.

Rees: The criteria require b.e.s., one, to verify availability of sanitary sewer. That's either a yes or no. It's there or not. Also required to review plans for connections and capacity. B.e.s. submitted a letter saying that capacity was there. There was no expert testimony or evidence to the contrary, therefore the hearings officer, in making his findings, said I rely on b.e.s.'s testimony that sanitary sewer capacity is available.

Katz: Let me ask a question from a 30,000 flyover on this. We have further development that's going to occur in this area, correct? And so maybe we have the capacity today for both the sewer, stormwater, and maybe we have the capacity today for transportation because maybe they're the first come and they'll be the first served. How do we deal with the bigger picture in terms of future development? At what point do we say, stop, because the capacity is filled? I know it's a 30,000-foot question, but we're now launching into fairly rural areas. I call them rural. Some others may call them suburban. And I need to better understand if this may go through because everybody's saying that the capacity is there, but tomorrow, or the next year, or the year following, at some point, unless somebody does something major in terms of creating additional capacity, we're going to run out of it. Yes? No?

March 25, 2004

Rees: I think this is probably appropriate for b.e.s., but my understanding is that the concerns with capacity are related to the new pleasant valley area and the additional development that will occur once --

Katz: It will occur, trust me.

Rees: Correct. But at this point unless we're ready to tell -- unless we're ready to declare a moratorium, as long as we've got capacity, we need to allow people to proceed with development.

Katz: Ok. Maybe when we finish with this, b.e.s. and transportation can give me an answer in terms of long- range planning of an area that is going to grow, and we know that it's going to grow. Ok.

Leonard: I could use some help on that, because i'm not familiar with the issue of capacity. I wasn't aware that we had an issue, given that we'd just done a huge public works project in mid county creating sewers. I'd never heard the issue before, that we had some capacity problem.

Katz: And i'm not saying we have, but if we have additional development we may be running into some capacity -- we'll have a response. Ok, good. Thank you. That wasn't too bad, was it?

Beckman: Not too bad.

Katz: We just interrupted you three times. All right. Let's have the appellant, who has 10 minutes. Linda, come on up.

Linda Bauer, Pleasant Valley Neighborhood Association: Linda bauer, pleasant valley neighborhood association, for myself, and for the neighborhood association. I submitted into evidence the pleasant valley concept plan, which you, the city of Portland, has been working on since 1998. And the public facilities plan, which is your plan that you published that talks about an overview of the sewers. The record does not contain evidence proving that there is or will be adequate capacity for sanitary sewer service. But does contain evidence that back in 1999 there were acknowledged sewer problems and concerns about adding new areas without doing more sophisticated modeling. The approval criteria of 33.660 and 33.651 through 33.654 have not been met. B.e.s. development review staff deals with individual developments on a daily basis as they come in. The public facilities plan that is the document that gives you the big picture of the entire sanitary sewer system, below are excerpts from the public facilities plan, which I submitted into the record. Page 8-5 of the public facility plan says lents two has significant capacity problems that result in basement flooding. These problems are due to the undersized conveyance, flat slopes, and very long collection networks. This is an excerpt from the 1990 document, but b.e.s. did not submit any testimony to say whether those problems are better, the same, or worse. On page 8-9 of the public facilities plan, it says, lents one basin has a moderate amount of system deficiencies, and a large percentage of the modeled pipes with hydraulic capacity problems, a large percentage of the modeled pipes with hydraulic capacity problems back in 1999 and b.e.s. Submitted no testimony to clarify whether these problems are better, worse, or the same. Also on page 8-9, under system deficiencies of your public facilities plan, it says, all of the modeled pipes in the western portion of the basin show surcharging problems. Surcharging problems means that there's no enough room in the pipes to pass the flow. So it backs up. Both the north and south collectors for the lents trunk line along southeast 21st avenue, as well as the collector near southeast 23rd avenue, have capacity problems. That was back in 1999. Page 8-16 says, another objective is to avoid having to increase the size of the lents trunk line. This trunk line is in a difficult place for replacing conduit. In addition, the facilities for this trunk line must reduce peak flow s.u.v. To prevent c.s.o.'s from occurring. On page 8-24, the public facility plan says, potential flow increases to the johnson creek basin resulting from the developments in the areas of happy valley and pleasant valley appear to push locations of the johnson creek sanitary trunk to near capacity. Before additional flows from these areas are accepted, it is recommended that more sophisticated stormwater modeling be developed. As you will hear from the pleasant valley concept plan, that more sophisticated

