



CITY OF  
**PORTLAND, OREGON**

OFFICIAL  
 MINUTES

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

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

Commissioner Leonard arrived at 9:32 a.m.  
 Mayor Katz left at 11:27 a.m. and President Sten presided.

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

Agenda Items 770 and 790 were pulled for discussion and, on a Y-5 roll call, the balance of Consent Agenda was adopted.

| <b>COMMUNICATIONS</b> |   | <b>Disposition:</b>   |
|-----------------------|---|---|
| <b>759</b>            | Request of Charles E. Long to address Council regarding two admonitions for the Portland Police Department (Communication)  | <b>PLACED ON FILE</b>   |
| <b>760</b>            | Request of Freedom Child to address Council regarding Police abuse, lying in reports, ineffectiveness of Citizen Review Committee and bias of Capt. Schenck (Communication)   | <b>PLACED ON FILE</b>   |
| <b>761</b>            | Request of Jay Boss Rubin to address Council regarding annual city-wide challenge to Portlanders to traverse Portland without money, motors or bridges (Communication)  | <b>PLACED ON FILE</b>   |
| <b>TIME CERTAINS</b>  |   |   |
| <b>762</b>            | <b>TIME CERTAIN: 9:30 AM</b> – Amend fee schedules for certain construction and trade permits, plan review, inspection, land use review and permit issuance services (Ordinance introduced by Commissioner Leonard) | <b>PASSED TO<br/>SECOND READING<br/>JULY 7, 2004<br/>AT 9:30 AM</b> |
| <b>763</b>            | Add rainwater harvesting systems as acceptable form of plumbing within the City and make other editorial changes (Ordinance; amend Title 25 introduced by Commissioner Leonard)                                     | <b>PASSED TO<br/>SECOND READING<br/>JULY 7, 2004<br/>AT 9:30 AM</b> |

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| <b>CONSENT AGENDA – NO DISCUSSION</b> |  |   |
|---------------------------------------|--|---|
| <b>764</b>                            | Vacate a portion of N Arlington Place west of N Albina Avenue, under certain conditions (Ordinance by Order of Council; VAC 10015)<br><br>(Y-5)  | <b>PASSED TO<br/>SECOND READING<br/>JULY 7, 2004<br/>AT 9:30 AM</b> |
| <b>Mayor Vera Katz</b>                |  |   |
| <b>765</b>                            | Confirm reappointments of Frank Ray, Peter Cogswell and Scott Fernandez to the Portland Utilities Review Board for terms to expire June 18, 2006 (Report)<br><br>(Y-5)   | <b>CONFIRMED</b>  |
| <b>*766</b>                           | Create a new Nonrepresented classification of Children's Fund Commissioner's Staff Representative and Children's Fund Commissioner's Administrative Support Specialist and establish compensation rates for these classifications (Ordinance)<br><br>(Y-5) | <b>178537</b>   |
| <b>*767</b>                           | Create a new Nonrepresented classification of Public Relations and Information Officer and establish a compensation rate for this classification (Ordinance)<br><br>(Y-5)  | <b>178538</b>   |
| <b>*768</b>                           | Authorize acquisition of property at SW Barbur Boulevard for the Bureau of Fire and Rescue (Ordinance)<br><br>(Y-5)  | <b>178539</b>   |
| <b>*769</b>                           | Authorize an Intergovernmental Agreement with the U.S. Marshals Service for the purchase of vehicle fuel (Ordinance)<br><br>(Y-5)  | <b>178540</b>   |
| <b>*770</b>                           | Authorize contract with Star Park, LLC and provide for payment for attendant and revenue services for City parking garages and City surface lots (Ordinance)   | <b>PASSED TO<br/>SECOND READING<br/>JULY 7, 2004<br/>AT 9:30 AM</b> |
| <b>*771</b>                           | Authorize acquisition of vehicles for use by City bureaus (Ordinance)<br><br>(Y-5)   | <b>178541</b>   |
| <b>772</b>                            | Incorporate new City policies and update language regarding environmentally preferable procurement (Second Reading Agenda 727; amend Code Sections 5.33.050 and 5.33.060)<br><br>(Y-5)   | <b>178542</b>   |
| <b>Commissioner Jim Francesconi</b>   |  |   |

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| <p>773 Accept contract with Robison Construction, Inc. for improvements to N Marine Drive Extension--Phase 2 as complete, authorize final payment and release retainage (Report; Contract No. 33632)</p> <p>(Y-5)</p>  | <p align="center"><b>ACCEPTED</b></p> |
| <p>774 Declare the purpose and intent of the City to initiate a speed bump project on SE 35th Place between SE Hawthorne Boulevard and SE Division Street (Resolution)</p> <p>(Y-5)</p>  | <p align="center"><b>36229</b></p>    |
| <p>775 Declare the purpose and intent of the City to initiate a speed bump project on SE 34th Avenue between SE Hawthorne Boulevard and SE Division Street (Resolution)</p> <p>(Y-5)</p>   | <p align="center"><b>36230</b></p>    |
| <p>776 Adopt the Swan Island Trails Action Plan and direct the Portland Office of Transportation to include four trails, The Waud Bluff, Willamette Bluff, Basin Avenue and Land Fill Trails, in the next update of the Transportation System Plan (Resolution)</p> <p>(Y-5)</p>   | <p align="center"><b>36231</b></p>    |
| <p>*777 Authorize contract with Lloyd District Transportation Management Association for \$150,000 to provide transportation-related services (Ordinance)</p> <p>(Y-5)</p>   | <p align="center"><b>178543</b></p>   |
| <p>*778 Amend contract with Socialdata America for additional services to conduct TravelSmart individualized marketing program along the Interstate corridor in north and northeast Portland and provide payment (Ordinance; amend Contract No. 35189)</p> <p>(Y-5)</p>            | <p align="center"><b>178544</b></p>   |
| <p>*779 Revoke permits granted for rail track, side track and industry spur tracks in NW 13th Avenue north of NW Johnson Street (Ordinance)</p> <p>(Y-5)</p>   | <p align="center"><b>178545</b></p>   |
| <p>*780 Grant authority to Director of the Bureau of Transportation Engineering and Development to execute an agreement with Portland Terminal Railroad Company to remove tracks in NW 13th Avenue and accept a Bill of Sale (Ordinance)</p> <p>(Y-5)</p>                          | <p align="center"><b>178546</b></p>   |
| <p>*781 Amend the Intergovernmental Agreement with Multnomah County Department of Human Services Area Agency on Aging for District Senior Center services and development for the period July 1, 2003 through June 30, 2004 (Ordinance; amend Contract No. 32024)</p> <p>(Y-5)</p> | <p align="center"><b>178547</b></p>   |
| <p>*782 Authorize a contract and provide for payment for the renovation of Raymond Park (Ordinance)</p> <p>(Y-5)</p>   | <p align="center"><b>178548</b></p>   |

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| <p><b>*783</b> Revise ordinance requesting and accepting tax-foreclosed properties from Multnomah County for park and recreation purposes (Ordinance; amend Ordinance No. 178492)<br/><br/>(Y-5)</p>  | <p align="center"><b>178549</b></p> |
| <p align="center"><b>Commissioner Randy Leonard</b></p>   |                                     |
| <p><b>*784</b> Amend contract with Systems Advisory Services to extend time and provide for additional funds for project management of the Multnomah County Personal Income Tax Program (Ordinance; amend Contract No. 34883)<br/><br/>(Y-5)</p>  | <p align="center"><b>178550</b></p> |
| <p align="center"><b>Commissioner Dan Saltzman</b></p>  |                                     |
| <p><b>*785</b> Authorize the execution of lease documents with The Portland Opera Association, Inc. for office and associated parking space for the East Side Combined Sewer Overflow Project (Ordinance)<br/><br/>(Y-5)</p>  | <p align="center"><b>178551</b></p> |
| <p><b>*786</b> Authorize an agreement with The Wetlands Conservancy to support the Revegetation Program and provide for payment (Ordinance)<br/><br/>(Y-5)</p>  | <p align="center"><b>178552</b></p> |
| <p><b>*787</b> Authorize renewal and extension of an Intergovernmental Agreement with the Oregon Department of Environmental Quality to evaluate toxics in sediment and water in the Columbia Slough (Ordinance)<br/><br/>(Y-5)</p>   | <p align="center"><b>178553</b></p> |
| <p><b>*788</b> Authorize an Intergovernmental Agreement with Multnomah County Health Department for \$116,616 to administer the LeadLine, provide free blood lead screening and consulting services for evaluation of community partner programs and provide for payment (Ordinance)<br/><br/>(Y-5)</p> | <p align="center"><b>178554</b></p> |
| <p align="center"><b>Commissioner Erik Sten</b></p>   |                                     |
| <p><b>*789</b> Accept donation of a Honda Rancher 4x4 All Terrain Vehicle, Zodiac Boat, Submersible Boat Trailer, Mercury Motor and support supplies from the Shirlee Ann Foundation (Ordinance)<br/><br/>(Y-5)</p>   | <p align="center"><b>178555</b></p> |
| <p align="center"><b>City Auditor Gary Blackmer</b></p>   |                                     |
| <p><b>790</b> Appoint Gwenn Baldwin to the Citizen Review Committee for Independent Police Review for a term to expire December 3, 2004 (Resolution)<br/><br/>(Y-5)</p>   | <p align="center"><b>36232</b></p>  |

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| <p><b>791</b> Amend the fee schedule for land use review hearings provided by the Hearings Officer (Second Reading Agenda 744)<br/><br/>(Y-5)</p>  | <p><b>178556</b></p>  |
| <p style="text-align: center;"><b>REGULAR AGENDA</b></p> <p style="text-align: center;"><b>Mayor Vera Katz</b></p>   |   |
| <p><b>*792</b> Amend FY 2003-04 budget by transferring appropriation within City funds to prevent over-expenditure in controlled expenditure categories (Ordinance)<br/><br/><b>Motion to adopt the report:</b> Moved by Commissioner Francesconi and seconded by Commissioner Leonard.<br/><br/>(Y-5)</p> | <p><b>178557</b></p>  |
| <p style="text-align: center;"><b>Commissioner Jim Francesconi</b></p>   |   |
| <p><b>793</b> Consider vacating a portion of SE Kelton Street west of SE 28th Place at the request of the Society of St. Vincent de Paul (Hearing; Report; VAC-10018)</p>  | <p style="text-align: center;"><b>APPROVED;<br/>CITY ENGINEER<br/>PREPARE ORDINANCE</b></p> |
| <p><b>*794</b> Authorize a Maintenance and Reimbursement Agreement with the Eastmoreland Neighborhood Association, SE Uplift Neighborhood Coalition and the Bureau of Parks and Recreation for the new Eastmoreland Garden (Ordinance)<br/><br/>(Y-4)</p>  | <p><b>178558</b></p>  |
| <p style="text-align: center;"><b>Commissioner Dan Saltzman</b></p>  |   |
| <p><b>*795</b> Authorize the Commissioner in Charge of the Bureau of Water Works to execute amendments to existing 25-year wholesale agreements for the sale of water (Ordinance)<br/><br/>(Y-4)</p>   | <p><b>178559</b></p>  |
| <p><b>796</b> Approve funding recommendations for after school and mentoring programs made by Portland Children's Investment Fund Allocation Committee (Second Reading Agenda 726)<br/><br/>(Y-4)</p>  | <p><b>178560</b></p>  |

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| <p><b>*797</b> Revise residential solid waste and recycling collection rates and charges, effective August 1, 2004 (Second Reading Agenda 748; amend Code Chapter 17.102)</p> <p><b>Motion to accept a substitute Exhibit A:</b> Moved by Commissioner Saltzman and seconded by Commissioner Leonard and gavelled down by President Sten after no objections.</p> <p><b>Motion to add an emergency clause so the ordinance can go into effect immediately and to meet the August 1, 2005 timeline:</b> Moved by Commissioner Saltzman and seconded by Commissioner Leonard and gavelled down by President Sten after no objections.</p> <p>(Y-4)</p> | <p><b>178561</b><br/>AS AMENDED</p> |
| <p><b><u>FOUR-FIFTHS AGENDA</u></b></p>  |                                     |
| <p><b>*797-1</b> Amend subrecipient contract with worksystems, inc. for the Comprehensive Youth Employment Program, modify the scope of work, add an additional \$69,649 for a total of \$257,467, extend the termination date to September 30, 2004 and provide for payment (Ordinance; amend Contract No. 34902)</p> <p>(Y-4)</p>  | <p><b>178562</b></p>                |
| <p><b>*797-2</b> Amend subrecipient contract with Unlimited Choices for the Adapt-A-Home Program, provide an additional \$20,000 for a total of \$175,905 and provide for payment (Ordinance; amend Contract No. 34924)</p> <p>(Y-4)</p>   | <p><b>178563</b></p>                |

At 11:37 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **30TH DAY OF JUNE, 2004** AT 2:00 P.M.

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

Commissioner Saltzman arrived at 2:01 p.m.

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

Motion to elect Commissioner Saltzman as President of the Council: Moved by Commissioner Leonard and seconded by Commissioner Francesconi. (Y-4)

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| <p><b>798 TIME CERTAIN: 2:00 PM</b> – Accept City Engineer recommendation on an encroachment request for a new skystructure in the public right-of-way for Cherrywood Village Skystructure Review (Report introduced by Commissioner Francesconi)</p> <p><b>Motion to accept amendment to adopt revision to condition number 1 to apply the Gateway Design Guidelines:</b> Moved by Commissioner Saltzman and seconded by Commissioner Francesconi and gaveled down by President Sten after no objections.</p> <p>(Y-4)</p> | <p><b>Disposition:</b></p> <p><b>ACCEPTED<br/>AS AMENDED</b></p> |
|---|--|

At 3:05 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.

**June 30, 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.

**JUNE 30, 2004      9:30 AM**

**Katz:** Good morning. Please call the roll. [roll call taken]

**Katz:** Before I start, let me again thank all of the citizens for their good wishes and prayers. It made a big difference. The chicken soup did as well. All right. 759.

**Item 759.**

**Charles E. Long:** Yes, mayor Katz and city council, i'm charles e. Long. I live in northeast Portland. We're very, very pleased to have mayor Katz here this morning, and we certainly have been praying for her and will continue to.

**Katz:** Thank you. Charles, thank you for your note and your prayers.

**Long:** Yeah. I'd like to speak again on police reform. Just a few weeks ago the albina ministerial alliance had a full-court press urging and demanding police change. And there have been many reports and hearings and forums recently. Mr. Stinson, a civil rights attorney had a forum dealing with police traffic stops, said that the police department here has been and is dysfunctional. And ever since the -- about 20 years he's been an attorney here. And I think Portland needs to revise its charter and take out the law of inertia. I'd like to cite a couple of articles. In april, when the candidates were running for city council, the headline in "the Oregonian" read "police need c change. Municipal candidates agree." and the jury -- excuse me. The inquest jury that gave the report said "the Portland police bureau needs to make a fundamental reexamination of its tactics and training for officers in traffic stops of uncooperative motorists," and so forth. And i'd like to read one article that was in "the Oregonian" and also the "Portland observer." headlined "violence abhor rent." we the members and attendees are concerned about the recent incidence of violence in which a traffic stopped involved into the death of an unarmed driver by a young police officer. Our prayers go out to the man who died. The officer responsible for that death and to the families and friends of both men. Quakers have long held to a testimony of peace, holding that violence is a tool -- as a tool to resolve problems between person is both abhorrent to god and nonproductive. The kind of violence that occurred in north Portland injures not only those directly involved, but also every member of the Portland community. While we do not call for assessing blame or passing judgment in the spirit of the testimony of peace that christ calls us to we ask that our police, city council, and fellow citizens listen more to each other and act professionally and work together in search of alternatives to violence."

