



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **7TH DAY OF JULY, 2004** AT 9:30 A.M.

THOSE PRESENT WERE: Commissioner Sten, Presiding; Mayor Katz (teleconferenced), Commissioners Francesconi and Leonard, 4.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Harry Auerbach, Chief Deputy City Attorney; and there was no Sergeant at Arms.

On a Y-4 roll call, the Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
799 Request of Charles E. Long to address Council regarding quietness as a community resource (Communication)	PLACED ON FILE
800 Request of Freedom Child to address Council regarding Police abuse, lying in reports, ineffectiveness of Citizen Review Committee and bias of Capt. Schenck (Communication)	PLACED ON FILE
TIME CERTAINS	
*801 TIME CERTAIN: 9:30 AM - Authorize application to the U.S. Department of Housing and Urban Development and related actions for a Section 108 loan guarantee in the amount of \$26,000,000 for the Siltronic plant expansion in the Northwest Industrial Area (Ordinance introduced by Commissioner Sten) (Y-4)	178576
*802 Authorize application to the U.S. Department of Housing and Urban Development and related actions for a Brownfield Economic Development Initiative grant of \$2,000,000 for expansion of the Siltronic plant in the Northwest Industrial Area (Ordinance introduced by Commissioner Sten) (Y-4)	178577
*803 TIME CERTAIN: 10:00 AM – Grant a 10-year property tax exemption to Block 14 Limited Partnership for new multiple-unit housing on the block bounded by NW 11 th and 12 th Avenues and NW Northrup and Overton Streets (Ordinance introduced by Mayor Katz) (Y-4)	178579

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CONSENT AGENDA – NO DISCUSSION		
804	Vacate a portion of N Arlington Place west of N Albina Avenue, under certain conditions (Second Reading Agenda 764; VAC 10015) (Y-4)	178564
Mayor Vera Katz		
805	Authorize an Intergovernmental Agreement between the City of Lake Oswego and the Police Bureau to provide additional access to the Portland Police Data System (Ordinance)	PASSED TO SECOND READING JULY 14, 2004 AT 9:30 AM
*806	Authorize expenditure up to 35% of original contract amount with Par-Tech Construction for renovation of fire stations 8, 19, and 20 (Ordinance) (Y-4)	178565
*807	Authorize an Interagency Agreement with the Portland Development Commission for the City Lights Housing Program (Ordinance) (Y-4)	178566
*808	Authorize Intergovernmental Agreement with Portland Community College for a conduit sharing arrangement with the Integrated Regional Network Enterprise (Ordinance) (Y-4)	178567
*809	Correct contract amount with Amburgey and Rubin, LLP for outside counsel assistance to \$80,000 (Ordinance; amend Ordinance 178486; Contract No. 35188) (Y-4)	178568
*810	Authorize Master Intergovernmental Agreement between Bureau of Planning and Portland Development Commission for planning and implementation of urban renewal projects (Ordinance) (Y-4)	178569
Commissioner Jim Francesconi		
*811	Amend contract with the Institute for Conflict Management, Inc. to provide professional, technical and expert services for the South Corridor Work Force Discussion Group (Ordinance; amend Contract No. 35137) (Y-4)	178570
*812	Authorize an Intergovernmental Agreement with the State of Oregon to provide up to \$81,200 for the completion of the Freight Master Plan-Implementation Phase project under the State Transportation and Growth Management Program (Ordinance) (Y-4)	178571

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<p>*813 Authorize an Interagency Agreement for Portland Parks and Recreation with the Portland Development Commission for professional and technical services for park improvements for FY 2004-2005 (Ordinance) (Y-4)</p>	<p>178572</p>
<p>Commissioner Dan Saltzman</p>	
<p>*814 Authorize the Bureau of Water Works Administrator to execute grants for \$200,000 with community partners to fund lead poisoning prevention programs to comply with Environmental Protection Agency Lead and Copper Rule for drinking water (Ordinance) (Y-4)</p>	<p>178573</p>
<p>Commissioner Erik Sten</p>	
<p>815 Authorize an Intergovernmental Agreement with State of Oregon through its Housing and Community Services Department to manage the Ready to Rent Landlord Guarantee Fund (Ordinance)</p>	<p>PASSED TO SECOND READING JULY 14, 2004 AT 9:30 AM</p>
<p>*816 Amend subrecipient contract with the Housing Authority of Portland by \$300,000 additional funds for redevelopment of Columbia Villa housing project and provide for payment (Ordinance; amend Contract No. 34981) (Y-4)</p>	<p>178574</p>
<p>*817 Authorize an Intergovernmental Agreement with Portland Community College to accept \$12,000 annually and perform Housing Outreach Services (Ordinance) (Y-4)</p>	<p>178575</p>
<p>REGULAR AGENDA</p>	
<p>Mayor Vera Katz</p>	
<p>818 Authorize contract with Star Park, LLC and provide for payment for attendant and revenue services for City parking garages and City surface lots (Second Reading Agenda 770) Motion to refer this back to the Mayor's Office to send it back to the selection committee for more study: Moved by Commissioner Francesconi and seconded by Commissioner Leonard. (Y-4)</p>	<p>REFERRED TO COMMISSIONER OF ADMINISTRATION AND FINANCE</p>
<p>Commissioner Randy Leonard</p>	

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819 Amend fee schedules for certain construction and trade permits, plan review, inspection, land use review and permit issuance services (Second Reading Agenda 762)	CONTINUED TO JULY 28, 2004 AT 9:30 AM
820 Add rainwater harvesting systems as acceptable form of plumbing within the City and make other editorial changes (Second Reading Agenda 763; amend Title 25) (Y-4)	178578

At 10:15 a.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 File.