March 25, 2004

modeling was never done, has never been done. I also submitted a copy of the pleasant valley concept plan that you've been working on since 1998 in conjunction with the five other jurisdictions. On page 20 of the pleasant valley concept plan, it says, further modeling in these areas would aid in predicting whether some of the pipes can be surcharged at an acceptable level. Before a decision is made about directing flows from pleasant valley to Portland, a more sophisticated stormwater management model should be developed for the sewer system and reliable cost estimates prepared for related improvements. As you can see, more sophisticated modeling has -- was recommended in your 1990 plan, and is currently -- this pleasant valley concept plan came out June 5 of last year. They are still saying the modeling needs to be done and hasn't been done. In addition to not doing the modeling, on page 19 of the pleasant valley concept plan, it says, Portland currently treats most of the sanitary sewer generated within the 12,750-acre Johnson Creek basin. Portland has accepted sanitary sewer flows generated in the basin from the city of Gresham in four different locations. Back in the 1999, when they were doing the modeling, there was no anticipation that we would be taking sewage from four different places in Gresham. Also, we are now accepting sewage from Clackamas County into separate places. We have an additional six places that weren't even acknowledged back in 1999 when the modeling, they said, needed to be done, and still hasn't been done. The very basic 1999 modeling that was done did not take into consideration any of the above areas that have now been added to the Portland system since the 1999 modeling was done, but the more sophisticated modeling that both the public facilities plan and the pleasant valley concept plan called for has not been done. On page 20 of the pleasant valley concept plan, it says, it is estimated that sewage from pleasant valley may need to be pumped three or four times as it traverses the Portland system before being treated. This adds significantly to the cost of conveying and treating the sewage through Portland. As a consequence, it is estimated that Portland sewer rates will be 30% or more -- 30% or more higher than Gresham rates for domestic service. B.E.S. confirms that there is current sewer capacity issues, and that there are capital improvements scheduled. There are current problems back in 1999 --

Katz: Scheduled for no certain time in the future.

Bauer: Right. So that the problems are from 1999 to who knows when, but the fixes aren't until who knows how far out into the future. The hearing officer report says, Southeast 162nd Avenue is a neighborhood collector street, a city bikeway and a major emergency response street in the transportation system plan. According to the applicant's narrative, 162nd currently has a 40-foot right-of-way width with 22-foot pavement width. The site frontage is not currently improved with sidewalks or curbs. The conditions of approval require a 22-foot-wide private street track, and the -- and transportation is requiring a 26-foot roadway for the new public street that is being created. This proposal will add 200 new trips to a street that is a neighborhood collector, that is only 22 feet wide, the same width as the new private street that only serves two houses. People in the neighborhood also have brought to the attention of the city that there are significant site distance problems at both 162nd and Henderson Way and 162nd and Flavel. 162nd is not wide enough for safe use -- for safe use of emergency vehicles and does not provide pedestrian sidewalks, although 162nd is designated a bikeway, it is far too narrow for bike lanes. Since the transportation system is not capable of safely supporting the proposed development, in addition to the existing uses in the area, this proposal violates 33.641.020. The record fails to include evidence that 33.653.020 be a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater has been met. Since the channel on 162nd is a ditch, and a ditch is not an approved stormwater management system, according to the symptom water management manual -- stormwater management manual. The hearing officer erred in discounting neighborhood observations because they were not expert evidence. [bell ringing]

Bauer: I have rebuttal, so I'll come back.

March 25, 2004

Katz: Thank you.

Rees: Mayor?

Katz: Yes?

Rees: I'm supposed to bring to your attention when we believe there's been a new issue or evidence raised.

Katz: What new issue do you think has been brought to us?

Rees: The issue of site distance was not raised before the hearings officer, and so new evidence was brought in that neighbors have concern about site distance, so it would be appropriate for council to decide whether to reject that evidence and testimony.

Katz: Does council want to reject that as evidence in the testimony? It's new evidence. Any opposed? That evidence will be rejected. All right, come on up, appellants. Three minutes.