**Katz:** Charles, your time is up. Thank you. Thank you.

**Katz:** All right. 760.

**Item 760.**

**\*\*\*\*\*:** Good morning. Welcome back, mayor Katz. I hope you're feeling well today.

**Katz:** Thank you.

**Freedom Child:** Good morning, commissioners. My name is freedom child. I live in st. Johns. I live about five blocks away from where mr. Perez in my opinion was murdered last march. I'm here to talk to you about an incident I had of being attacked by the police last summer while I was on my bike coming home. And I have just won my trial last week, and I plan to file a lawsuit against the police department and I want you to know what has happened to me. Let's see, and also as they said i'd filed a complaint with the independent police review commission, and that was



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denied. I was denied a hearing before the citizen review board. Ok, last summer, on August 6, in the evening I was coming home from the citizens -- from the bicycle collective on Alberta Street where I volunteer. I'd taken my bike home on the bus. I got off the bus about three blocks away from where I live, and I was -- I rode my bike home. Just as I was getting in front of my house a car pulled up and a man said to me, "hey, where you going?" to me that meant that there was a man following me, trying to pick me up. It was 10:30 at night, very dark in front of my house. I was just about to the gate in front of my house and I was going to keep going because I didn't want the man to know where I live. He said "do you know where you live here?" I almost kept going. At the last minute I said "get in the gate." I got inside my gate, I put my bike around, turned around, and I faced around to the street, and I said "yeah, I live here, who are you and what do you want?" I got no response. Then I had a penlight flashed on me. Didn't know what that meant. I said "what do you want?" again got no response. Again I said "what do you want?" nobody responded. At that point two men got out of the car, and they had uniforms on. I didn't know who they were. They hadn't responded to my request. I turned and ran into my house. In my youth, I've attempted rape a few times, so I would be very cautious about two men approaching me on a dark street. I ran into my house, got inside the threshold of my door, I turned around to close the screen door, and two men were there on my porch. I thought I was safe, because I was in my house. They cannot enter my house. One of them reached in, I had this purse, grabbed my purse, the other one grabbed my arm, the other one reached in and ripped me out of my house by my hair. I screamed to get the attention of my neighbors on to the situation so there would be witnesses to the situation. My time is almost up, but I've assigned for next week, but I will back. And I'll keep coming back until you hear my entire story.

**Katz:** Let me just say for the council, as others, are available to for you to review. So as you hear this side of the story, there are other reasons why that was rejected by the independent review committee.

**Freedom Child:** And I will talk about that. That's a process that does not work for the citizens.

**Katz:** That's a whole other issue, but the council when they hear these kind of story --

**Freedom Child:** Yeah. The police aren't telling the truth. That's a problem in this city.

**Katz:** Ok. 761.

**Item 761.**

**Jay Boss Rubin:** My name is Jay Boss Rubin and I live in the river district in northwest Portland. Mayor Katz, commissioner Saltzman, Sten, Francesconi and Leonard. I'd like to wish you a happy hard-core summer of 2004. Summer is a magical season in the state of Oregon, and especially here in Portland. In doomed fair weather states like Texas, Florida and California, in 80-degree day and an opportunity to go swimming is business as usual. Here in the city of roses it is our cause to celebrate. I came here today to officially declare a challenge to the city of Portland. The Portland challenge. On Sunday, August 1, 2004, let us explore this town with no money, no motors, and no bridges. Let us experience Portland the way the Multnomah County Indians and original settlers like Captain John Couch and Benjamin Stark used to. Let us sharpen our backstroke and vision then reconsider terms like urban development. The Portland challenge is a gathering, a parade, a river crossing and a celebration. Sunday, August 1, at 11:00 a.m., all citizens are charged to gather at Bud Clark's Goose Hollow Inn on Southwest 19th and Jefferson to the tune of a marching band, Portlanders will parade through the streets of downtown Portland, north and east towards Portland's finest fountain in the historic district. Upon entering the waterfront, challengers will continue along the promenade to where the seawall ends just south of the Hawthorne Bridge. Can anyone guess what we're going to do next? Anyone have a guess? Next we'll plunge into our local waterway, the mighty Willamette River. Me, I'll be swimming. Others shall kayak, canoe, parade, paddle and pull. Perhaps next year some will even cross underneath the Willamette through Commissioner Saltzman's big pipe. Then in civic celebration of a successful city crossing, we shall picnic in the

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crater of southeast Portland's glorious mount tabor. All of this for free in celebration of being Portlanders. It's the summertime and it's time to plunge into our local waterway, the willamette river. On a side note, the Portland challenge is also a fundraiser for a project that's a planned orphanage in tanzania. It's called house of peace and love. Shall I have to pay park fees and insurance binders to direct a civic celebration toward getting Portland more committed about their local waterway and help an orphanage in east africa? Couldn't the Portland challenge be part of Portland's renaissance? Could any of you help with me this before august 1.

**Katz:** All right. Thank you. Consent calendar. Items to be removed. 770. 790. Any other items to be removed off consent by the council? By members of the audience? If not, roll call on consent.

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

**Katz:** Mayor votes aye. Thank you. [gavel pounded] all right, let's take 770.

**Item 770.**

**Ron Bergman, Director, Bureau of General Services:** Mayor Katz, members of the council, ron bergman, general services director. I with me ty wells from the selection committee. This is a contract for attendance services and revenue collection in the garages, as well as management of five service lots that the bureau is responsible for.

**Ty Wells:** Mayor Katz, commissioners, good morning. My name is ty wells. I'm the general manager of the Portland restaurant. As a member of the city's evaluation committee i'm here today to make a recommendation. Evaluation committee reviewed five proposals and selected four firms for interviews. Based on our evaluation, the committee recommends star park be awarded this contract. The committee believes that star park is highly qualified and the serve will city and park and public well. Thank you very much.

**Katz:** Thank you. Questions? Probably want to hold on to your question -- why don't we hold on, because we're going to hear testimony, i'm sure, from both sides.

**Moore:** We don't have a sign-up sheet. It was pulled item.

**Katz:** All right, it was pulled. Mr. Goodman?

**Greg Goodman, City Center Parking:** Good morning. My name is greg goodman. First i'd like to go back, if you recall, a couple of months ago at this -- at this place -- at a council meeting we talked about the need -- that ron bergman came up and said that the work that city parking has done -- i'm reading from the transcript -- has been very good. I have no complaints about that. And I have no way of knowing how the results of the r.f.p. Process are going to come out in terms of whether we will or won't save money. The key issue that was brought before us at that time was can the city save money? Mr. Bergman continued that the marketplace can work for us, and I think before we face the larger issue of the revenue side, that we ought to demonstrate that we have looked under all the rocks for all possible savings. I've -- does everybody have what I just passed out?

**Katz:** Uh-huh.

**Goodman:** By the way, I don't have to refresh anybody's memory that all the council members agreed with that and obviously because of the budget constraints any opportunity to save money was worth looking at. And the city -- the r.f.p. Process did save money, but i'm going to talk in order here. The process, in my opinion, was a flawed process with the goal in mind that the city had. And that the council stated. The process underweighted the significance of cost to the city. Over the course of less than four years, the contract -- city center parking's contract to the city saved \$649,000. Yet that huge only difference is only represented is 32 1/2 points out of a total of 500 points. That means \$649,000 savings to the city in less than four years only represents 6.5% of the total scoring. Now you might hear, well, there's some subjective costs. These are estimates and so on. So if you just look at the management fee portion and pull all the other costs out, ok, I personally disagree with that assumption, but if you do and you hear that today and you look at just

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the management fees, star's management fee is \$658,000. City center parking's management fee is \$437,000. A difference of \$221,000 to the city. More importantly, if you use that rationale -- that rationale of thought, city center parking scores 385 -- 384 points, star scores 382 points, and city center parking would have won -- finished ahead of star if the contract was administered just from the management fee. Now also the r.f.p., it suggested that there were 5,000 hours and a number of supervisor hours that the -- that the customers -- or the people were allowed to put in. That totaled roughly 6,000 hours. In actuality there are 6,000 hours or 73,000 hours a year. There are actually 86,229 hours a year. So there's a possibility that with the increased hours the \$649,000 cost -- by the way, those were last year's hours -- the \$649,000 cost is actually increase -- increase in cost is actually greater than that.

**Katz:** Greg, your time's up. How much more to you have?

**Goodman:** About 30 seconds.

**Katz:** Ok.

**Goodman:** The other thing that I --

**Katz:** Is that all right with the council? Ok.

**Goodman:** Thank you very much. The other thing that I think is a significant issue is part of the r.f.p. Requirement was that you submit references. Certainly if I had a business that generated \$35 million or so over the course of four years I would want to check references. The selection committee elected not to check any references. That could -- that was not a fair and reasonable approach to this, as it -- with regards to experience, revenue control, supervisor hiring, and proposed operation, references are exceptionally important. And there's a lot of things that they would have found out if they had elected to choose references. When I called the bgsa, they said we were only going to choose references if it was close. Well, the scores were within 5%. I don't know what close is. What I would recommend for \$649,000 isn't that the contract get awarded to city center parking, I would suggest that the city rebid it with more of an emphasis on what they're trying to do, which is save money, because everybody admitted, including the director of b.g.s., that city center parking had done a very good job. Thank you very much.

**Katz:** Thank you. Anybody else want to testify before we bring ron back up again? Then if councilmembers want to ask questions of greg, feel free. All right. You want to come and testify? Come on up. Then we'll bring ron.

**Virgil Oval, Star Park:** Good morning, councilmembers. My name is virgil oval, 610 southwest alder street, Portland. I'm the chief operating officer of star park and i'd like to say on behalf of star park and alliance of minority chambers that we're happy to be here today. We were chosen by the selection committee as a company that provides the best value to the city of Portland in the performance of this contract. This was a competitive process with six companies at the prebid hearing and five companies turning in proposals. The companies were scored in eight categories, firm experience and capabilities, revenue control and cost management, supervision and staff management, hiring and training staff, proposed operations, diversity in employment and contracting, and proposed fees. We believe that this process was conducted with the highest level of integrity and pleased to receive the selection committee's recommendation. The question of which of the five companies will offer the best service and best meets the needs of the city has been considered, discussed and debated and answered by the selection committee. Some people may disagree with the result, but this is not -- does not mean that the months of work by many people should be ignored. We urge the city council to properly give great weight to the r.f.p. Process, the work of b.g.s. And selection committee's recommendation that resulted in a process that no one challenged during the time -- during the appeal time that they had to challenge the award. All companies in this r.f.p. Process had a fair and ample opportunity to present their proposal in the best light. The committee recognized that star park and the alliance of minority chambers' proposal reflected a commitment to a diverse work force, minority hiring, the best ratio of supervisors to

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attendance, and a forward-thinking attitude towards technology. Out of the five proposals, our proposal was the second lowest bid and the first in overall scoring. We feel strongly that the city is best served by having a fresh approach to how these garages are operated. The difference in the fees can be met in the following ways. Cost savings in new technology applications, such as pay on foot stations, integrating smart card technology in the garages, the service lots is integrated with the onstreet pay stations that the city has recently installed. Looking at putting pay on display systems in the garages. We wanted to completely retrain garage employees in the areas of customer service, cash handling, procedures and knowledge of downtown Portland. Each attendant will be trained to operate their booth like a concierge's desk in a fine hotel. They'll have answers to questions like where is a good restaurant or do you know when the next nordstrom sale is? Each booth will receive a weekly newsletter that will alert the attendants to what is happening downtown next week. This will help make them destination garages and maximum revenue. The award of the --

**Katz:** Finish your sentence.

**Oval:** It's a positive step toward a more competitive market for downtown Portland.

**Katz:** Thank you.

**Roy Jay:** Good morning, mayor and commissioners. My name is Roy Jay. My address is 7739 northeast 21st in Portland. I want to echo what Virgil has already sort of brought before you, but I want to read you just one paragraph from the r.f.p. That said the city will award a contract to the proposer whose proposal would be most advantageous to the city, meaning to me that is not just about price, that is about what is most advantageous to the city. We brought some new ideas, fresh ideas to the table, to the committee. Part of our plan as Virgil already mentioned is being able to elevate the booth attendants to a concierge level, which is vitally important downtown, but I've talked with each of you at some time our plan to generate upwards of a million dollars or more in marketing these garages from an advertising standpoint. We're ready to move forward with this. This is something that should have been done 10, 15 years ago. Thank God we have a gold mine sitting right here with all these garages. We have companies that are ready to do, as I mentioned, all this helping generate money for the garages. Our proposal was second to none. We came, we present -- we made our presentation. This is something that we wanted to follow through on from our first contract. And unfortunately we're here to have to sort of justify ourself, but this is good for the city. This is not just about the money. I think in a year or so you will see the real difference in what we can bring to the table versus what has been done in the past. There's been a great job in the past, but it's time for us to move forward to another level if we want to make some money in this. Thank you for your time.

**Katz:** Thank you.

**Gale Castillo:** Good morning, mayor, and members of city council. I'm Gale Castilla. I'm the executive director of the Hispanic Chamber. Our new office is at 333 Southwest Fifth Avenue, Suite 100 here in Portland. I want to address specifically the issue of the lowest bid. The concept of that that's been presented here. Lowest bid is not always, as we know, the best bid. The city really needs to be concerned about quality of service, the quality of the vendors, and the quality of the performance that is being provided. All of this focus on quality will increase the city's opportunity to increase revenues. And that's what it's all about. The city has had the same vendor for over 20 years with an organization that frankly has a monopoly on the city's parking business. One way of keeping a monopoly, when you can't compete head on in a fair, open bid process is to buy the business. Thus the low, low bid. It is unrealistic and frankly noncompetitive. With this low, low, noncompetitive bid there is no incentive for the existing vendor to do a quality job or to spend time with the city to address long-term quality issues regarding improvements such as technology improvements or management improvements. We urge you to accept the recommendation, to award the contract to Star Park and the Alliance of Minority Chambers. Thank you.

**Katz:** Thank you.

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**Roy Jay:** Mayor, can I throw something else in here real quick? Because she only lasted about 1:26. I'm sorry, i'm sorry. I'm over 50, sometimes I forget. Customer service is really important. I mean, this is the core of downtown, and this is -- this is the vitality that we bring down there. I'm not trying to bring up sour grace, but one of the things that was brought to our attention, and this is -- this may be a particular situation, but I notice that here's a document from a city employee that had to sue the current operator. This was just in april over their parking situation. He works right here in the city and for your city. This was dated april 4.

**Katz:** Thank you.

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

**Katz:** All right, thank you.

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

**Katz:** Ron, come on up. Council?

**Leonard:** I do have a couple questions.

**Katz:** Go ahead.

**Leonard:** Ron, the letter from you to us dated june 10 that outlines the rationale behind awarding the contract raises some questions. But I first -- gail steele mentioned that her -- I think made the point, was attempting to make the point, that the competitor underbid in an attempt to buy the contract, not necessarily reflective of what their true costs are. When you analyze the bids, did you look at the costs behind each of the submitters in terms of what their overall cost would be to administer the contract?

**Bergman:** The selection committee and the staff essentially accepted the proposal that was presented by each of the proposers in terms of what their costs were. Rather than going back and double-checking numbers and asking for backup data, we had very solid standards in the request for proposal and the draft contract that went out with the r.f.p. As to what those expectations were, and we were going to monitor and ensure that we got what we were expecting to get on the enforcement side after the contract. So no, we did not go back and double-check and ask for backup data on the costs that were submitted.

**Leonard:** So there's no way for you or us to fairly conclude that they in fact underbid in terms of what their costs were?

**Bergman:** I have to accept the numbers that they submitted as what they're willing to charge for the service that they're providing.

**Leonard:** And the next question, if I will, is under the supervision and staff management proposal. I've actually never seen language such as this before in awarding a contract, but the analysis done by the committee said that they were more impressed with star park's mix of supervisors to employees. Can you explain that?

**Bergman:** Sure, I can. A good portion of the contract -- in fact the majority of the costs of the contract are in the reimbursable category as opposed to the fixed management fee. Fixed management fee has a whole series of obligations that the contractor is supposed to do and we've lumped them together and said that's a fixed-rate price for those services. The reimbursable portion and the biggest dollar amount is the hours that are spent in the tollbooths by the actual attendants, because demand changes over the year. We can't ask for a fixed price on that, so whatever the hours end up being that's what we are reimburse them for. So we ask for an average hourly rate for the attendants to do that particular work, and then we leveled the playing field for all of the proposers by taking that average hourly wage, multiplying by that fixed number of hours to get a cost comparison. That's not to say that's what the hours were actually going to be, but to be a cost comparison of what the those hours might be leveled against all of the proposers. We also asked the attendants to tell us what the ratio of attendant hours to supervisor hours would be, because those onsite supervisor hours are also part of the reimbursable contract. So the level of supervision, we were able to determine by that percentage that each of the proposers submitted. Now the reason

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that we did that is supervision is very important in a cash business like parking so that all of the kind of separation of duties, the internal controls can be in place, the opportunity for losing money by not having appropriate supervision is very high in a cash business like this.