Bonnie McKnight: Thank you. Won't even take that much. My name is bonnie mcknight. I live at 1617 northeast 140th. I also live in east Portland. I think the issue today before you points out one of the problems of the current land use code. The point of the problem is that you have to look toward future impacts when you begin the process. The comprehensive plan requires infrastructure, adequate infrastructure, and that includes roads and storm sewers and streets and a number of other things. In an area like this, the importance is -- is multiple. It is, first of all, putting development within an area where there are conservation zones and environmental protections. What I've provided to you is just stuff I got off the -- got off the b.d.s. website, but I did want to point out the surrounding character of where these 21 new lots are will be developed. And the surrounding character I guess not relevant, it's part of the comp plan, it doesn't get -- it doesn't become raised very often in the visibility of these decisions, and I do want to bring that up. Johnson creek is also an area that anybody's lived in Portland for a number of years understands is an area that's always had flooding problems. If I understand what's going on here, somehow the city has taken the position that bare ground, which now must absorb some runoff and still has a flooding problem at the -- at the end of the slope, will somehow be less likely to add to the flooding problem by putting in an impervious surface and roofs. Short of some proof that the logic of that escapes me. This is on a slope. Water runs downhill, downhill is 162nd. I'm not sure you can capture all of the groundwater before it runs downhill. So I guess I would feel better had there been a better review of that. I'm concerned that when you put 21 brand-new lots with unknown numbers of people in a pocket of the environmental zone, you are also impacting all of the other pieces of the environmental zone around it. And you did see on the presentation from the bureau of planning that -- or from b.d.s -- that there are a number of other surrounding environmental pockets that have extra protections. So I guess what I'm suggesting is -- I'm not sure it's good -- in fact, I'm sure it's not good policy to make systems fail before we start to deal with the problems. I think we have an opportunity in this area, and you can see that by the maps I've provided to you, that the beginning of the process will yield very quickly a breaking point. I would much prefer that we deal with the capacity of infrastructure now before costly investments demand money we don't even know that we're going to have.

Katz: Thank you. Ok. Applicant, you have 15 minutes.

Steve Morasch, Attorney representing the Applicant: Good afternoon. My name is steve morasch representing the developer. I'd like to speak on a few of the legal issues raised in the notice of appeal. I also have to my right, tom sisal, the engineer on the project, and tom mobley, the traffic engineer on the project, and they're prepared to answer questions that council may have on any of the technical issues. I'm going to go through the notice of appeal issues, kind of one by one in the order they're raised in the notice. The first issue raised in the notice involves springs and streams, and the notice of appeal states that the hearings officer made a comment about topography sloping down towards 162nd, and somehow that meant that there was a seep or a spring or a stream.

March 25, 2004

I've read the code. Seeps and springs have to do with the interchange between groundwater and surface water. There's no evidence that there's any of that going on here. And a stream requires some type of defined channel. There's no evidence in the record of any defined channel. The property merely slopes in that direction, so falling topography, the hearings officer made that comment. I think the hearings officer was correct, that 33.640 does not apply. Moving on to stormwater, there were some issues raised regarding the capacity of the ditch in 162nd, and I think b.e.s. adequately responded to those by pointing out that the ditch needed to be cleaned out and they would handle that in the subsequent technical permitting. It's also important to point out that the application included a stormwater plan and onsite detention. The last person to testify raised an issue about how can we add impervious surfaces and not increase stormwater and cause a problem, and part of that is with the onsite detention that will release it slowly over time. I believe it's also diverting the stormwater to a better location and mr. Sisal can comment on that if there's any questions about how the stormwater detention system is going to work. But essentially, you know, b.e.s. provided evidence to the hearings officer that there was adequate capacity for stormwater. The applicant's engineers also provided a stormwater plan in evidence to the hearings officer. And based on that evidence the hearings officer determined that stormwater capacity was adequate. I think the b.e.s. people are here today, and if there's any questions about what they did or, you know, whether they verified anything in error, I think they can answer those questions in some detail. Also an issue raised about sanitary sewer, and the appellant discusses at length the pleasant valley area and the pleasant valley public facilities plan. This is an area that's not yet been annexed. And at the time that this area is annexed, an analysis will have to be done as to whether or not there's adequate services to annex that area. If there aren't, they'll have to be made adequate before that area could be brought in, but what we're talking about here today is property that's not in the unincorporated area, it's already in the incorporated area, and we're just looking at the narrow issue of whether the services are adequate for these additional lots, not whether they're adequate for development of the remainder of the incorporated area, much less the unincorporated area. In state law there's a process to go through if the city determines that future development, not the development currently on the table, but some future development is going to cause a capacity problem, and that's the moratorium process. So if the city felt there was going to be a capacity problem down the road, as future development occurred, then the city may want to look at a moratorium, but that's not what's in front of the city today. B.e.s. also pointed to a report, the Atterly report that was completed less than a year ago, which on sanitary sewer stated that the johnson creek sanitary system is currently underutilized and that there's adequate capacity for this development in -- as stated in that report. Transportation, i'm just going to briefly mention, that again the -- the opponents -- or excuse me -- the appellants -- we're the opponents to the appeal -- the appellants haven't brought forth expert evidence at all on the transportation issues, nor the b.e.s. issues, and we have our transportation engineer who explained in a report to the hearings officer how transportation was adequate and is available to answer any questions. His report is in the record. The notice of appeal also raises an issue about a red alder tree that allegedly is not being mitigated for, and the notice of appeal cites 431, and as expressly stated the tree mitigation requirements only apply in the actual environmental areas, not in what we call the transitional areas. This red alder tree, as explained in the record, is in the transitional area, not in the protection area or conservation area, so the mitigation provisions cited don't apply to that red alder tree. I guess in conclusion, I would just add that really there's no expert evidence to contradict anything that either the applicant's engineers or city's engineers have testified to in the record or available to explain today. And in the absence of any expert testimony, the city has made a determination in its code that these types of capacity issues are technical issues and that they're not -- they're not subjective issues, they're more objective issues, and the hearings officer, after listening to all the evidence,

March 25, 2004

basically believed all the experts, and that is the choice that the city code sort of forces us to. I think there's some wisdom in that, because these are technical issues, but if the city decided that the city wanted to go a different direction, then the appropriate way to do that is rewrite the code to allow more subjectivity in these types of capacity determinations, and this application must be viewed under the code as written today which focuses us more to a technical analysis. With that i've got no further testimony, but I am available to answer questions. And we've got the engineers.

Katz: What do you want to say?

Tom Sisal, Engineer for Applicant: My name is tom sisal. My address, 375 Portland avenue, gladstone. And i'm the applicant's engineer and did testify at the hearing. And I guess just a few things. In regards to expand on what he spoke about is that in regards to stormwater detention, sometime back, I think probably when I was in college, so it was quite awhile ago, that the detention -- johnson creek was a problem and it was recognized by Portland, gresham, Multnomah county, clackamas county, milwaukie, all these cities that are adjoining the creek, that some sort of detention facilities were needed to reduce flooding. So those -- they adopted standards, and those have been in place now for several decades. And this subdivision is going to be required to have detention requirements -- or detention facilities meeting those standards. In addition there's onsite water quality facilities. The drainage going down this ditch -- and I should note there's some question whether the storm drainage from this site will actually drain down the ditch that's there, in a green street model that b.e.s. Is moving toward, or will be connected toward a pipe storm drain system that exists about 500 or 600 feet down the street, 162nd. The ditch that's there is adequate to handle the size of this site. There may be additional culverts that may have to be enlarged determined at the time there's detailed construction plans prepared for the site. I would expect the b.e.s. staff will look closely at those types of issues, but I think that the stormwater is being addressed adequately to handle the city's requirements, and those requirements have been built out for detention and water quality have come from a number of years or decades of experience. And finally in regards to this sanitary sewer issue, the -- I think, again, it's been addressed, and if kelly hyde wishes to speak, she can probably speak to it better than I have because she's more familiar with the city's review of the overall basin, but in a number of times i've been involved with projects, all the southeast Portland area, there's never been mentioned any issue about a capacity problem. And i'm talking about these areas that are basically now being served by the systems that were developed and constructed in the 1990's. And it just would -- I would find it hard to believe that the city itself would have missed this issue if this was truly an issue.

Katz: Thank you. Sir?

Todd Mobley, Lancaster Engineering: My name is todd mobley. I'm from lancaster engineering, 800 northwest sixth avenue, suite 206 in Portland. I don't really have any specific testimony, unless you have any individual questions. We've prepared the traffic impact study.

Katz: You don't need to testify if you don't want to.

Mobley: Ok.

Katz: All right. Thank you.

Rees: Mayor, before they leave, there was a question from the appellant, ms. Bauer, about a piece of evidence referred to in mr. Moracsh's testimony. Ms. Bauer thought it was the report regarding adequate sanitary sewer capacity. Is that an item previously in the record?