**Leonard:** Let me read to you what i'm seeing, because what you're saying isn't consistent with what i'm reading. Maybe you can help me.

**Bergman:** Ok.

**Leonard:** This is a quote. While c.c.p. Offers a larger number of supervisors due to the size of their operations, the committee gave them low marks because they felt that smart park would not receive the focus offered by other firms." that seems to be a subjective conclusion made on some objective observations. In other words, how I read that, and tell me if i've got this wrong, is notwithstanding what you've just said, c.c.p. Does have a higher number of supervisors, but the committee somehow felt -- i'd like to know the reason they felt this -- that the smart park operations weren't going to get the focus of other operations. So I heard what you said about the supervisors to employees ratio. I understand that.

**Bergman:** Ok.

**Leonard:** But that isn't necessarily -- doesn't necessarily reflect --

**Bergman:** I guess I was answering a different question than what you were asking.

**Leonard:** I thought that. It was a good answer, but it didn't fit with the --

**Bergman:** I think the question you're referring to has to do with the portion of supervision and oversight that's contained within the management fee. The onsite --

**Leonard:** Just asking about this statement, which is "they do have more supervisors, but we've concluded somehow that they won't give us the focus that smart park will -- or star park will." what was the pace for them reaching that conclusion?

**Bergman:** Right. There's two levels of supervision. There's the onsite supervision, which I addressed. The reference there is kind of the management supervision that's contained in the management fee. And again, I was not in the direct interviews, but I did review the proposals. And my understanding is that the city center proposal had a supervisor that not only dealt with the city's garages within the management fee, but was responsible for a good number of other garages as well whereas some of the other proposals had management oversight in their management fee that was strictly dedicated to the smart park garages and the committee felt that that was more intensive kind of oversight that was necessary to ensure that things were working correctly.

**Leonard:** There is another comment on the same page at the top that says that it appeared that not all costs were presented in c.c.p.'s proposal. And what was that based on? I might add, to the sentence before that says there was confusion among the committee with regard to the roles and responsibilities of supervisors, managers and the lead attendants and concern regarding their conflicts of interest. Of course, that gives me two questions.

**Bergman:** Right.

**Leonard:** What was the potential conflict of interest? And two, if they had confusion, did they ask questions of the bidder about the source of the confusion?

**Bergman:** My understanding is there was a -- and again, I was not in the interviews, but my understanding is that they did have good conversation about the costing proposal on the -- again, now we're talking about the reimbursable portion, the onsite supervisor. The way the city center proposal was submitted, the average hourly wage for the attendants was submitted at a particular dollar level. And what they submitted was the classification of attendant, that average hourly wage. Even though, according to their plan, an onsite supervisor was going to spend a good number of hours working as an attendant. So at a higher wage. So the -- another part of the proposal asked for a percentage of supervision against the average hours -- or the hours for the attendant, what that looked like was a lower level of supervision in one proposal, even though mows those supervisors were going to be working as an attendant, but the average attendant hours did not reflect that

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portion of hours that were being staffed by a supervisor. So it artificially lowered the -- the attendant costs in terms of the calculations that --

**Leonard:** When we submit a bid, not just for this, but for anything, do we customarily analyze how an operation manages its firm or do we ask for outcomes, specific outcomes, in an r.f.p. At the best possible price? I mean, it sounds like we're getting in and analyzing the operation to a level that -- again, i've just not seen before in a bid award where an analysis is done of their kind of management structure. That seems to be implicit in what you're saying.

**Bergman:** It had to do with making forecasts -- or estimates for what the total cost of the project would be so we can compare the costs, because a vast majority of the costs under this contract are in the reimbursable category, so in order to stilt what those reimbursable costs will be we have to know what is the level of onsite supervision and what is the average cost of staffing the attendant booths? So we don't have a cap on costs if we award the bid?

**Bergman:** No. It's based upon staffing, and staffing is based upon demand.

**Leonard:** When we see the \$650,000 less to manage the program --

**Bergman:** That's an estimate.

**Sten:** And that can change?

**Bergman:** That can change, yes.

**Leonard:** Based on the --

**Bergman:** The demand in the garage, up or down.

**Leonard:** And the staffing levels?

**Bergman:** And the staffing levels. Principally by the staffing levels.

**Sten:** Commissioner, can I ask a follow-up?

**Leonard:** Yes, please.

**Sten:** Am I right to hear you say it's because of the different hourly wages and the number of supervisors? Because you're using the same number --

**Bergman:** We're using the same number of --

**Sten:** -- of estimated hours, am I right about that?

**Bergman:** Same number of estimated hours for the attendants, and then we're applying the average salary for attendants against that number of hours, and we're adding the percentage of hours for supervision and the average hourly wage for the supervisor against those hours, adding those together and adding to the management fee in order to come up with an estimate of the cost.

**Sten:** So am I right that the number of hours for each bid would be the same --

**Bergman:** Exactly the same.

**Sten:** But the price of the attendants would differ according to what they were --

**Bergman:** What they submitted, that's correct.

**Sten:** So the difference would be price of attendants and the number of supervisory hours?

**Bergman:** That's correct.

**Leonard:** I guess i'm still trying to get how that fluctuates.

**Sten:** Plus the management fee.

**Bergman:** Plus the management fee.

**Sten:** And there's a \$200,000 difference in management fee, roughly? I'm just using round numbers.

**Bergman:** Right. The difference in the management fee is a very small component of the total cost. So the more hours that you have of staffing, the smaller -- assuming that the salaries are fairly comparable -- the smaller the overall dollar difference is between the various proposals.

**Sten:** I guess that leads the obvious follow-up. Can you give me a percentage -- about \$200,000 difference in management fees and about a difference in estimated costs.

**Bergman:** Over the life of the contract.

**Sten:** What's the difference in wages being proposed? What does that amount to?

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**Bergman:** The difference in wages is -- are virtually the same.

**Sten:** Ok.

**Bergman:** For the attendants, the way she submitted --

**Sten:** So the 450 is mostly additional supervisory hours?

**Bergman:** The difference is the number of supervisory hours. I think the issue about whether or not all costs were concerned was a question on the selection committee's perspective, but the way the costs were weighted, we weighted them as they were proposed in the proposal. We did not make any adjustments for any supervisors -- onsite supervisors that were acting as attendants.

**Sten:** So we don't have a standard for what we consider adequate supervisory structure?

**Bergman:** No. We have our outcomes that we expect in terms of the separation of duties, internal control, responsibilities for staffing, service levels in terms of cue lengths and timelines, those kinds of outcomes. We asked the proponents to tell us how much supervision was necessary in order to achieve those.

**Sten:** I'm just trying to understand the decision.

**Bergman:** You bet.

**Sten:** There was essentially a preadvertised quantitative formula to determine who won. Star park won on that. And then there's a qualitative comment by the committee that they think part of why that happened was that the supervisory structure --

**Bergman:** It was a comment that -- from a financial standpoint did not affect the financial scores.

**Sten:** I just kind of jumped in, but I'll ask my last question. So one response I had when I looked at this was given, everything's important, but money's very important. I had some sense that maybe the way the formula worked out -- and granted, it was all advertised quite fairly to everyone, I don't think anyone's arguing that it wasn't, but what would you say to the argument that the formula seems to downplay a pretty significant difference in money? You know, \$650,000 gets you just 20 - - 20-something percent out of the deal, only six points out of a hundred. Is that typical or does that seem like a low number?

**Bergman:** The weighting on the cost side was 35% of the total points.

**Sten:** Right.

**Bergman:** So the numbers that were presented by city -- numbers that were presented by city center parking in terms of the 6%, I'm not sure how that math worked, but I can tell you that the weighting on the financial side was --

**Sten:** I can tell exactly how it worked, that the winning bidder got 35 points and city center got 28.5, so that they -- yeah, star park got -- I'm reversing that. Star park got 28.5. So there was a 20% or 30% difference in their cost estimates, but the ultimate difference was six points, which is 6% of their total score.

**Bergman:** Right.

**Sten:** My question is, is that a reasonable ding for that much money?

**Bergman:** There was a fairly standard formula in the r.f.p. That identified how those costs would be compared. You basically take a ratio of the cost that's submitted against the lowest cost, that becomes a percentage, and that percentage then is multiplied against the number of points that are available. It was all a mechanical process based on the dollar amounts.

**Katz:** Mr. Leonard, did you want to finish before I go on to commissioner Saltzman?

**Leonard:** I have a couple others, but actually it's helpful to hear others ask questions. **Katz:** Ok. Commissioner?

**Saltzman:** We're asked to approve a specific contract for \$5 million with amounts spelled out here in each fiscal year for the next four fiscal years. So how can this be somewhat uncertain what we're paying?

**Bergman:** Those are estimates. Those are essentially maximums under the terms of the contract. We've taken our best estimate of what those costs will be.



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**Saltzman:** This includes the management fee?

**Bergman:** That includes the management fee and reimbursable costs.

**Saltzman:** And the proposers were not asked to provide a fixed management fee?

**Bergman:** Yes, they are.

**Saltzman:** They were?

**Bergman:** Yes. What's variable --

**Saltzman:** Is that on your table that has the analysis, there's a cost column, the table --

**Bergman:** Yes.

**Saltzman:** Is that the management fee over four years?

**Bergman:** No. That is the management fee and the estimate of reimbursable costs based upon the fixed number of hours that we said we'd use for comparisons.

**Saltzman:** Is this a one-year or four-year figure?

**Bergman:** That's a four-year figure.

**Saltzman:** How does it differ so much from the ordinance? The ordinance adds up to at least -- one, two, three -- at least over \$4 million.

**Katz:** \$5 million.

**Saltzman:** And these costs and columns are \$3.4 million and --

**Bergman:** Or other costs that -- signage costs, other kinds of special service costs that we often use the contractor to provide as part of this that increase over the -- that we had no way to estimate in terms of the analysis for the r.f.p. It's reimbursable costs.

**Saltzman:** So again the costs in this column, in this table, is what again? This is the management fee and reimbursable?

**Bergman:** It is the management fee and the attendant costs.

**Saltzman:** Ok. I had one other question here. I guess I was struck, in the first page of your memo, one of the reasons star park prevailed is they do not seem to be aggressively growing their market share, thereby minimizing potential conflicts of interest. I'd like some elaboration on what was meant by that, but second that seems like a subjective -- I mean, was that -- was there something about market share and aggressive marketing that was scored in the r.f.p.?

**Bergman:** No.

**Saltzman:** That seems a subjective sort of comment.

**Bergman:** No. No.

**Saltzman:** What was meant by it first?

**Bergman:** And again, i'm reflecting the comments from the selection committee. They were concerned that really the city is hiring a competitor to manage our garages and that's essentially the case for all of the proponents, that they're proposers that we have here, and that there is an opportunity, if not managed correctly, to use the operation of our garages to either direct or not direct parking customers, either to us or to somebody else, and I think that was a -- kind of a subjective that really -- comment that as far as I know did not reflect in the scores, but was a general comment from the -- some of the members of the selection committee.

**Saltzman:** So they were all -- all the proposers had that same --

**Bergman:** That's correct.

**Saltzman:** Getting back to the costs. When we discussed this r.f.p. And throughout this whole effort to take a look at our smart park garages and basically, and the words you've used in the past, stop the hemorrhaging, again and save money, I think we all spoke about the need to save money.

**Bergman:** You bet.

**Saltzman:** And yet it seems like we're going with one proposal that will cost us more money than another. I will concede they're all qualified to do the job. Admittedly it's not a low bid. We do an r.f.p., but it seems to me more of the fuzzier aspects of r.f.p.'s ended up in the final analysis dwarfing sort of the real dollars and cents, which also is very important to us right now.

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**Bergman:** Right. The highest weighted item in any of the categories was the cost item. And clearly our -- you know, from a staff perspective cost is very important. That was the principal reason for not extending the contract and trying to test the market. The proposed contract that we have does provide a savings full it's not the greatest savings that came in with all of the other proposals that we received. We have to, from a business perspective, have to look at things beyond just costs, because I think the quality of the work, the level of interaction of those attendants with our parking customers affects the downtown experience that customers have, and that the way the system works, and as well as the financial side from the oversight that's this, because we're not losing money, because it's a cash business, is something that's very important, and why we wanted to look at other factors besides just costs.

**Francesconi:** If I could follow up on that, commissioner Saltzman. You know, there's two ways to make money. One is to reduce costs. The other is to increase revenue. Ok? I heard a lot of talk from the star park and the minority chambers just now about the revenue side. And there's -- so an important factor is money for the hemorrhaging of the parking garage system.

**Bergman:** Right.

**Francesconi:** There's other important goals, diversity and other important factors. On the money side, I guess who bears the risk -- it sounds like, since I don't think that i'm aware of there was a problem with supervision before, it sounds like the increased costs are part -- excluding the management fees -- is an effort to increase the service to the customers, as west testified by everybody just a minute ago. So the idea is, I think, to grow the revenue for the city and for -- and improve service to downtown. So the question is, who bears the risk in this deal if the increased cost do not generate revenue for the city? Does the city bear the risk or do the operators of the garages?

**Bergman:** The city bears the risk.

**Francesconi:** Well, then there's an issue there. Why -- why can't the contract -- if a person wants to come in with increased costs, I can understand that, with the idea of generating revenue, why does the city bear all the risk?

**Bergman:** The proposal and the contract that's before you is a reduction in costs from our current cost structure.

**Francesconi:** Right, I understand that, but the justification that was just given to us for the increased cost of this contract versus the lower bidder is you improve service and grow revenue, which makes sense to me.

**Bergman:** I think the -- I would characterize it a little different than that. I would characterize that the selection committee felt that the management structure, the oversight and the service level that was being proposed by star park was better than those comparable areas from the other proposers.

**Francesconi:** Has this contract already been signed and negotiated with the providers?

**Bergman:** The r.f.p. Had a very detailed draft contract, that contract has been signed by star park. It has not been signed by the city yet.

**Francesconi:** It seems to me that you should give weight to other factors, especially diversity, but \$650,000 where the city assumes all the risk if it doesn't produce more revenue seems a bit excessive given the other goals we have for the city, including helping poor folks with money we don't have.

**Bergman:** When we put the r.f.p. Together there was a good deal of internal consideration about making an incentive contract, where additional revenue would create additional revenue to the contractors. The analysis that we made at the time is to we're at the bottom of the trough, that the revenue increase is likely to increase as the economy improves, as downtown recovers from the condition that we're in, and that there was going to be revenue growth regardless, and that it was going to be very difficult to separate out that revenue growth from any revenue growth that

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occurred because of actions of the contractors, and that the fairest thing from the city's perspective was to set a fixed fee with certain responsibilities for the contract.

**Francesconi:** But then you're telling me, by that kind of rationale, that improved service may not result in an added revenue. It's going to be the economy. Seems like we can't have it both ways here. You see what i'm saying?

**Bergman:** I think it's not one or the other, it's both. And the question is a measurement issue.

**Francesconi:** All right.

**Katz:** Further questions?

**Leonard:** On the issue of diversity, I mean your document, ron, says under diversity and employment, while each firm appeared to offer nearly the same in terms of employment and diversity, star park and minority chambers partners have seen this as a significant advantage compared to other firms. I mean, you acknowledge they have the same level of diversity, but the point spread is 30 points more for star over c.c.p. I mean, what objective basis did you use to have that huge increase in points for star when you acknowledge they were the same in terms of employment diversity?

**Bergman:** I think, again, reflecting the perspective of the selection committee, there were several aspects of that contracting -- or the diversity that they took into consideration. Not only did they look at the diversity of the work force that were staffing the attendant booths, and those were fairly comparable, I think they were impressed with the management structure that utilized the roles of the minority chambers. I think they were impressed with the level of contracting for other kinds of activities, subcontracting for signage, for other kinds of activities and the use of minority contractors. You know, each individual member of the selection committee based on the criteria that was set out in the r.f.p. Made their own individual judgments as to how the point spread should be, and the table that we gave you reflects those difference perspectives.