Morasch: I believe so, but maybe staff can expand on that since they were the ones discussing it.

Rees: Can we have them address whether that was in the record?

Katz: Do it now or later? What was the report that was referenced?

Morasch: The atterly report.

March 25, 2004

Katz: Staff, was that in the record? Was not in the record? Then council needs to reject that part of the testimony. Is that all right? Ok. [gavel pounded]

Leonard: I do have some questions. I don't know who it's the right person to answer them.

Katz: If it's not them, then hold back, all right?

Leonard: I don't know who the right person is. My questions have to do with the infrastructure that's in place right now that we seem to be discussing. And it is the appellant has raised an issue of the lents trunk line possibly being at capacity. Does the line that we're discussing that will come from pleasant valley end up in the original Portland c.s.o. system or end up in the mid county system that I understand doesn't mix stormwater?

Sisal: I can't answer --

Katz: Yourself for the record.

Sisal: Tom sisal. I can't answer that question precisely and I would recommend you ask kelly hyde that question.

Katz: Let's hold off on staff questions, because we'll bring up staff immediately. Let's finish with the citizen testimony. Thank you. Any questions of these three gentlemen?

Saltzman: There will be sidewalks on all the streets in the development. Is that correct?

Sisal: There will be sidewalks, yes, constructed probably at the time the homes are developed on each individual lot.

Saltzman: Ok. But there won't be any improvements on where the street enters 162nd? On 162nd.

Sisal: That's correct. The only improvement that's required generally is right at the frontage, and this has very narrow frontage, so there will be a very limited amount of sidewalk on 162nd.

Saltzman: And then you said the stormwater hasn't been determined yet, whether it will go through the ditch or to a pipe once it leaves the site.

Sisal: That's correct. I've been told by staff that that decision will be made at the time final construction plans are prepared. So that could go either way at this point is my understanding.

Saltzman: And this development, in your opinion, is in compliance with the stormwater manual?

Sisal: Yes, it is.

Katz: Ok, thank you. Further testimony in support of the applicant? Anybody signed up? Ok. Linda, come on back. You have rebuttal, five minutes. Grab the mike.

Bauer: B.e.s. staff confirmed adequate capacity in the sanitary sewer system in error. The city's public facility plan calls for more sophisticated modeling before four new areas of gresham and two new areas of clackamas county were added to the Portland system. This modeling was never done.

It is important because the trunk line is in a difficult place to replace. The pleasant valley concept plan -- and they say area all the time. Just one second. They say area all the time. This site is across the street from the pleasant valley concept area. Yes, there is a line down the street. It is in that area. That area is in this area. Whatever. Let's see, the pleasant valley concept plan states that modeling still needs to be done and that the project -- and that they project that the cost Portland residents about 30% more in sewer fees if this area is added to the Portland system. Transportation infrastructure is inadequate. The applicant's traffic impact study only looked at the traffic impacts of the development on the nearby intersection. It failed to address the impacts that 210 new trips would have on the existing deficient street network. 162nd is a neighbor collector, a city bikeway, emergency response street. And it is the same size as the new private street that only serves two houses. The neighborhood collector, the city bikeway and emergency response street is four feet narrower than the local service streets that serve 19 houses. So we have a street -- an emergency response street that is four feet narrower than a local city street, that only serves 19 houses.

33.641.020, says the transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area and the proposed development. Evaluation

March 25, 2004

factors include street capacity, level of service, vehicle access and loading, onstreet parking impacts, the availability of transit services, and facilities and safety for all modes. The record shows no evidence that this criteria was ever satisfied. After the stormwater from this development is cleaned in -- in-street cleaning device, it will then be outfalled into a dirt-lined ditch. It then goes into a fish-bearing creek. The b.e.s. stormwater manual does not recognize a ditch as a stormwater management system. Therefore, there can't be capacity without redesigning that system.

Questions?

Katz: Thank you, linda. We have our b.e.s. staff and our transportation staff and b.d.s. Come on up. Council, randy, why don't we start with you. Commissioner leonard, do you have questions?

Leonard: Yeah. I'm just trying to get just this technical infrastructure question straightened out in my mind with respect to the capacity issue. I'm surprised that's an issue given we just did this huge mid county project, which I previously had explained to me did not connect anywhere to the original c.s.o. system. Does it connect anywhere to a c.s.o. system?

Kelly Hyde, Bureau of Environmental Services: Kelly hyde. The sanitary sewer extended to serve this development does connect into ultimately the lents trunk sewer system. A portion of the mid county sewer does connect into lents, to answer that question.

Leonard: Then my next question is -- does the project that b.e.s. is doing now, the big pipe project

-

Hyde: East side tunnel?

Leonard: Uh-huh. Will that relieve the capacity that apparently is at issue here?

Hyde: I believe the east side tunnel is designed to alleviate the capacity problems due to stormwater in the lents trunk sewer.

Leonard: And is that the issue in lents stormwater or is sewage the issue?

Hyde: The issue in lents is stormwater, not sanitary, that's correct.

Leonard: Ok, thank you.

Katz: Further questions? Anybody on the council have questions?

Saltzman: Well, the question linda has raised about a ditch not being an approved stormwater detention facility, could you elaborate on that, I guess?

Hyde: Sure. Section 7.1.2, indicates that stormwater can be disposed in a ditch that has adequate capacity, based on geometry, slope, composition, etc. It is explicitly stated in the manual that they can dispose to a ditch following detention of water quality.

Francesconi: Could you respond to the appellant's argument that it doesn't have transportation capacity? I've read the record, but --

Rodney Jennings, Office of Transportation: This is rodney jennings, office of transportation. It's true that southeast 162nd has a narrow roadway. It's 22 feet. It's not improved with curbed sidewalks. Currently it's not wide enough to provide a bike lane. 22 feet is really only wide enough for two travel lanes. The site itself doesn't have -- other than the 41 1/4 feet of frontage that will be built as the street, the public street entering the site, the site itself does not have any other frontage on 162nd. So there's no way that -- since frontage improvements are tied to a specific site, and that the frontage that that site has on a street, there's no way that we would have to require the improvements to 162nd that would be in this -- in this subdivision. And the incrementally over time, as other developments come in, or if the city chooses to have a capital project of some kind, then 162nd would be incrementally widened, piece by piece, or sidewalks and the bike lanes would go in, or done as a single project all at one time.

Katz: That's the issue I raised at the very beginning.

Francesconi: All right.

Katz: Yeah, that's the dilemma. So I don't know -- I don't know if you're the right people to discuss this or not, but it seems to me that I -- this issue was raised, something like 10 years ago, on another

March 25, 2004

project, that was a very virgin project, and we knew that there would be further development down the road, and it was the same question. Ok, this one may have -- could meet the capacities of both the transportation and the stormwater runoff, sewer, but what do we do at the second and the third? If we don't have the resources to improve the street as we begin to fill the capacity of the street and it becomes an f street -- I mean, you know, level f. So could you respond to that the best you can?

Jennings: The best I can say is that this -- you know, incrementally, over time, you're right, that for example the intersection at 162nd, that the traffic study looked at, right now there's also the traffic study that says it's fine, but eventually as more development goes in there, some day it's going to be an e or f, and it won't be anymore. And at that point transportation would --

Francesconi: Then we deny it, mayor.

Jennings: Our response would be recommending denial or the applicant would have to come up with modifications.

Katz: And the same for b.e.s. As well.

Hyde: There's currently a master plan in the works for 162nd. Part of that master plan includes --

Francesconi: Did you pay for the sidewalks and the road, too, in your master plan?

Hyde: I don't know. Part of that master plan hopes to incorporate side swales, so keeping the ditches the way they are now as used for stormwater will fall in line with that ultimate plan for 162nd. As long as we can, you know, still determine that we have capacity in those ditches, keep them cleaned out, and manage stormwater on site as best we can, in terms of the stormwater manual, then it makes the most sense to keep those as ditches until the conceptual plan comes through and incorporates them into green streets.

Katz: One final question. The public facilities plan that linda has identified, is that in conflict with anything that we're doing today?

Hyde: I don't believe so. The public facilities plan was a study done for the unincorporated portion of pleasant valley, not the city of Portland. I based my recommendation on adequacy of capacity in the sanitary sewer based on our current modeling that says that everything in the city of Portland, we have full build-out potential capacity for. Does that answer the question?

Katz: Well, it answers it halfway. So what you're saying is you just ignore everything that could come along?