**Leonard:** I guess just to conclude, my concern is, and I was trying to get my arms around this issue as he became aware of it yesterday and this morning in analyzing it, and i've crossed out c.c.p. In the various categories and put in star park, and then crossed out star park and put in c.c.p. If I looked at it that way and I voted yes, affirming the contract based on this point schedule that you've provided us, I wondered how I would explain to anybody that I wasn't showing favoritism to c.c.p. Given in that example i'm given they would have -- they would have bid \$650,000 higher, they would have no diversity advantage over star park? I mean, i'm just wondering -- I don't know how I would explain it. I guess i'm not even asking a question. I'm not sure how I would explain it wasn't favoritism.

**Bergman:** All I can say is --

**Leonard:** And I have favorites here, by the way, and I think most people know about that, but, you know, even with friends sometimes the best you can do is look at them and say I promise to be fair in all examples. Sometimes that works for you and sometimes that doesn't.

**Bergman:** All I can say is we had an independent citizen-based selection committee that used a predefined selection criteria, applied that criteria as best they could with the material that was submitted to them. Each of them did it independently. We amalgamated those scores and this was the result.

**Francesconi:** I come from a different place than commissioner leonard. I don't think we should go through and question the committee on every item, including the supervisory side or why one got more diversity than the other. That puts us in the wrong position and I don't think we can do that. I think we have to trust the committee. The problem i'm having is, for the most part, the increased costs, which are significant, have been justified to get more revenue, but the city bears the risk. That's the problem i'm having, the money side, and the factor given to the money, yet us with the risk. Do you have any ideas to address my much more limited concern?

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**Bergman:** I'd have to go back and think what some options might be here. I don't believe there's time to reject all the proposals and do this over again with some other criteria. The contract that we have is going to expire. I'm not sure. I'd have to think about what we'd have to do. I think it creates a problem. And Jim van Dyke from the city attorney's office might be able to address this in terms of trying to negotiate something into the contract at this point to change the nature of the contract when we were clear in the r.f.p. Process what that might be, but maybe he's got --

**Saltzman:** Since we're going to turn to Jim here, let me just throw this one out, too. Could we legally do a low bid and limit it only to the four proposers that we finalized? Since we know they're all relatively qualified in just about all the different categories and the price is really the only thing there's -- to our minds -- that's a major discrepancy. Could we say only these qualified proposers could submit bids?

**Jim Van Dyke, City Attorney's Office:** Jim van Dyke, city attorney's office. The answer to the first question that you posed is yes, we could do it just based on a low bid. Whether or not we could just go back to these four or five folks, I would want to look at that issue a little bit further.

**Francesconi:** I guess I'm not interested in going back to just a straight low bid, because I believe there are other factors here we're trying to award. But the question for me is a little different. It's either you give a little more weight -- and I don't know how much more weight -- to the cost factor or you put something in the contract where the risk has to be shared. That's kind of where I'm at. It's not going to a straight low bid.

**Katz:** I need to -- after an hour and a half, I need to know where the council is on this before we take a vote.

**Sten:** I have one more question. I hate to prolong this, but can you give me any sense of what -- of how the estimated costs by the parties compare to our actual costs over the last few years?

**Bergman:** Yeah. The estimated costs are less.

**Sten:** On both sides?

**Bergman:** Yes.

**Sten:** So the winning bidder, or the proposed winning bidder --

**Bergman:** Creates a savings for the city.

**Sten:** Lower than the historical cost of the contract?

**Bergman:** Yes, right.

**Sten:** Ok.

**Bergman:** I guess the other thing that I'd like to say is that in the r.f.p. Process there was ample opportunity for any of the proposers to question the evaluation criteria, to either protest or ask for a clarification on that. We received none in either written form or in preproposal conference that we had. There was plenty of opportunity for somebody to say we don't think this is the right way to evaluate the proposals.

**Leonard:** I would just say, and this kind of responds to commissioner Francesconi's comment earlier about not wanting to second-guess the evaluators. We truly do have a difference on that, because I don't feel bound by anybody's actions that I'm obligated to support if in analyzing those actions I don't think they've been objective. I don't have a problem asking people questions that assures me that they've been objective. Somebody may or may not have raised something earlier on, doesn't change the fact that I'm being asked to confirm judgments here that frankly, again, if you -- the easiest way for me to analyze where I'm at is reverse some of the names of the businesses here and how I would explain or rationalize to myself how I would do something that feels a little bit unfair.

**Katz:** I'm assuming that -- go ahead.

**Sten:** Could you -- I mean, that's a pretty strong -- could you tell me again which categories you think were rated with bias, if that's what you're saying?

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**Leonard:** Again, I asked questions, and frankly I didn't get answers that satisfied my concerns, but certainly in the issue of diversity and employment, when ron writes that each company offered nearly the same in terms of employment, diversity, it's mystifying to me how one firm got 30 point more than another.

**Sten:** The three points?

**Leonard:** The way they have broke it out in the rating sheet here, the way they rated it, is within that category, star park got 71 points and c.c.p. Got 47. I'm sorry --

**Sten:** It was a three-point difference.

**Leonard:** Yes. But given that there's a statement that they appeared to be the same in terms of diversity, I don't understand why the difference in points. The supervision of staff management issue frankly I didn't quite understand the explanation to the question I asked about us analyzing -- us being the reviewing committee -- analyzing their supervisory structure. I'm unfamiliar with that happening in other bids that i've been aware of over my public tenure. And this issue of it appeared that not all costs were presented in c.c.p.'s proposal, again, I don't understand what that is based on, what objective evidence that was based on to the committee. And I suppose the final thing i'd say in terms of the strength of my statement is I think, again, if having done this exercise of replacing the names of the firms, I think immediately upon adjournment today we'd all be asked a number of questions by the media about why we awarded a contract to a firm that was going to charge \$650,000 more, had same in terms of diversity, and apparently was able to show they could offer a management structure more streamlined than the competitor, but yet we awarded the contract to the other firm. Makes me very uncomfortable.

**Sten:** I'm just trying to understand the argument. I think there's a good argument on both sides of this. As I read it, it says they offered the same in diversity in terms of employment, but the minority chambers partners were seen as a significant advantage.

**Leonard:** I didn't say that wasn't true.

**Sten:** It's hard to say that the minority chambers don't have an advantage on diversity. That seems fairly straight to me.

**Leonard:** It doesn't to me. We need to award diversity, not necessarily who it is that's causing diversity, and i've historically attempted to award and support those who employ diverse work forces and not necessarily who the firms are, which goes back to our fair contractors ordinance and others that i've supported.

**Sten:** Ok. I understand that.

**Francesconi:** Mayor, my suggestion on process, for what it's worth, if you want it --

**Katz:** Go ahead.

**Francesconi:** For my sake, if we could hold this over by one week, by which we'll make a decision. During that week, we have two options presented. One is is there anything that can be done on the cost factor? I'm not interesting in reopening this for everything and i'm not interested in low bidding, but looking at that cost factor, is there any more way to give it more weight? The second thing is, if you can do this, to see if there's a willingness to share the risk side with the parties, or one party, the winning party, just explore that. And you may come back and say you can't do either. Then we just do an up and down vote.

**Katz:** The problem with just an up and down vote at that time, this is an emergency ordinance. If there isn't a unanimous vote that week then we're delaying it another week. That's one of the problems. I'm ready to take the emergency ordinance off and come back --

**Francesconi:** That's another way to do it.

**Katz:** -- and come back next week and take a vote assuming that we have --

**Francesconi:** That's a good way to do it.

**Katz:** Go ahead.

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**Saltzman:** If we're going to take another week, I think it's legally harder to go back at this point and give more weight to the cost criterion than to say you four companies are a select group, we're stipulating you're all qualified in all categories and we want a bid on the cost. That's the best way to get at this issue.

**Van Dyke:** I'll be glad to look at that.

**Katz:** Would you prefer that I remove the emergency clause so that we can deal during the next week with some of the issues the councilmembers identified? If they're not doable, then we'll just take a vote on -- at a second reading.

**Bergman:** The question we're asking, the effective date, if that happens. We can certainly deal with a one-week delay. If there's another 30 days before that action becomes effective, that is more problematic. If that's the case, maybe just hold it over one week and leave it as it now stands.

**Katz:** Well, I can always put the emergency clause back on again if that's of your concern, but at least it gives those that have some concern -- but there's no guarantee that there will be a unanimous vote on the council right.

**Katz:** Is that all right? Have I missed any other options that make sense? Ok, then I will remove the emergency clause on this particular -- ben, any other options that make any better sense? Ok, let's remove the -- if that's all right with the council, we'll give you a week. If you can convince the rest of the council on some of the issues that they've raised, i'll put back the emergency clause so we can have a unanimous vote. For those that don't understand, you have to have a unanimous vote of everybody here. Now, if somebody wants to walk out, we still have can have --

**Leonard:** Mayor, i'm not going to walk out, but I have deep reservations about supporting this, so I don't want to mislead anybody to think you're going to get a unanimous vote from me.

**Katz:** The possibility is then, you'll have to think through an interim contract for a short period of time.

**Sten:** Mayor, if it was possible, ron, could you give me a short memo of what the historical companies of this contract are and at least the committee's understanding of how the different parties are -- how you'll actually bring in the costs that you're saying, because it's a lot cheaper than last time around. If we're going to base this on these numbers, I want to make sure I believe these numbers are right on everybody's side.

**Francesconi:** It's good to have healthy debates and good to have different votes on issues. It's really important, if you can, bring things to us within the 30 days hoping too unanimous votes. It creates a problem for democracy.

**Bergman:** Not a problem. Be glad to work with all of you.

**Katz:** I want to thank the chair of the selection committee for their work and the members of the selection committee, but unfortunately there are differences of opinion. We'll work through it, but I just want to let you know that your work is not for naught. So we'll move on, then. We'll pass it on to second and hopefully we'll resolve it.

**Bergman:** Thank you.

**Katz:** All right. I think that's probably the best solution.

**Francesconi:** That was a good solution.

**Katz:** All right. 790.

**Item 790.**

**Gary Blackmer, City Auditor:** Let me do a quick introduction. We have a nine-member citizen review committee, and usually once a year we come in, appoint people to fill positions. This is a little out of our normal cycle, because sid lesak was no longer able to serve on the committee. We were really sorry that he wasn't able to do that, but we look to being able to replace him. Since he was an appointee of the mayor, we asked the mayor if she had any idea of about someone she would like to fill his position. And she suggested gwenn baldwin. I'll turn it over to the mayor and gwen to talk about it.

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**Katz:** I was pleased gwen said yes. As you know this kind of service for this committee is hard work. It's not always accepted by the community, as you heard earlier this morning, but it absolutely critical that the members of the committee are open-minded, fair, and clearly understand what the ground rules are, what the code says, and makes -- makes some very independent decisions. And I felt that this was a woman who could do that. I want to give her a couple of seconds to share with the committee why you said yes and what you see in that work for yourself.

**Gwenn Baldwin:** Thank you, mayor Katz and members of the commission. I thought long and hard about the opportunity to serve Portland and the citizens in this particular role, and I understand it is both a time and in many respects an emotional commitment. Expectation management around the relationship with the police and the citizenry is kind of difficult right now. And I think doubly so when the parameters of the citizens review committee are pretty narrowly drawn. People are going to be disappointed about what it can or can't do. At the same time it has a really important role to look at appeals and issues with impartiality, with balance, with an open and clear eye, and to render opinions based on that. There's another piece of the charter that I think is even more exciting to me and interesting and important in terms of strengthening the relationship between the police and the citizens of Portland. And that is the role of looking at the policies behind those individual appeals and those individual cases. Where are there things that can be or should be done? That is something that I think the c.r.c. Has yet to really reach into and pursue, and i'm very eager, even in this abbreviated remaining term, to work with my colleagues in doing that.

**Katz:** Thank you. Questions of gwen? Anybody else want to testify? Ok.

**Dan Handleman, Portland Copwatch:** Mayor Katz, welcome back. And city council, i'm dan handleman with Portland copwatch, Portland. I have nothing against ms. Baldwin's appointment per se. I would like to note that there will now be two consultants, three realtors, and two former prosecutors on the board in terms of diversity. We should be looking at people's backgrounds as part of the diversity requirement as well. I.p.r. Was created almost exactly three years ago this week. We were promised a one-year review. We were told that the one-year would happen after it was actually instituted in january 2002. That didn't happen. The one-year report came out. It still didn't happen. We have seen five people resign in protest. Three people resign for other reasons, including the last one that miss baldwin's replacing because the city couldn't provide for his hearing disability. We feel it's incredibly important for you to allow the next i.p.r. Annual report, which I understand will be coming out soon, to be presented publicly before council and allow public debate about the structure of the i.p.r. And how it's been functioning in this community. I understand that the police is the mayor's responsibility. I.p.r. Is the auditor's responsibility and other commissioners don't want to talk about other commissioners' responsibilities. We cannot keep doing that as this issue affects us all. The only exception is when the i.p.r. Appeals come all the way up to city council. You in effect act as a police commission, as all five of you take about interest in police issues, which I think is a good model to look at for future revisions. I should also mention revisions for the review board were mentioned in the resolution presented two weeks ago by members of the community upset about the james jahar perez shooting. And I believe that you cannot keep looking at the revision of this police review board as a hot potato, because the kitchen's about to catch on fire.

**Katz:** Thank you.

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

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

**Francesconi:** Well, mayor, your appointment of gwen baldwin is terrific because of her experience and reputation for fairness, but, gwen, what you said in the brief time to look at policies is right thing. Dan, irma valdez is not your typical realtor, but your point about a public review after a year, I think we did say that, and that should happen at the time of the next annual report. Aye.

**Leonard:** Gwen is an excellent choice. Good luck. Aye.

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**Saltzman:** Thanks, gwen. Aye.

**Sten:** Thanks. Aye.

**Katz:** You heard commissioner leonard, that little voice. Thank you, gwen, for serving. And come back and share, at least with me, what some of the issues that have popped up, that you think we need to address through one way or the other as a city council. Aye. [gavel pounded] all right, 762. Time certain, 9:30. We're a little late.

**Item 762.**

**Leonard:** If I could introduce, and you gave me permit to deal with the city, and i'm trying to my level best to reform a system that by most accounts needed some work 18 months ago. One of the things we did last year in the budgeting process, mayor, and that you were very supportive of, and I appreciate, was freezing all the fees for the first time in anybody's memory. Nobody recalls at a time when at b.d.s. We had no permit fee increase. But we were focused on making sure that we were given the best value for the dollar paid before we asked for any more money. From that time till now I think by most accounts the folks, the employees through the management of the bureau of development services, have created some of the most remarkable initiatives to serve the public better in terms of customer service and reduce the time required to get a permit. One example, a single-family dwelling permit that took eight weeks now takes no more than 10 days. We're working on similar initiatives. I've had developers tell me that they now are able to calculate a 10% savings in large developments in Portland based on the expedited time frames in getting a permit in the city of Portland. So what they spend on a permit, they realize in savings exponentially more because of the direction the bureau of development services has changed. That brings us to this initiative. The land use development fees proposed here are 12%. They are not 12% because we're trying to cover increased costs that are static. 12% because we have, with rebecca's leadership, and I want her to talk about this a little bit, created a new way of being able to usher through a permit, particularly in the land use section, that will cut down the time even more it takes from point a to point b when you get your permit in the final analysis. In my judgment, the increased cost of the permit is more than made up with the reduction in the time it takes to issue the permit at the other end. So based on that, I supported this increase early on. We discussed it at length, knowing that there would be a number who might have concerns, but I felt if people heard that the tradeoff was creating a more efficient, quicker permitting process, by the specific initiative, which rebecca will describe to you, that the community would hardly support, particularly based on the positive experiences that the community has had in the last 18 months with b.d.s. And their can do attitude, this proposed fee increase. Thank you.

**Denise Kleim, Administrative Services Manager, Bureau of Development Services:** Mayor and commissioners, my name is denise kleim. I'm here with rebecca esau, our land use manager in our bureau, and this is elsa coleman, a member of the development review advisory committee. I think commissioner leonard pretty much succinctly pulled everything together. All I would just add is just a little more detail on electrical and plumbing increases are inflationary increases of 1.5%. The other increase that's before you is increasing the hourly rate on the facilities permit program to \$142 an hour. I think i'd like to turn it over to rebecca to talk a little bit about the land use fees and then have ms. Coleman talk about the drac.

**Rebecca Esau, Land Use Services, Bureau of Development Services:** Rebecca esau. Customers have told us they're willing to pay more if they get the reviews through faster. Time is money, both to them as well as to the city. We've got three choices in dealing with the land use services budget. Either to get more general fund money or to cut staff, which would impact our turnaround times and ability to provide good customer service or we could raise our fees while working on improving efficiency and service. We've got several constraints we're working under. We've got the zoning code that changes 12 to 13 times a year, which is difficult for staff and customers to keep up with. We've got difficult sites that we're dealing with, just the -- just the steep sites and the landslide



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hazard areas, floodplain areas, contaminated sites, all presenting difficult challenges to customers as well as staff in reviewing development on these sites, which adds up to more time in the review. And we're dealing with state and local deadlines and notification requirements that we have to meet.

All of this with a limited number of staff and no control over the volume of work that comes in. We've got a push and pull pressure on us to put back services, to save money, or improve customer service by investing staff time. We've been trying to approach this by improving customer service, which you can't do without spending additional staff time. Staff have been through customer service training, are motivated to work with customers. We've got a great momentum going with staff and the customers and I think things have improved a lot just in the last even six months. We're working on efficiency improvements. We're doing an internal cost of service study. We're also doing a land use review timeline study, which will help us find areas to focus on shortening up the timelines and greater efficiency. The project that commissioner Leonard was highlighting as the concept of construction pilot project, which we've been working on, staff and customers are very excited about this. It allows a planner to work with a customer all the way through the process instead of transferring from planner to planner to planner as they're going through different steps in the process. So if you came in with a subdivision, for example, I'll try to be brief --

**Katz:** Go ahead.

**Esau:** Ok. The customer would be assigned to a planner and work with them through the preapplication conference, the land use review, all the way through permit review and permit issuance. This eliminates the time taken to transfer information about the project as it goes from planner to planner. It's a lot more efficient and provides the customer with a single point of contact throughout the process. I'm getting calls at least once a week from customers who are hearing about this word of mouth in the development community who want to be part of the project. And in order to do this I'm going to need more staff potentially to provide the early assistance involved with this program.

**Katz:** Rebecca --

**Esau:** Customers are interested in doing it.

**Katz:** -- all that you've said is absolutely accurate. People have been doing incredible work, have been doing incredible work even if we don't adopt this. And a lot of what you describe was going on. I guess where I have a little bit of heartburn is that everybody here on the council can make a decision that when we try to put a budget together we adopt a financial plan, you are now going outside of your financial plan, financial plan was a 10% increase, it is now a 12%, and you've made these decisions outside truly of the budget process. None of these positions, if I recall, were discussed during the budget, so the rationale between the need to add them back on -- because you cut eight positions, now basically adding them all back on, but there's a decision there with small business working with p.d.c., and I haven't had a conversation with. And each one of us could decide there are better ways of doing things and we could improve our budget outside of truly the budget process. That's where I have the heartburn. That you may not need those people. Some of them I have absolutely no clue what they're going to do. And you heard me when I was in the hospital bed, don't start hiring anybody, especially at \$95,000 and \$89,000 a pop.

**Leonard:** Mayor, let me take this. Your criticisms are right on. And I'm -- I'm entirely responsible for what you're seeing here today based on conversation we've had. I would have really liked to have been able to sit down and explain it to you. I had a hard time finding the time obviously in your schedule to do that. So I apologize for that. I should have done a better job of talking to your staff. I explained in -- explaining these new initiatives than I did, and in retrospect I think I could have done some things better to do that, and I didn't. So it's not their fault. It's mine. Having said that, I was very cognizant of your guidelines. And for that reason we asked for this 12% increase in the -- in the form of a fee increase as opposed to a general fund increase. There is general fund dollars in the land use section, but we elected to make this proposal, not using general fund dollars,

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but actually have the users of the system pay for the increase based on your directive. So I think that what we tried to do was adhere to the spirit of the budget guidelines and the limited resources we have. Obviously I could have done a little better job of communicating that, and I take responsibility for that.

**Katz:** I accept your apology. I do also -- I have concern about moving from 10% to 12%, and I really still worry about your level of reserves. So --

**Leonard:** The low amount of the reserves? Which, again, to increase them, we had this discussion, Denise I think would tell you, and I would encourage her to open up and tell you she shares your concern. But this is where I kind of get caught in one of these catch-22's. I really believe we need to do as good as possible as keeping fee increases down as much as we can. And we looked at the reserve level from last year, without the fee increase, and what that did to it. We looked at it in this upcoming year. Just to summarize where we were on the reserve, is that we can see that the economy is picking up, that people are getting more permits, and we're kind of hoping that the amount of permits we get, just the volume, will in and of itself increase the reserves in this next fiscal year without having to do a fee increase. We decided, if midterm that wasn't happening, and our reserves were perilously low, we'd come back to the council, but we're trying to be prudent about recommending fee increases where we think we might be able to get by without them.

**Francesconi:** I appreciate your candor on this. A little heads-up on where I'm at. On the 12% increase, if we're going to go that high on the big folks, on the facilities permit program, those where there really has been such a speedup, I'm fine with that. In fact, you can raise it beyond 12%, but it's on the little folks, going from 0% increase to 12% increase on small businesses and residential folks, that's too much for me. I just want to tell you.

**Leonard:** That gets to the mayor's point. That's where we had to make the general fund on the -- decision on the general fund subsidy on these permits. And we decided because of the constraint that we're facing that those increases probably should be borne by the users to the extent possible so the program be self-supporting as possible. We had a fairly vigorous discussion about that subject. So I appreciate your concern.

**Katz:** You can raise the fees to make sure that your reserves are solid or you can raise the fees to hire several bodies, and you've made the choice to add several bodies for it, and for that I have a little bit of a problem.

**Saltzman:** I guess I want to echo the mayor's sentiment on that last point. I think her admonition last week not to hire new people until we've figured out how we're going to balance this year's budget with the \$6 million or \$7 million police arbitration settlement pending and why you can make the case that these will be supported by fee increases and reserves, I mean once they're here, they become employees of the city of Portland, entitled to full benefits and everything else that, you know, we're responsible for regardless of whether a fee increase goes away, our reserves dwindle. So I guess in light of that, I'm concerned about the new body aspect of it as well.

**Leonard:** And frankly, I mean if this went down today, none of us are going to have heartburn, but the commitment that we have made, and that I have made, is to try to make the permitting system in Portland attractive to people to move to Portland. Like we just had a preliminary discussion yesterday with a company that wants to relocate from Vancouver and Oregon City, consolidate its operations in the city of Portland based almost entirely on the new reputation of the bureau of development services of expediting them through the process, and this initiative is just consistent with that. I mean, I think we're doing better. I think we're going to continue to do better, whether we get this position or not. It just puts us in the forefront of cities around the country that are competing for business by promising and showing to them that we are among the most aggressive of cities in terms of trying to attract new business to Portland and permitting is a huge issue for companies when they want to relocate.

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**Kleim:** There's several things that i'd like to clarify, if that's ok.

**Katz:** Go ahead.

**Kleim:** On the reserves, we, this surges are going to be working with the budget office to look at our reserve goals. Right now i'm comfortable with where our reserve levels are in all programs, with the exception of land use services. And we'll be working with the budget office on honing and clarifying what our reserve goals should be and where we go from there. The other programs, the building funds, reserve, is quite healthy. Electrical and plumbing have a plan in the five-year plan to deal with their reserve level. It's, again, has been for the past few years, the land use program that is more the issue. In terms of the new staff, I just want to clarify, there are two new positions. One is in the land use services division. The other is not -- and it is supported by general fund and by fees. The other position is not in that program. It's supported with building permit fees. I just want to clarify that. And also when mr. Francesconi explained that he was concerned about the fees and impact on small business, just want to clarify that the fee increases are not an across-the-board -- every fee is not going up by 12%.

**Francesconi:** I know, but i'm still not happy with the average of 12%.

**Kleim:** Ok.

**Katz:** Let's take public testimony and then we'll problem-solve.

**Saltzman:** Elsa?

**Katz:** Elsa, hello. You were sitting there so quietly.

**Elsa Colman:** Very uncharacteristic. Elsa coleman, Portland. I think you've done the discussion. I only ask you to read the letter at great length, and you can imagine given the membership of the drac, that there was nobody there saying, oh, we're so happy that we're going to increase fees. These are developers, architects, people in the construction business, these are the people who will be paying these. I'll just share a quick story after retiring I have done contract work for developers. I step, so to speak, on the other side, carried permits through the system, and it is improved. And I think we're all agreeing with that. I just would say that -- two things. One, a decision on new personnel will impact, of course, whether or not the initiatives continue to improve speed and customer service. The only other thing I would like to emphasize is it was very carefully discussed that the fees are targeted. The message may be 12%, but they're targeted. And I would encourage you to look at which ones increased a great deal and one of them, for example, are complex master plans. Those are the things that people need to do, but they are difficult. The last thing I will say is one aspect that we need to look at, and it will take time to save money, increase speed, and that is code simplification, and the drac is very interested in that as well. That's not easy. Thank you.

**Katz:** Thank you. Let's open it up to public testimony. We have -- again, this is only first -- we'll problem-solve during the interim. Come on up. Your hands are up. Come on up.

**\*\*\*\*\*:** Do you want me to wait for the commissioner?

**Katz:** No. Go ahead.

**Echo Leighton:** Ok. My name is echo layton. I'm the chair of the kenton business association in north Portland. As many of you know it's a neighborhood that has gone through several changes. It's had light rail come through, it's gone through different approaches of developers wanting to come in. It's also a neighborhood that has many small businesses, but also has many vacant buildings. It has an atmosphere of wanting to improve and yet in situations like this I think commissioner Francesconi kind of hit on it, small businesses and people who want to come in to these situations have to redevelop what they're walking into, whether they're the building owner or whether they are going in as a new business person. What the bureau of development has done so far, I agree with the improvements. It's much faster. It's much friendlier. You know, that as a whole has been wonderful. But when it comes to the small businesses, I haven't heard anything that encourages me. I've heard it affect the large businesses, 10%, you know, increase on -- or savings. I've heard the desire to bring in the big companies. I'm hearing nothing to support the people of

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Portland who are already here to start entrepreneurial businesses or who already have a small business here in Portland. To be able to go into a situation and benefit and the neighborhoods and the situations that they're in. The process itself may be faster, but that only, again, benefits the larger companies. I've also heard, you know, zoning changes -- in the city of Portland, in general, and this is why I'd like to encourage all of you to look across the board, not just the bureau of development, but in all areas, when it comes to dealing with zoning, when it comes to buildings themselves, I'd like you to look at your economic plan in general to see how you can benefit the people already here. You know, there's a saying of having a pot to urinate in and a window to throw it out of. If you want to build that here in Portland, it's very difficult, because you have to check every step of the way to get that. You have to pay a fee for everything that you do. And when it comes to the small businesses, it's very difficult to do that. And it just -- the overlays of metro and county and city and state make it almost impossible to bring in those small businesses, and to encourage those home businesses to expand into those locations that would be storefront, like what we have in Kenton. Thank you.

**Katz:** Thank you. Go ahead.

**Vince Sheridan:** Hi. Vince Sheridan, 5290 Southwest Greenwood Circle, Tualatin. I'm with equity office properties. And the facilities permit program has worked very well for us. We have 1.3 million square feet of office space in the Portland area. And our average tenant size is about 4,000 square feet. With the rapid turnover, the facilities permit program has worked very well for us. We want to see it continue to be healthy. And if we have noticed in the last 18 months that they have been squeezed. And it has been tight for them. So I'm basically speaking to advocate the increases, although they have a cost to me as a business, the point of a business -- the savings that you get by moving in more quickly, because the permit process didn't hold you up, and what we offer outside businesses in terms of through the permit process being faster, a business ability to get set up in the city of Portland quicker is a definite plus. I think Randy, as you indicated, and we want -- I think we want to capitalize that, and we want to keep that going. And I think if the permit desk is saying they can't handle the coming wave of -- as the economy turns around, I think we got to listen to them and maybe work with them, even though it wasn't part of a budget that was established some time ago. And I really can't speak to that, because I wasn't part of that process, and I understand that, but we need them to be healthy and nimble and able to react quickly. I think that's a big piece of -- also for the small business, for them to have better service in terms of people being better educated. I've also heard of instances where someone gets halfway down a build-out and because someone in the permit office didn't read the code correctly, oh, shoot, you got to do this with your plumbing, and now that adds a cost for you. I think a better educated permit staff that can handle the workload will offset some of what happens there. Although I -- I certainly agree with you 1,000%, some of the zoning issues, and things that we go through there that things could be simplified a great deal.

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

**Sheridan:** Anyway, I just want to speak out in support. Thank you.

**Katz:** Thank you.

**Greg Peden, Portland Business Alliance:** Good morning. Greg Peden with the Portland Business Alliance, Southwest Yamhill. A couple things. First of all, this has caught us a little bit off-guard, 12% increase in the land use fee, and I haven't had a good chance of getting an assessment of the sort of the debate here from our membership. That is there's no doubt in our membership's mind that Commissioner Leonard and the Bureau have done a great job in improving the permitting process, and the speed to market concept is very valid. Are we ready to sign off on a 12% increase? Is that going to get us a better speed to market? I realize this is a first hearing. I'd like to come back to you at a second reading before you vote with a better assessment about what our membership feels about this.

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**Katz:** Thanks for helping problem-solve that. Thank you. Anybody else? All right, let me ask each member of the council, this caught me by surprise, too, and I accept commissioner Leonard's comments on that. However, I think I need to review it with staff, with him. You need to take a look at it, too, whether any of this would really make a major difference, and if you think it does then you need to support it, but I think -- i'd like to find out exactly what those individuals are going to be doing, how it's going to improve the activity of the bureau and then i'd like to take a look at the job classifications in terms of the cost. So we have a week. We may have a little bit more than a week, if commissioner Leonard is generous, but i'd like to ask the entire council to review this as well. And that will give the Portland business alliance an opportunity to review the information with us.

**Leonard:** And that's fair. I'm going to ask Rebecca, if she can, and all of you here, please agree to meet with Rebecca. And if Denise wants to be there as well, that's fine, but so you can understand better precisely what this attempts to accomplish.

**Katz:** That's fair. I would like Denise this, too, since she and I worked on the budget before we put that to bed.

**Leonard:** Before the end of the day, they will have appointments with each of you and Greg Peden.

**Katz:** Is that all right with everybody? All right, now let's move on to my favorite topic. They said it couldn't be done. Item 763.

**Item 763.**

**Katz:** Were you the one that laughed at me?

**\*\*\*\*\*:** No, ma'am. I would never laugh at a proposal like that.

**Katz:** No? I remember looking out, you know -- i'm taking my cues from these two here on my left, you know. Our environmental council members. Doesn't it make any sense? Can't we do that? Well, you really can't, and we don't have the codes. So where's commissioner Leonard?

**Saltzman:** He's here.

**Katz:** I wanted to thank him and have him introduce this. Go ahead.

**Lori Graham, Bureau of Development Services:** Hello, council, Mayor Katz it is good to see you again.

**Katz:** Thank you.

**Graham:** My name is Lori Graham. I was in on those early conversations about trying to get rainwater harvesting into any form in the city of Portland. And have provided myself on taking the stance that nothing's impossible, we just need to figure out what the codes say, understand how they work, and figure out a way to work with them. And B.D.S. has done that over the last -- since 2001.

In 2001 we introduced a rainwater harvesting code guide for single-family homes that for a single-family home, one or two family homes said if you follow our guide, if you follow this guidance, you do not have to do an appeal to get your rainwater harvesting system through. Immediately after that we had requests for commercial rainwater harvesting systems, which are trickier, because there's engineering involved, there's concerns about how people use the building, etc., but since that time we have increasingly had requests, and we've had incredible response by our technical plumbing staff and our appeals board to get rainwater, approve rainwater harvesting systems through our administrative appeals process for commercial buildings. One thing that has -- the reason this proposal is before you is because it has been brought up that neither the state code, the state plumbing code, nor Title 25, clearly state that rainwater harvesting can be used as a viable method of plumbing some plumbing fixtures. So we decided, since we are increasing, getting more and more of these items through our appeals board, that it's time, that rainwater harvesting, the concept of rainwater harvesting, be added into Title 25. What this proposal does is it adds a definition of rainwater harvesting, which is something we worked on several years ago when we developed our guide into Title 25, and then clearly ties it to permitting processes and inspection

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processes, which are very important, because commercial, particularly with commercial buildings, each system has to be engineered. Each system needs to be monitored to determine that it's working and functioning properly. So that is what the first part of this ordinance does.