Hyde: No, we don't ignore everything else that comes along. But the public facilities plan did indicate that additional modeling needed to be done before unincorporated sanitary flows come in to the city of Portland. The report concluded it was an excessive cost to the city and additional studies needed to be done to find alternatives for the city of Portland, perhaps going to gresham is one of the suggestions.

Katz: Further questions?

Saltzman: Yeah. Whose responsibility is it to clean out the ditch?

Hyde: It will be the applicant's responsibility when they come in for the public works plan review. We'll take a look at that more specifically at that time.

Saltzman: And clean the ditch, the entire length of 162nd?

Hyde: The portions of the ditch that are a problem, we'll take a look at culvert size and debris accumulation and address that removal and perhaps widening of the ditch to ensure that it is acting at its true capacity.

Saltzman: And I think this last question I have is for stephanie. I'm unclear about the 21-foot red alder. What's going on there?

Beckman: That was one of the issues that was raised in the appeals statement, and as the applicant's attorney mentioned, with environmental zones there's a transition area, outer 25 feet, and that red alder falls within that 25-foot area, and the standards that require mitigation in

March 25, 2004

environmental zones for trees that are removed does not apply in the transition area, and it's specifically stated in the code, therefore no mitigation is required.

Katz: That's all well and good, but we can set -- we can set new conditions as we approve this. So somebody needs to tell me why this 21-inch tree needs to be cut.

Beckman: Well, the location of the tree -- and you can see it on the hearings officer decision -- find the correct exhibit -- exhibit c-2, there's a note on there, it shows the tree, and there's a note that calls that what it is, and it basically conflicts with the private street access, which serves lots 11 and 12.

Saltzman: It's hard to tell exactly where the tree is.

Katz: Yeah.

Beckman: It's right at the end of the access tract. And there's an x through it, and then there's a line that's drawn over with an arrow.

Saltzman: Well, if it's at the end of the access tract, why does it pose a problem?

Beckman: It's actually right at the end, so construction of the street would conflict with it. I will point out that the applicant has provided a tree preservation plan that does save other trees on the site. And if you are looking at exhibit c-2, those are all the trees with the circles around them, those represent root protection zones. And then no other trees within the environmental area are proposed to be removed, only that one tree that happens to fall within the transition area.

Saltzman: It's a 21-inch -- I said 21 feet. I guess it's 21-inch diameter?

Katz: Width?

Beckman: 21-inch diameter.

Katz: Diameter, the width of it.

Beckman: Circumference.

Katz: Yeah.

Beckman: I'm sorry, not circumference. Diameter, you're right.

Saltzman: So it's the construction of the access tract, but not the footprint of the access tract itself that would require the tree's removal? Or maybe the applicant --

Beckman: I believe it falls right -- you can probably see it better on exhibit c-4. I believe the tree falls basically -- you know, it looks like the trunk location is right in the center of the end of the access tract.

Katz: Can the applicant come up and let -- or the representative of the applicant come up and let us know where the tree is and can you save it? Do you need to cut it down?

Sten: Are we going to have the staff back after that?

Katz: Staff, don't move. Identify yourself for the record and speak into the mike, please.

Sisal: Tom sisal. And this tree is represented on this sheet, exhibit c-4, as a circle that's approximately right at the end of the street access tract. To save that tree and meet the other requirements for access to the lots in the frontage would probably require moving this access tract northward and thus the buildable area of the lots would get reduced. That may be possible to do. I would have to work with b.d.s. staff to make sure that all the code requirements are met, if that were adjusted. I'm not comfortable in saying today that, they all could be met, but if you wish to condition it as such we could take a look at that and see if that tree could be saved.

Saltzman: Ok.

Katz: Thank you. Questions of staff?

Sten: Yeah. I got confused a little bit on the -- on the sewer analysis, where you saying that we basically have enough capacity in the system so therefore we have enough for this?

Hyde: We have enough capacity in the system for full build-out within the city of Portland in terms of sanitary sewer.

March 25, 2004

Sten: Does that mean we don't -- I mean, i'm being rhetorical here, but what's the point of doing a review?

Hyde: The point of doing the public facilities study?

Sten: No. A review of these land use cases. I mean, this was a big issue of the council awhile back, that this was a -- I don't want to rehash that, but it sounds to me like you're not doing a review of this project, you're just saying -- I mean, wouldn't any development under that standard automatically have enough sanitary sewer capacity?

Hyde: Potentially if you change the zoning of the site and, you know, alter a comp plan amendment, you may have to take a look at your model again to see if it took into account, you know, an additional increase in density. In this case it doesn't fall into the comp plan.