**Katz:** Thank you.

**Graham:** In addition, because we were in title 25, making these minor revisions, the ordinance also clears up b.d.s.'s responsibility for the plumbing issuance of minor plumbing label permits. Minor plumbing label permits were originally developed by the state as an -- developed by the state as an option cities and counties, jurisdictions, to take advantage of them. We were issuing our own permits, but in the year 2000, the state -- it was mandated that the state office take over the permitting of those minor plumbing labels, yet b.d.s. Is still responsible for the inspection and oversight of those labels. And this change does that as well.

**Katz:** Thank you.

**Graham:** I'd be happy to answer any questions anybody has?

**Katz:** Questions? Anybody else want to testify on this? Passes to second.

**Saltzman:** I didn't realize it was second reading, but I want to thank you and commissioner Leonard, mayor, for making this day a reality. I know we've talked long and hard about the need to have clear definition in our code and a way for people to do rainwater harvesting that can avoid having to be sort of the aberration, but you can mainstream this now as a technology. It's heartening to know that it's no longer commissioners that had to beat at the door to get this done, but it was actually the developers, the development community themselves now who are actually really looking at rainwater harvesting as a way to take rainwater and use it to flush toilets and things like that, rather than using bull run water, which savings everybody money, although I do have to point out i'm saying this not as commissioner in charge of the water bureau, because the water bureau wants to sell everybody the water. If mort were here, he'd be expressing concerns about rainwater harvesting, but I think it's a great way to harvest rainwater to use it for drinking water and irrigation and other great things. I'm glad we have this code available, or code option -- or code alternate available. And thank you all for doing this.

**Katz:** Thank you. All right. Let's get on to the regular agenda. 792.

**Item 792.**

**Jennifer Simms, Financial Planning Manager:** Jennifer simms, financial planning manager. This is an ordinance to address over expenditure and minor supplemental requirements. It amends the current budget by transferring appropriations within the city appropriation units and restrictions of Oregon budget law, no appropriation unit is allowed to overexpend within identified major object categories. We've attached two exhibits to the ordinance. The first includes adjustments within funds with no net increase or change in the size of fund, except where there have been grant awards. And the second exhibit changes have an effect of increasing the size of the funds and are incorporated as minor supplemental budget changes. Under the overexpenditure part of the ordinance, the two primary -- or three primary areas that are changing are transportation, operations, the water fund, and the parks construction fund. And in the -- in the minor supplemental request, it's for -- in the facilities services fund, where we are increasing resources to the facilities service fund to complete work on the water pollution control lab.

**Katz:** Questions? Anybody want to testify? Roll call.

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

**Katz:** Mayor votes aye. [gavel pounding] 793.

**Item 793.**

**Barton Delacy, Society of St. Vincent de Paul:** I'm barton delacy, lake oswego. I chair the real property committee for the society. If there's any questions regarding this, i'm here to answer them.

**Katz:** Was there any opposition to it?

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**Delacy:** I don't believe so.

**Francesconi:** No, I don't think so.

**Moore:** No, there was not.

**Katz:** Ok. Questions? Anybody want to testify on this? I'll take a motion.

**Francesconi:** I'll move to adopt the report on this.

**Katz:** And are you going to be presenting an ordinance on this?

**Francesconi:** Yes.

**Katz:** Do I hear a second?

**Leonard:** Second.

**Katz:** Roll call.

**Francesconi:** Thanks for your work for them, for this good cause. Aye.

**Delacy:** Thank you.

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

**Sten:** Aye. Good work to see you. Long time to wait too this one.

**Delacy:** Thanks.

**Katz:** Mayor votes aye. Thank you.

**Delacy:** Thank you.

**Katz:** Thanks. 794.

**Item 794.**

**Katz:** Come on up.

**Dan Bracken, Chair, Eastmoreland Neighborhood Association Garden Committee:** Mayor Katz and councilmembers, i'm dan bracken, 7538 southeast 28th avenue. I'm chairman of the eastmoreland neighborhood association garden committee. Today you're considering approval of agreements that will allow completion of the eastmoreland garden, a 4 1/2-year project of the neighborhood association and Portland parks. Upon completion this fall, our neighborhood will essentially present a turnkey park or garden to Portland parks and recollect. It is at the previous site of an underused and unsightly gravel parking lot near the eastmoreland golf course clubhouse. The neighborhood has raised over \$120,000 in cash and in kind donations and grants to cover capital and maintenance costs. I really that these agreements could have been items on the consent agenda, but I chose to speak today for two reasons. First, I would like to recognize and thank parks for the essential assistance, cooperation, and support they have given us over the 4 1/2-year course of this project. From parks director jordan to our current project manager we've been encouraged and helped all along the way. The relationship between our groups has been a positive and productive one. I commend parks and department of transportation staff for their contribution to this, their project, and our project. Second, and then this is really why I came, it is my understanding that other neighborhoods and organizations have or are considering similar projects that will add park space and improve neighborhood livability. Based on our experience, and the comments that I heard and committee members heard from neighborhood residents and from the members themselves, I would like to suggest that the city take better advantage of this resource, that is the neighborhood generation of parks, by providing parks more resources for certain aspects of these projects. This support could cover land use actions, necessitated by new park construction, which we had to pay out of our fundraising. Park employees labor for design review and inspection. And some percentage of expected maintenance or water charges, which we're committed to totally for ad infinitum right now. If such modest support is available, local residents who support parks through property taxes will be much more likely to recognize parks as a positive contributing partner in their projects, and actually to undertake such projects. Finally, I would like to invite you all to attend the grand opening of the eastmoreland garden this fall. We're very excited about -- this is going to be a unique new neighborhood park, that will include elements from the old bybee bridge, historical information about the neighborhood, and a garden setting. Thank you.

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**Sten:** Thank you. Would anybody else like to testify on this? Roll call.

**Francesconi:** I'd actually like to say a word. We shouldn't have done this on concept. Let me recognize ben bracken, linda, michael, rebecca, ken davis, they pushed hard on this, these citizens for a lot of years, in order to produce this park for us. I may have left out folks. I also appreciate how you recognized both rod and george originally for doing this, the parks employees. And this will be a welcome addition. The golf fund is going to pay for the maintenance for the first year, but the issue that you raise is really legitimate, especially on the land use fees. You know, when you're going through -- giving us something, we turn around and charge, it's happened in other circumstances, and it's actually something that we're looking at as very legitimate. The problem here is -- the issue here is so we do need to make it easier for you to do these things, and to help parks and help therefore the whole city. This is a part of town that is not park deficient. And that's the issue. So -- one of the issues. So where we're trying to concentrate the bulk of park resources for maintenance is building parks and maintaining them in areas where there are no parks, but having said that it's still wonderful to have additions to the park system like this. So in fact that's the reason that I created the parks foundation, and they're contributing \$10,000 to this, but, you know, having a group of citizens with the foundation that could contribute more to additions like this does make sense to me. And so far the parks foundation really hasn't taken on the issue of building improvements on existing land. I'm hoping they'll take more of that. That doesn't mean that parks can't do more, but the reason we're not doing even more than this here is this issue of park deficiency. That doesn't mean we shouldn't be doing more in some other ways. I guess the main thing I wanted to say is on behalf of former charles jordan and now santner, all the employees of parks, but mainly the future residents of eastmoreland who are going to benefit from this, I just wanted to thank you. Aye.

**Leonard:** Aye. **Saltzman:** Good work. Aye.

**Sten:** Thank you. Aye. [gavel pounded] 794 passes. Could you please read 795?

**Item 795.**

**Saltzman:** Mr. President and members of the city council, we have wholesale water sales contracts with about 19 jurisdictions throughout the metropolitan area, and those contracts were originally 25-year agreements that were entered into in 1980. In 2002, when we were evaluating possible regionalization of the bull run supply, the city council extended those contracts by two years, and they now expire june 30, 2007. We have been in discussions with our wholesale customers for the past -- almost the past year about new contracts to take us into the future. And I believe that all parties -- the current contract has a provision that unless -- that these contracts will automatically renew unless either party gives notice by tomorrow of their intent to not renew them. And there's a three-year notice provision. So you have to give three years' notice that you don't want to renew the contracts. I believe virtually all of our whole customers have given us notice they do not wish to renew this contract and that everybody wishes and hopes we're going to get to a new contract, and we're simply giving me the provision to also give that notice that we don't wish to renew this current contract, but instead want to continue negotiations with them to get to a new contract, a better place for them and for us. So this gives me the authority to make those changes to our current contract.

**Sten:** Thank you. No presentation on this?

**Saltzman:** No.

**Sten:** Would anybody like to testify? Roll call.

**Francesconi:** Thanks for your important work on this, commissioner Saltzman. Aye.

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

**Sten:** Aye. [gavel pounding] could you please read 796?

**Item 796.**

**Sten:** This is second reading. Roll call.



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**Francesconi:** This is a terrific thing, that we're extending the school day for many kids who need extra help, and it's all because commissioner Saltzman took the initiative. Aye.

**Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye. 797.

**Item 797.**

**Sten:** This is also a second reading.

**Saltzman:** I need to make some amendments.

**Sten:** Ok.

**Saltzman:** This item is a second reading of the ordinance for establishing residential solid waste and recycling rates for the coming fiscal year. We had good news that the rates are mostly coming down. We need to make two minor changes to the exhibit in the ordinance. First there was a typo listed in the exhibit listing the rate for one type of service. That is a single-family residential service with three 32-gallon cans a month. The rate should have been \$30.60. We need to make that -- that's in the new schedule I just handed out. Second it came to our attention that we also omit a level of service desired by customers from the original rate. A small cart, \$14 per mo. I'd move to substitute exhibit a.

**Leonard:** Second.

**Sten:** The amendment's been moved and seconded. Any discussion? Any opposition? Hearing none, the amendment passes. We'll call for -- actually, i'll have to take public testimony on the amendment. Would anybody like to testify on this amendment? Nope. So I think we'll move this for second reading as amended and hear it again next week.

**Saltzman:** I was going to ask if we could also consider removing -- or adding an emergency clause so the ordinance could go forward into effect immediately, so we can meet our august 1 timeline.

**Sten:** Let me ask the attorney. Is that ok with where we are? Is there a motion to add an emergency clause.

**Saltzman:** So move.

**Leonard:** Second.

**Sten:** The motion has been moved and seconded. Any objections? Hearing none, the amendment passes. I'll call for a roll call on the amended 797 with an emergency clause.

**Francesconi:** Aye.

**Leonard:** It's amazing that you're lowering rates. What's that about? Can we borrow some of it for land use fees? Aye.

**Saltzman:** Dr. Bruce walker over here at the sustainable development office. He's the genius.

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

**Sten:** Aye. 797 passes.

**Item 797-1.**

**Sten:** These are both amendments to existing bureau of housing community development contracts that involve money that has to be budgeted before the end of the fiscal year, which is why they're in on a 4/5. I want to offer my apologies, I don't like bringing 4/5 in, but if we don't get them before the end of the year they won't work. It's a combination of mistakes that causes this, but it's money that will go to rehab homes that won't get spent otherwise. That's why I decided to bring it in. Any testimony on these items? On the first item. Roll call.

**Francesconi:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye. [gavel pounded] 797-2.

**Item 797-2.**

**Sten:** Would anybody like to testify on this item? Roll call.

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

**Sten:** Aye. [gavel pounded] the council is adjourned until this afternoon at 2:00. We'll have a land use case. Thank you, everyone.

At 11:37 a.m., Council recessed.

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JUNE 30, 2004 2:00 PM

**Sten:** Good afternoon everyone. Karla could you please call the roll?

[Roll]

**Sten:** The mayor is absent this afternoon. She was in this morning and is doing very well but has to rest this afternoon. So our thoughts and prayers are with her today. Karla could you read 798?

**Item 798.**

**Sten:** Terrific, and I'm going to ask Kathryn Beaumont, our city attorney today to lay out the ground rules –Oh? OK, no ground rules. In that case we'll have a presentation from the office of transportation and then we'll open it up for public testimony and you'll each have 3 minutes to testify.

**Don Gardner, Director, Transportation Engineering Development:** Good afternoon, I'm Don Gardner, Director of Transportation Engineering Development, Portland Office of Transportation. I'd like to start off by saying that I've administered skybridge and encroachment for nearly 20 years and I think I'm actually the only person to administer this over the last 20 years. So I'm pretty familiar with it. I also want to say that I'm a firm believer in the policy. Over the years I've seen literally dozens of proposals which the policy has and should have halted. However, today I find myself in kind of an unusual position in that I'm recommending the Council grant an exception to that policy. The situation is that as a public official it is my duty to carry out and recommend the policy direction that Council's adopted. I think in this particular case, we've come to an unusual situation and it's really kind of my duty to say that this policy needs to be tempered in a very limited circumstance, and we need to go back and review some of the things that have happened. This proposal does not comply with our policies. It does not allow public access. It does not connect consumer services to parking or other consumer services. It does not connect retail to retail. However, what's happened over the last 20 years, is that the City's grown and it's changed. Things that were not anticipated when this policy was put together have occurred. Assisted living was something that we never anticipated at the time this policy was drafted. Assisted living has kind of blurred the distinction between residential nursing care and consumer services. We also never really anticipated at the time that the City would grow in the way it did and that there would be these areas that were once in the County, which are now redevelopment opportunities with large housing components. When we originally looked at the housing component we were thinking the central city where activities were going to occur was the central business district, and perhaps a little bit in Lloyd center. Things have changed, so we need to take a look at those. There has also been a big change in planning philosophy that was around at the time. At the time, it was super blocks and big campus developments. Since then I think we've evolved and matured quite a bit and have come to the situation where it's a much more interconnected street system with smaller blocks and more pedestrian orientation within the city. What we considered the city are areas that at the time were the county, "outlying suburban areas", and they are now part of the city and are starting to develop as a city. We need to address that need. I also want to give you a little personal perspective on this. In prior life (even though I worked for Transportation for 26 years), my original training was in public health, so I think, while I'm not an expert in it, I have a slightly different perspective about how we should approach things. On a personal note, I have a neighbor who is 84 years old. She's ambulatory, she lives independently, but she needs help. And my wife has kind of taken on that responsibility and even though it's a short distance from my back door across the driveway to her back door, it's a situation where the number of trips she used to take to come to our house has declined, and we go there more often to try to help her out. If she was in a situation where she had to come out of an apartment, down to the street, cross the street to go to get services, she would be isolated in that apartment because she couldn't make it. The idea of the active street system was to encourage street-level activity. The Cherrywood Village proposal did

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dedicate a new public street, they built all of the public street proposals. And it all is helping with the interconnection of gateway. However, to force a situation where people who are residing in this particular facility, out to do that exterior trip, just to get the services they thought they were buying as part of this thing, I think would create the same situation for them as it would for my neighbor. It would make life very difficult and it would make a situation in which they really couldn't avail themselves of the services that are available. So I'm going to recommend that we make an exception to the policy which really deals with a couple of issues: It doesn't connect with a consumer service, and it doesn't have the public access requirement, which was really geared for retail facilities such as the rouse project or pioneer place. Those are public skybridges, there's a connection at ground level on the sidewalk where you can get in the elevators and you can go back and forth. They were really meant for people who are using the street to enter the facility, go across, conduct their business, come back out at the street level. This really doesn't fit into that mind-set. So what we would like to recommend is that Council grant an exception and allow this skybridge to go in on se clay between cherrywood and se 107<sup>th</sup>. We would also like a couple of things though. This policy needs to be rethought as far as the public access and how you connect certain types of facilities. Especially these assisted living centers where there is no clear directions and they are a new and evolving type of life style. What we would like to do is recommend that Council allow this skybridge, direct us not to accept applications for more of these which have no public access until such time as we can work with the Planning Commission, the design commission and the appropriate staff in the development bureaus to come up with how should we best formulate these. And come back to the council in hopefully 6 months with a direction in how to address these types of facilities. The other thing we would like you to do is the design is critical to sky structures. It is probably the biggest neighborhood issue and it is something that all sky structures need to be reviewed to address the design issues. There has been a problem with that with this one. The applicants have not responded well to the design commission. We would like the council to say that they intend to grant the sky structure, but that the applicant is sent back to the design commission to work with them to come up with a design that is acceptable and that the design commission can recommend positive approval on. At that time we would prepare the ordinance that allows them to construct this structure.