Sten: So if a project is coming in at the approved zoning anywhere in the city, we assume that it has enough sewer capacity?

Hyde: Correct. The capacity problems in the lents trunk sewer are due to stormwater, not sanitary flow. I just want to make that distinction. The system doesn't become combined until southeast 89th. So the stormwater from this particular development will go to johnson creek, not impact the lents trunk sewer.

Sten: And you determined this didn't need a stormwater management system?

Hyde: This development does need a stormwater management system. So they will be constructing a detention tank and water quality facility on site prior to discharge to that ditch.

Sten: Ok.

Katz: Further questions? If not, i'll take a motion.

Rees: I apologize for interrupting, but on the record hearings it's often challenging and there were two issues raised by the appellant as questions that you asked that elicited responses that may have brought in new evidence. It's for staff to tell me whether these were raised at the hearings officer level. The first is discussion of the east side big pipe and the second is the 162nd master plan. Were those --

Hyde: The 162nd master plan was part of the record.

Rees: Ok.

Hyde: It's in a couple my responses. We did not discuss the east side tunnel.

Leonard: But you did discuss capacity.

Hyde: Capacity? Yes.

Katz: But a commissioner has the --

Rees: I'm not chastising anyone. What i'm saying is that in an on the record hearing, it's --

Katz: That's all well and good.

Rees: I have to tell you that it's appropriate for council to reject the new evidence.

Katz: I'm not going to reject a question a commissioner asks of anybody here, and --

Leonard: That was a good one.

Katz: A good commissioner or a good question?

Leonard: A good question.

Katz: We had that argument before. We have the leeway to do whatever we deem necessary to get the information out of any one of the folks who sit in front of us. And whether it was in the record or not in the record, I really don't --

Francesconi: Now i'm confused about the issue. I'm back to commissioner Sten's question. So on the stormwater side, do we have the ability to require them to address it? And we did, is that right?

Hyde: That is correct.

Francesconi: And so we didn't just go on zoning on the stormwater side.

March 25, 2004

Hyde: No, not on the stormwater side. They had to provide engineering calculations that showed that they could design and construct a facility to meet the stormwater manual and that there was a place for the stormwater to go ultimately and that the receiving system had capacity.

Francesconi: Ok. That clarified it for me.

Katz: You did say, in answer to commissioner Leonard's question, that some of that stormwater is going to the lents --

Hyde: None of the stormwater from Lehne Estates will go to lents.

Katz: The sanitary.

Hyde: The sanitary.

Katz: Got you.

Leonard: In that area of the city that's all separated out now, as it originates, but what you said was it combines in that portion of lents to become part of the C.S.O. System?

Hyde: Correct. At about southeast 89th or so.

Katz: Ok.

Katz: Thanks, everybody. I'll take a motion.

Saltzman: I'd move to uphold the hearings officer with a condition that the access tract be realigned to save the 21-inch red alder tree.

Katz: All right. Do I hear a second?

Francesconi: Second.

Katz: All right. Discussion? Roll call.

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

Sten: Well, I'm close on this. There's something that's not quite sitting right with me about how this is going, but I do think they meet the technical requirements, I just want to be on the record as saying this, but I want to look at it more afterward, so I'm not comfortable opposing it, but the way we've set this up so that the right question isn't being asked. So I'm voting yes, because I think they've met the requirements, and the city has to stick to the rules in place. I'm not positive we've got these rules right based on how this is working. Aye.

Katz: I sort of agree with commissioner Sten. I was worried about this from the very beginning in terms of how we deal with future issues in the close proximity of this geographic area, because I think eventually we will have stormwater or sewage problems as well as transportation problems, and I guess it's the first -- first come, first serve, and if we reject everybody else, I don't recall us rejecting many people on those grounds, but I guess that's going to be an issue that the council will have to deal with in the future. I think it does meet all of the requirements of this land use request. Aye. [gavel pounding]

Rees: May I clarify that council has adopted the hearings officer's finding as its own written decision?

Katz: Right.

Rees: Ok.

Katz: So we don't have to come back on this?

Saltzman: With the amendment.

Rees: With the amendment to the conditions of approval.

Katz: Yeah, with the amendment. Fine, everybody. We stand adjourned. [gavel pounded]

At 3:21 p.m., Council adjourned.