**Francesconi:** Just one question, maybe a comment. I didn't realize until reading your report that skybridges were a matter of right under the gateway plan. And what triggered this is once we required the street dedication then the skybridge goes over the street that we required. So if we didn't require the street they could have built the skybridge. Its that right?

**Gardner:** Right. On their own property they are allowed to connect their buildings with skybridges. It's an encroachment on a public right of way which is the issue. Gateway is one of those examples where we enhanced the pedestrian districts, we've moved out and created situations where people under the old philosophy these large campus facilities were now putting in these large street systems is creating a problem for them. The other one I find kind of incongruous in this particular situation, is that within the gateway plan district, if I built a doctor's office on one block and I built my parking garage on the block across the street from it, under the policy, I would be allowed to put in a sky structure. As long as it met the design standards. I find it's a little odd that I can go into a parking garage walk a skybridge to my doctor's office, but I can't live in a facility when I have to get across the street to get my meals and not have it be approvable under the policy. So we're perfectly willing to go back and say policy's old, things have changed, we need to take a look at that.

**Saltzman:** But the doctor's office example is because it has public access.

**Gardner:** It would have public access theoretically and it connects parking. The doctor's office is considered consumer service use. You could also do it with losers with retail if you could make the case in front of the planning commission that it was necessary for the economic stability of your

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project. So, skybridges in and of themselves, where this one is in a particularly strange position is that one of the things that was prohibited originally in policy was that you didn't want to connect apartment building to apartment building and build a system where people moved around the city on a skybridge level. So public access and residential to residential is expressly prohibited. The question comes, this is really kind of a blurred line. Do we have a nursing facility? Do we have a residential facility? Or a combination of nursing, residential and a consumer service?

**Sten:** Any further questions? Let's open this up for public testimony.

**Moore:** I believe there's a presentation.

**Sten:** Are you the developer? How long do you think your presentation will take? We usually do 3 minutes per person for presentation, but if the Council is ok with it, you can take 10 minutes for your presentation.

**Wendell White, Chairman of Generations:** Thank you Council. My name is Wendell white, I'm the chairman of Generations. We developed, built and now operate Cherrywood Village. The ownership of the retirement community is Portland Adventist Medical Center 50% and Generations is 50% owner. The complex is a large multi-facet retirement community with 102 assisted living facility that's this building right here. The other 210 independent living units which are in four buildings-the orchards, the greens, wind ridge, and the gardens. All of these buildings are connected with skybridges to reach the village square which is the center of the community. The proposed skybridge would connect the windridge with the gardens over clay street. We have a cherrywood highway, linking all of these buildings with the skybridges. In the village square which is really the heart of the complex there are several amenities there for our residents and for the community at large. There's a full service restaurant, game room, business center with computer hook ups for the internet, coffee shop-starbuck's type of facility that is open early in the morning. 80 seat chapel. Acitivity areas, art studio, umpqua bank has a branch there. An attorney has his office there. He specializes in senior law and estate planning. Our swimming pool and spa, off Broadway theater. One of the most popular areas is the beauty shop and barber shop. Conference center for meetings and educational opportunities. Fitness center, library and old fashioned soda fountain. The important part of the village square is the royal and assisted living where we not only have medical services for our residents but also doctor's office there for doctors' visits and therapy treatments and podiatry care. Mainly this is the center for our lifeline system. All of the residents at cherrywood have the lifeline, a little button that they wear around their neck that they can press and call to get help at any time. All of those emergency services come out of the royal and assisted living. At the north end of the campus is the gardens apartment building. You can see that it's on a hill—quite steep that goes down. That's the building we want to connect to the rest of the campus. Also on that end is our resident gardens. We have garden plots where our residents can garden, vegetables or flowers. There's a gazebo and water feature, and a picnic area and a trimet transportation area. So the 2 areas of the campus are separated. We want to connect them to give access both ways for our residents. This is a picture of the campus with the proposed skybridge in yellow, over clay. From the intersection at 107<sup>th</sup> and market st. down to the center of our campus is a 40' drop. So you can see it's a pretty steep hill. It's equivalent to a 4 story building. As you know sometimes we do have inclement weather, remember the ice storm in 2004. Pretty much those residents in the gardens were isolated from the rest of the community. The code calls for the sidewalk to be the primary means of movement in an area. On a day like this it's great. When it's snowy, icy, rainy or at night and in the cold with the gorge wind, it makes it difficult for our people to get around and get the services we want to provide for them. This is a picture looking to the east of our proposed area. The skybridge is completely hidden from the surrounding neighborhood. These are the cottages to the east, looking to the west is the portland Adventist medical center. It's not visible to the homes around the area. our residents did a little traffic study last Tuesday from 7am-7pm. 330 cars went down clay st. 217 of those were related to cherrywood village residents

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guests and staff. 92 vehicles were from the neighborhood. 21 people wouldn't stop and say what they were doing there. Clay st is a narrow st., 20 feet wide and it's very minimally utilized. About 27 cars an hour. In the report it says several times about alternatives to the skybridge proposal, but we did not come up with alternatives. We did investigate several and found them not to be feasible. So we did not pursue them. The staff report, there's about 4 things where we are in conflict with the code. Page 3—1<sup>st</sup> thing the skybridge needs to be mid-block. The city engineer has suggested that that part of the code be waived in that we are about 80' from the intersection. A regular city block is about 200' long. So that would be close to the center. This particular block is about 700' long, so it isn't near the intersection. The second point is that the skybridge does not give public access. Our residents at cherrywood are a cross-section of the community, and my contention is that they are the public. And anybody can have access to this skybridge that has a reason to be there. Just as you go to the airport, you can't go to the gate unless you have a boarding pass. You need to have a reason to be there. So anybody can have access to this skybridge that has a reason to be there. The next point is that it needs to have visual and noticeable connections to the sidewalk. There are a lot of examples in Portland of skybridges that don't have readily public access and don't have connections to the sidewalk. You see the emanuel hospital, good samaritan hospital has four or five of those. And my thought is that our situation is the same as the hospital, that those skybridges are there to give handicap accessibility to allow for wheelchairs and frail people access to the buildings and to be able to move around those hospitals. And our situation is the same. Another example of -- in the code it says that encroachments on the public right of way are above grade, at grade or below grade. The widmer brewery has a tunnel going from this historic building across the street to their main brewery, which doesn't meet any of the requirements -- requirements. It has no public access, no accessibility from the sidewalk, and is an exception to the rule. Of course the marquam hill aerial tram has a number of encroachment issues to face. The last point here that I listed is the public goal, or the public good, and it is the policy of the state of Oregon, department of human resources, and the senior service division that we promote aging in place. And that at cherrywood village we're committed to that, and we want to provide all the services that we can for our residents to age in place, and not have to move from building-to-building because they can't get the services.

**Sten:** Your time is up.

**White:** Ok.

**Sten:** Thank you very much. Questions of the council?

**Francesconi:** It's mainly on the question of design. You heard I think transportation, who's really going out of their way to try to make a code more flexible to help you, but --

**White:** I appreciate that.

**Francesconi:** But they also said on the issue of the design that maybe there wasn't as much cooperation as there needs to be. Not on whether it's built, but how it looks. Do you care to respond to that?

**White:** Well, we have -- at first we were wanting to have the skybridge match the rest of the buildings in the community, and that is the windows and the way that it looked. One other requirement is that it have 70% of the structure be glazing. So we've changed that to add 70%. But we're more than happy to go back to design commission and to go through their process and get their approval if we can do this. The thing is, we feel we need it, we want to do it for our residents, and so whatever we need to do.

**Francesconi:** That was my real question, whether you were willing to go through --

**White:** We certainly are.

**Francesconi:** My second question is unrelated to this approval process. We had a conversation, it's the issue of, we're also trying to use existing infrastructure to pay good wages for our workers.

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So the question of prevailing wages, it's my understanding you're also willing to pay prevailing wage on the construction of this, even though you're not required to do so.

**White:** Yeah, that's right. And we're familiar with davis bacon and have participated in that program, and we're willing to do that. To.

**Francesconi:** Thank you.

**Sten:** Any further questions? Great. Thank you.

\*\*\*\*\*: I don't get a chance --

**Sten:** You get three minutes each and I gave you 10, and he used it all. I gave you four extra minutes.

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

**Sten:** I understand -- there's a member of the design commission here. I'm going to ask you to testify first. There you are. Great.

**Mike McCullough:** Good afternoon, i'm the chair of the design commission. I'm glad this case has come here to be heard for a variety of reasons. It's been a difficult case for the design commission, primarily based on what was a poorly considered site plan initially. I think none of us are really arguing with the fact that all these folks here will be having a much more convenient connection between the buildings with this skybridge. And I want to say at the outset that the design commission is very willing to continue to work with this applicant and with this difficult problem. And so the offer that's made by the developer is appreciated, so we'll -- we'll respond to that. What I want to mention two things, don gardner's presentation, he mentioned really looking carefully at the skybridge provision. I think the skybridge provision is working fairly well. And I think that projects like this which are awkward interpretations and awkward designs should in fact be brought to the design commission, should be typically rejected by the design commission and brought here for further discussion. My feeling is that what happened here is because of an inappropriate site planning, they got themselves into a situation where they really need a skybridge in order to make this work. And what I would hesitate to see the city adopt is a policy by which the skybridge solution facilitated poor site planning and caused a proliferation of skybridges. So I want to work with this group, and I think the design commission and the staff are willing to work with this group as commissioner Francesconi pointed out, it's been a little bit difficult, they've been slow and kind of reluctant to listen to some of the issues that the design commission came up with, but I think we're headed towards a solution here. I just wanted to take the opportunity to lobby for not a wholesale revision to the skybridge provision, because I think it's still a fundamental opinion of the city that it's a good thing to have pedestrian activity at the street.

**Francesconi:** Well, I want to -- I guess I should be clear, in charge of transportation, i'm not advocating for a wholesale revision of the skybridge policy, that's for sure. And I don't think that don or pdot is in this report. What he says in the written report is to just look at the issue of assisted living and long-care nursing facilities. Just that issue. Not the whole skybridge provision. I just want it limited to that. And your point about making sure that site planning is good, even those circumstances, is why we want to review it. So it should be reviewed with the idea that we want to encourage good site planning and not have this as a fallback provision. So I want to be clear it is limited to seniors and assisted living, but your concern is valid, that's why we review it. That's why i'm asking your cooperation not only on this one, but if the council approves reviewing it.

**McCullough:** Well, I can promise the cooperation of the design commission on this issue. We're trying to get to a solution on this one.

**Sten:** Thank you. Any further questions? We'll open it for public testimony. How many people do you have signed up, karla?

**Moore:** About seven. Come up three at a time.

**Sten:** You'll each have three minutes and there's a clock on the t.v. screen that will give you your time.

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\*\*\*\*\*: We'll call people three at a time and take you in order.

**Lili Mandel:** Hi. Lili mandel, downtown resident. This morning when I started to read "the Oregonian" and saw the headline, "Portland will revisit its skybridge code," and saw the subhead, "commissioner will suggest exception," my blood pressure soared to record highs. My husband and I have for years railed against commissioners voting in the newspapers on issues prior to any public testimony here at city council. I am glad I had written four, because I thought mayor Katz would still be here. I am glad that three of you appear to have sufficiently open minds to listen to citizens' testimony before making a decision. This failure to follow the Portland process shows complete contempt for the citizens. I must admit that I don't like skybridges, but not having heard public testimony, I don't know whether this one might be justified or not. How you arrive at a decision is as important as the decision itself. Long live the Portland process. Thank you for listening, if you have listened.

**Sten:** Thank you.

**Harry Gabriel:** I've been a resident on market street right in cherrywood village area, and I walk to work, i'm a chaplain at cherrywood village, part-time employee. And this winter, as I saw the view of the street, I had the privilege of sliding down on the street on my behind quarters, so I know what he was talking about a slippery slope. The access for senior citizens coming to cherrywood village, coming to my chapel, being part of instead of being excluded from the community, it's just a sad thing. As I saw the picture of the skybridges and I know how the community, the access to the different buildings, how it's so much a part of our community, how they utilize what a joy it is to see the people coming and utilizing the skybridges that are there, and people that are in the building that doesn't have the skybridge, they kind of feel excluded. And you know, with driving, and I know the city would rather have residents walk, maybe drive bicycles in front of our chapel, according to the city we were kind enough to put up bicycle racks, but somehow I haven't found any of our senior citizens riding down the hill to come to my chapel. But it does bother me to see in bad weather, rainy weather, cold weather, icy weather, to see the senior citizens pile in cars and drive that short distance. And I know the city's very happy if we don't utilize the transportation. The excess from these -- from this building will be such an asset, such a joy, and will make our community complete. And i'm proud of the people that have come from outside of the state of Oregon into the city of Portland, become a part of the city of Portland, and i'm proud of the city we represent and the community, cherrywood village is really an asset, a plus to this city, and this little extra added thing that means so much to the residents, gentlemen, I wish that you do give it some real special consideration. Thank you.

**Sten:** Thank you.

**Albert Armstrong:** My name is albert armstrong, i'm a resident of cherrywood village, and i'm sure that you appreciate that most of our residents are maybe in excess of 70 years of age. Like was pointed out, there's 40 feet difference between the level of the village square and the gardens, and that's quite a climb in any kind of weather, and like it's been pointed out, in bad weather, it's really almost impossible. It hasn't been mentioned that there are elevator that's elevate from all these levels so that you go in from the gardens on one level, and when you go into -- on the second level, you go from there to the greens, you're on the third level, then you take the elevator and go down one level. And from there you go over to the village square and take the elevator down to the level of the village square. And this makes a tremendous difference, particularly in the inclement weather. I had another thought but I can't think of it right now. [laughter] anyway, when this establishment was built, I think they indicated that they were going to have the skybridge and a lot of people bought into it with the idea that it would come, and then the city made it difficult by insisting on having a road put through there, and now they won't let us -- or they're reluctant to let us put in the skybridge over the public property. Not fair. That's all I have to say. I hope that you people will really consider this. Thank you.

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**Sten:** Thank you.

**Sten:** Go ahead.

**Marjorie Irvine:** I'm marjorie irvin, i'm a resident in the gardens. Anything that I might say has already been spoken very eloquently, and I appreciate all the expertise we've had here. I hope you do consider, again. Thank you.

**Sten:** Thank you.

**Lloyd Summers:** My name is lloyd summers, i'm an attorney, I had my office at cherrywood legal services in the village square. I have residents who live in the gardens, and most of my clients, however, live outside of the cherrywood village. We're trying to resolve a conflict between enhancing the lives of seniors, and understanding a previously written regulation. It was done in 1982. I support the recommendation of the city engineer, and I support the idea that perhaps this is an opportunity to fine tune 1982 regulation so that it does take into consideration projects such as this one. In 1982, one of the key phrases in the regulations was the term "public character of Portland." to maintain the public character. That's an interesting phrase, and a beautiful phrase, just subject to an awful lot of interpretation as to what it exactly means, and does it fit this particular area. I want to make three basic points if I can in my three minutes. The first goes to the meaning of public. Because one of the statements is that this does not meet the public character or the public benefit. We have 400-plus residents in the cherrywood village community. How large of a portion of the public does it require to become public? Because they are a part of the public. They consume products, they ride tri-met, they vote, they pay taxes, they're a part of the public. So how large of a section of public do you have to be? There's no definition of it in the 1982, there's no definition of it in Oregon case law with the exception of condemnation. Black's law dictionary says it doesn't mean all of the people, most of the people, nor very many of the people of a place. It is defined or employed as meaning the inhabitants of a particular place, all the inhabitants, the people of a neighborhood or part of the people of the neighborhood. Oregon case law is even more restrictive on the definition. There it defines public use, public benefit, public access. And in their public use, in these cases, it's described as one which confers some benefit or advantage to the public. It is not confined to the actual use by the public. It is measured in terms of the right of the public to use proposed facilities for which this condemnation or eminent domain is sought. As long as the public has the right to use where they're exercised by one or many members of the public, a public advantage or public benefit accrues sufficient to constitute public use. Those are the only definitions of public use or benefit that i'm able to find in Oregon case law. Now, I want you to recognize that what we're looking at here is more than just the residents in the one building called the gardens, and the adjacent building called wind bridge -- wind ridge. We also have people who live in independent cottages across the street. They have access to that skybridge if it is approved. So they too don't have to transgress down the hill on the public sidewalks to see the main facilities. And I have clients up there. I'd like for them to be able to get down and see me. Another comment --

**Sten:** You're out of time. Can you wrap up?

**Summers:** Yeah. I will try to do that. Ok. I would ask you to consider who's benefiting from this, it's obviously the people there. Who has a detriment to the people? It can't be seen from east, west, south, it's the only people that can see it are the ones that are there, the few that transfer through the streets through clay street or through about a 200-foot section of 107th. So I appreciate the recommendations of the city engineer. Appreciate you hearing this. I hope that you will help define Portland character as having people be as important as old statutes that probably need to be revised a little bit. Thank you.

**Norm Smith:** Councilmen, my name is norm smith, i'm the general manager at cherrywood village. Before I start my comments, i'd like to make a point of clarification based on something that was said in other testimony. The skybridge is true as the project was conceived, was part of the



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plan. Until clay street was required that that connectivity be made and that was a dedicated street, we realized from that point on that this was a process that we would have to go through, that it was part of the original cherrywood plan. Based on transportation department and design commission's recommendations today, I don't have as much to say as I thought I was going to have, but I would like to make a point that takes us back a ways to really what's created, the issue of the skybridge in the first place. And that is that as you consider the statutes as they deal with the skybridge, also consider the policy of connectivity within a retirement center community. I came to cherrywood just three years ago and was really amazed to find city streets dissecting a retirement center campus. The community I came from was a gated community, and that's an ideal setting within a retirement center. What you're looking for is security, emotional security, physical security for people coming to a retirement center, and that's an issue that I hope you'll address, along with the reduction of off-street parking that was apparently another policy relating to our community. I understand a lot of parking was -- had to be reduced within the off-street parking lots in our community. Security, again, is a huge issue. We have theft, we have vandalism, we had an employee attacked with a utility knife here a while back. Just last week we had an employee coming by for an evening meeting, his car was broken into, we've had rocks thrown through the windows, continual vandalism on our street lights and our accent ponds and so forth. Security is an issue for us, and the skybridge will be a great help to us. I just, again, with everybody else, would urge you to consider as you apparently are, the permitting of the skybridge between our two buildings. It will be a great benefit to our residents and our community.

**Sten:** Thank you very much.

**Monty Knittel:** Good afternoon, gentlemen. My name is monty, i'm the vice president of marketing and business development for adventist medical center. I appreciate the opportunity to speak before you today. As you know, cherrywood village is -- sits right next to adventist medical center, and as Portland development commission has talked about the gateway region, they often talk about the medical center and cherrywood as being the southern anchor to gateway. And I think we've done a good job of working with the city to really make it an attractive southern anchor of the gateway region. This project is real important to the long-term plans of the medical center. It helps bring patients near us, it helps improve our community, it makes it more attractive place to live and work. There's about 1900 employees at the medical center. This specific issue I would urge you to accept the city engineer's recommendation and allow it to happen. It was something where there was kind of a catch-22 with the -- the original plan not to have a street, then suddenly a street being there, and the street has been an ok addition as we've looked at it, and there's been some concerns initially that are probably ok with having it there. But this bridge is needed. It's something like some of the others have said, that really doesn't affect how this -- the view from the outside, you don't really see it, but it's an extreme benefit to the residents as it ties them together and gives them some extra mobility. So with that in mind I would just encourage you to accept that recommendation.

**Irwin Mandel:** Irwin mandel, downtown resident. Just to make sure you know, i'm not unsympathetic to the plight of senior citizens, I was born the year babe ruth hit 60 home runs and the first talking picture was released. I'm quite eligible in living there myself. It was quite clear the skybridge is a necessity for the people who are living there. They should have been well thought out in the site planning as mike mcculloch has pointed out to you. I would say keep your hands off the code as it exists. It forms a protection for the rest of the city so that we don't end up with arguably the worse looking skybridges around such as the one connecting the galleria and the yamhill parking garage. That is something that is offensive just in its face. It is a code that protects us against this, it is designed -- it is the design commission who makes sure that in following the code, that we don't have these god awful looking skybridges that absolutely would ruin the city. You can make exceptions for projects that show a necessity such as this project does. But it should

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start with the developer and the site planning so that it doesn't become necessary to add skybridges where they're not necessary. Given the grade issues here, there's no question that the residents need this for their mobility. I'm far more mobile and -- than most people my age and I could probably run around the place. But i'm the exception, not the rule. So, yes, this is an exception, a valid exception, but don't mess with the code that protects us. Thank you.

**Moore:** Three more people.

**Evelyne Shepherd:** My name is evelyn shepherd, i've lived at cherrywood village for four years now. I live in the one building called the gardens, which is across clay street from the rest of the buildings. You have seen the designs and the pictures of the arrangement of the buildings, I won't go into that. We have a lot of areas within the main buildings to meet all of our needs as senior citizens, we enjoy living there very much. But the big problem is, like was mentioned before, the other buildings are connected with skybridges, but we have no way from our part called the gardens, from our building, to get over to all the other buildings. Especially in the evening time or in the winter time, or when it's raining or when -- well, when the snow, we were completely confined in our building for close to five days last winter. Some folks were used to eating in the dining room. If we had a skybridge we could have walked over there and taken advantage of all the different things there. Also, I was going to mention about wheelchairs and people with walkers. It's difficult for people like that to get back and forth, and you can see it would be a real problem there, getting across the street and then over into our building or going back and forth. Here, oh, just very recently I was coming from the main buildings over to the -- to my home apartment in the gardens. I came out from wind ridge there, I walked the distance up the street a little bit to get to 107th avenue where I could cross, cross the clay street there. Was a stop sign there, it's always been there. I stepped out, I looked both ways, I stepped out, got about halfway across and all of a sudden here came a war with some young folks with their loud music and so forth, came buzzing up there, they ignored me completely, they went whizzing right in front of me, turned the corner and went up 107th street. If I had been in a wheelchair or on a -- with a walker, it might have been a very disastrous situation for me. That can happen time and again because it's a rather temptation to come up the street from main street, it's quite a long stretch as you can see in the design, and coming over to where we want the new skybridge. So -- and you've heard the reasons why we want it. We are residents here. We enjoy it. We are people from going back some to world war ii times. We have given positive contributions to our country, in all different kinds of businesses and lifestyles. We've worked hard through the years. Now we're a little slower in pace, but we still are in very active work and volunteer and so forth. But we feel we deserve living in a safe place without the worry of going from our building to the rest of the facilities. With a positive solution in the skybridge, we hope you will consider this and this will help us very much to live out a peaceful stay there at cherrywood village in Portland, Oregon. Thank you.

**Sten:** Thank you.

**Hazel Oldenberg:** Thank you for letting us speak to you for the residents of the gardens. My name is hazel oldenberg, I have -- I have been a resident of cherrywood for 31/2 years. The skybridge would enable us to take part, as we've all said, take part in the many activities such as the movies every week, and the banking and the bridge and the bingo and all that. We have many things that we can attend. The accessibility for the handicapped and the disabled is very good at cherrywood. But we do need this skybridge. The skybridge also, I don't think anybody has mentioned, would also be a fire escape for both buildings for seniors on those floors. As mentioned before, the bad weather, we couldn't get out, especially with a wheelchair, like I have, for at least four days, five days. And even the residents with healthy mobility have difficulty on windy days. Getting across clay street. The safety is an issue for seniors. We couldn't get to the restaurant, the store, as we mentioned before, during the snowstorm and the ice storm. We couldn't get to get. We couldn't attend the different functions that they have. The skybridge convenience would help all

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residents of cherrywood to work in the vegetable gardens and other activities in the different buildings. It would provide and promote a better quality for the seniors to join in all activities. In conclusion, the garden residents hope that the city council will have a greater insight for the importance of the skybridge structured to the gardens residents. On behalf of cherrywood residents, I thank you once again for your time and consideration on this very important subject. Thank you.

**Don Leslie:** I'm the president of the council at cherrywood. I think just about everything has already been said, stated, based -- given our case. But I want to make the plea on behalf of the people of cherrywood, you very rarely hear the word "exceptions" plural to the rule. You always hear "the exception to the rule." and you've also heard that the exception makes the rule, or, you know, rule is proven by the exception. But in any case, I think that everything has been said that needs to be said, and brought up to plea for our case to get the skybridge done, and I think it just plain an exception to the rule that we'll prove once again that there is an exception to the rule.

**Sten:** Thank you.

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

**Sten:** Would anybody else like to testify? If not, i'll ask staff to come back up and open this up for council discussion. Are there further questions of the staff from the council?

**Saltzman:** I'm not sure I understand what we're doing. We're going to approve the skybridge subject to design commission approval?

**Gardner:** Correct.

**Saltzman:** And then look at the policy in its larger context with respect to assisted living long-term care facilities? On a separate tact?

**Gardner:** Yes, commissioner, the council feels the policy does need some reconsideration, then they would direct us. We would go back with planning commission and design commission and try to look at some of these issues, especially as it relates specifically to these assisted living centers and how that best fits in to still continue the policy which discourages skybridges, to take a look at, are there ways and how should this be addressed?

**Francesconi:** The only thing I might add, we not approve any more skybridges even for assisted living, until the recommendation comes back. So we're not creating -- creating an exception today except for this one skybridge.

**Saltzman:** What we would like you to do is grant the exception for this one, and direct us not to accept applications for more of these, because these are way out in advance and people talk to us generally way before they ever come up with these concepts. So we can tell them we're going through no this process, wait until we're done, then if you want to try -- after you know what the regulation would be.

**Leonard:** Are there any projects contemplated that we're aware of?

**Gardner:** No, sir hearings officer lou --

**Leonard:** How long will it take to develop the policy?

**Gardner:** Given the fact we're running into summer, we're going to need planning commission members to give us their advice, I would think it would be about six months.

**Bob Haley, Office of Transportation:** Bob haley, transportation. We have one other skybridge application that is currently in process, but it has been through the design commission and it does meet all the goals and policies in the current --

**Leonard:** It wouldn't end up here anyway.

**Gardner:** All skybridges come to council -- the 60 engineer only makes a recommendation to council. All approvals come to council ultimately, but we go to the design commission, planning commission and the appropriate review bodies, they give us their advice, we compile them and make a recommendation to council for approval or denial.

**Francesconi:** Is that our policy or is that our code that requires it coming to council?

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**Gardner:** That's the encroachments policy. It has the whole procedure that it says final approval rests with the council.

**Francesconi:** Is that a pdot encroachment policy?

**Gardner:** The city's encroachment policy. We simply administer.

**Leonard:** This other project meets all the criterion so an exception isn't required.

**Haley:** The only other recommendation we had a request from the design review staff and the bureau of development services. Encroachments in the right of way, the criteria that -- the development standards, they talk about it being 14 feet high, no more than 12 feet wide, being visible open, to help guide the design commission in what it is that they'll be trying to -- what guidelines they should use, the council enacted an update to the gateway plan district just recently, about 12 days ago those regulations came into effect. Within those regulation there's were also specific design guidelines for gateway. I believe they're called the gateway regional center design guidelines. So I have placed at your desk a memo dated today from the office of transportation suggesting some wording that the design commission and design staff would like to have adopted if you choose to grant the exception and send it back to the design commission.

**Francesconi:** I saw that. Commissioner Saltzman's question is a good one. If we just accept the report it pretty much does that, or do you want a separate --

**Haley:** The report that you have talks about applying -- because it was drafted before these regulations came into effect, it talks about applying the community design standards. Those are what apply every place when you don't have specific district design standards. But now we have specific gateway design guidelines, so it will likely apply those instead of just the community design guidelines.

**Saltzman:** You want us to adopt this revision as part of the report?

**Haley:** Correct. It's a revision to condition number 1. That's in the original report.

**Saltzman:** Ok.

**Sten:** Terrific. Any further questions from the council? I have a motion on the revision?

**Saltzman:** I would move adoption of the revision.

**Leonard:** Second.

**Sten:** Via motion and second. Is there any council discussion? Any objection? Hearing none, the motion passes and so we will take a roll call on the engineers' report as amended.

**Francesconi:** We want seniors living in our community, and we want it for the benefit of seniors for all the reasons that you were talking about, and the skybridge meets that, and is necessary. But we also want it so we can interact with seniors. So going to the extreme of gated communities, which was not the subject of this hearing, but was mentioned in a testimony, is something we don't want to do for example. But a reasonable skybridge here without throwing out the whole skybridge policy, but just limiting it to seniors, and assisted living facilities is the reasonable and right thing to do. So I also appreciate -- second comment is, I really appreciate you, don, because at a time that government were criticized for not applying, quote, common sense or looking behind the policies, you've administered this for 20 years, nobody has been more understand -- understands land use and transportation and the inner connection of how they build community more than you do, and you carved out a very narrow exception because you thought it was the right thing to do. And you presented it to me. And this is a little different, this is not a legislative matter or an adjudicative hearing at which we issue disclosures. You work for me, the bureau of transportation. You talked to me about this, because ultimately I have to make recommendations to my colleagues on bureau of transportation matters. So although i've raised blood pressure of citizens in the past, and I will continue to do so, it's my job to make a recommendation to the council on a policy issue. And I did it making this recommendation that I hope the council approves, because it's the right thing to do and because I really have a lot of confidence in you, don, that we're not going to create an exception

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that swallows the rule on something that's so critical. So this is the right thing to do. We like having you in our city, have you a terrific facility, this will make it just a little bit better. Aye.

**Leonard:** It is a mistake to enforce the building code or the fire code or design standards for the sake of the code itself. The best codes written can create inequities and unnecessary expense if they're not applied without judgment and flexibility. To the best of my memory, I wrote those words down from when I was trained 25 years ago in the fire code. That was how we applied the fire code, and I think to this day it is applied that way. Those that go in and stridently enforce to the letter what the code says can often create unnecessarily unsafe situations without looking at the environment surrounding a particular case in which it applies. I agree with commissioner Francesconi, don, that this is an example of the kind of work that i'm asking the bureau of development services to do that you are doing. You're using your best judgment, you're looking back at when the code was developed and acknowledging this particular situation didn't fit those set of circumstances, and we need to adapt the code to reflect that. I appreciate that a lot. That's the kind of work I really appreciate, and like to see. I disagree with the comments that the process should continue as it is so that in the future we will reject these kinds of skybridges for retirement communities and have them come to the council for this kind of a discussion. I think we need to, again, look at circumstances that have evolved since the code was initially developed, have the code reflect that, and allow our professionals that we trust and train to apply those codes in a judicious manner. This was a good process and I appreciate it. Aye.

**Saltzman:** We're a city that prides itself on being elder friendly, this is an elder friendly encroachment to me and I think it's very important that we look at our existing skybridge policy so we can make sure that we are even more elder friendly to future assisted living, long-term care facility needs in this city to make sure that our residents get the very best in terms of safety, protection from the elements, and all the things that are warranted. I've also want to say i've been to cherrywood and it's a great development. Aye.

**Sten:** It's all been said. I think this is the right decision. I just want to say it's a pleasure to see all of you down here and I hope you'll take this wisdom and get in some more issues now that you've won on this one. Aye. [gavel pounded] [applause] that's the final for the council. Before I let the council go, it's my great pleasure to remind you that we have to elect a new council president. My term is up. And it is my great pleasure. And --

**Leonard:** Do we elect or does it rotate?

**Sten:** We have to have an election and I have to take a vote. Traditionally we have rotated it and if the council is going to follow tradition it is commissioner Saltzman's turn beginning I believe tomorrow.

**Leonard:** Do we do it now?

**Sten:** I need to do that today.

**Leonard:** I would nominate commissioner Saltzman to be the next council president.

**Francesconi:** Second.

**Sten:** I'm closing nominations. Roll call.

**Francesconi:** Can we try to get out -- something out of commissioner Saltzman? He'll do well. Commissioner Sten, you did well in the mayor's absence. Aye. **Leonard:** Aye.

**Saltzman:** Commissioner Sten, you've done a great job these past six months and i'll try to rival you in your expertise and time management of the public and everybody's that come before us. Procedures, too. I'll have to be on my toes.

**Sten:** Thank you. I pass the gavel. Thanks, everyone. [applause]

At 3:05 p.m., Council adjourned.