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WEDNESDAY, 2:00 PM, JULY 7, 2004

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

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Closed Caption Transcript of Portland City Council Meeting

This transcript was produced through the closed captioning process for the televised City Council broadcast.

Key: ***** means unidentified speaker.

JULY 7, 2004 9:30 AM

Sten: Karla, could you please call the roll? [roll call taken]

Sten: Mayor Katz is here with us by phone. Commissioner Saltzman is the current president of the council, but he's not here today, so i've learned this morning that it falls to the past president of the council, which is me. So I will be running this meeting. Before we get started, I did want to introduce on behalf of the mayor, a delegation who's here from the department of mechanical engineering at a university in korea, here in Portland for several weeks, working with Portland state university. I want to wish them the very best while they're here. Welcome. [applause] thank you. So we will start with communications. Could you please read 799.

Item 799.

Charles E. Long: Good morning, mayor and the council. My name is charles e. Long. I live in northeast Portland. This morning I wanted to discuss an important environmental resource that we have, and that we don't appreciate often. What is noise? Noise is sound that is unwanted. It is pervasive. It is a terrorism of the soul. Noise can be used as a weapon of the military to demoralize the enemies. It's been used in afghanistan, guantanamo bay and iraq as a tool. With our modern amplification, noise can only become pervasive, but it can be dangerous to the ear. It can damage the ear permanently as any audiologist will tell you. Therefore we should consider what we can do as a community to keep this wonderful resource of quietness, because it has so many purposes, so many applications. Quietness is essential to human rejuvenation of the body and mind in sleep. It is also important in private work, often of composers, of ministers preparing sermons, and for other purposes, even library and hospital area of the city is a quiet zone. Therefore as a community we should do what we can to minimize noise, unwanted sound. Therefore we should look at what we can do as far as ordinances are concerned to alleviate unnecessary noise. I would pose two right off the bat. And that is gas blowers, which don't clean up anything, they just blow debris around and create pollution, and noise pollution as well. In the sunday "the Oregonian" there was an article about a composer who is playing at the -- at reed clem this week, chamber music northwest. He says "i love quietness. Have you ever been in a place so quiet it's like lose are your hearing?" he has, he adds, once in the middle of a desert the silence ran so deep around him that he could hear a bird's wings flapping far in the distance.

Sten: Mr. Long, your --

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

Sten: Thank you very much. That was terrific. 800.

Item 800.

Freedom Child: Good morning again. I'm back to tell you the rest of my story. I'm going to pick up from where -- I hope you remember kind of what happened to me, that undercover car had pulled up with two officers, and I didn't know they were the police. They didn't identify themselves. And they ran into my house, they ripped me out of my house by my hair, they arrested me, put me in a car, I didn't know why. I'll tell you from what happened to that point. I sat in the car for about 10 minutes. All my neighbors came out and about five squad cars showed up. Eventually they took me down to the st. Johns police station, put my book in the car, took me to the police station, put me in a cell, didn't know why. 10 minutes later they put me back in the car and loaded -- you know,

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we're going downtown now. And as we're driving, we're pulling away, I could hear -- they had a radio on, and it was like this heavy metal music. And it was really like disturbing. I was trying to stay centered and stay calm. I asked them to turn it off. They said no. So we're driving along and they were speeding and just -- we're driving along, and there was a speaker in this -- my ear here, and all of a sudden I heard the word "dildo." I got startled. And I heard the word "you put the dildo in one hole and it comes out the other hole." then I heard something about a prostitute. Then I heard "we're the smut peddlers. We're the smut peddlers." then I heard something about you put a dildo -- the prostitute would put her dildo in the washing machine and hung it out to dry. That scared me, like why are the police listening to this -- it was a radio station, 101, and i'm alone with these two men that have already assaulted me. Anyways, we went to the police station, and then booked me. And I don't know why. They keep fingerprinting me, fingerprinting me. Finally I see a piece of paper in front, and it says that I was arrested for not having a bike light on, or not having a bike light. And for interfering with the police. So I knew that was fake. I knew they were making things up. And so I was released from the -- I was in the police station till 2:30 in the morning, in a cell, and when they released me at 2:30 i'm standing out on the street. They wouldn't give me no property. I had no keys, I had no money to get home. I had no bike. I had no -- there was no buses running. So, you know, the peace and safety officers released me at 2:30 in the morning on a downtown street. It was just very disturbing for me. And my time is just about up. And so when i'm going to come back, i'm going to tell you about when I got the police reports and when I read them how shocked I was because they're full of lies. So thank you.

Sten: Thank you. Next we'll take the consent agenda. Would anybody in the audience or on the council like to remove any items from consent? Seeing none, we'll have a roll call on consent.

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

Katz: Mayor votes aye.

Sten: Consent agenda passes. That brings us to our time certain. Karla, please read 801.

Item 801 and 802.

Sten: And we'll ask howard cutler and bob alexander to come on up. Why don't you also go ahead and read 802 and we'll have a presentation on both at once, karla.

Sten: And I think as the council is well aware, the mayor has been leading a very strong effort to try and work with the siltronic company to get a very large investment in a new plant and a lot of jobs located here. This is a piece of that effort. We'll be authorizing an application to the department of housing and urban development for a loan program that the city has -- may have access to if this application is approved. This is a short presentation on that effort.

Howard Cutler: Howard cutler, bureau of housing and community development.

Bob Alexander: I'm bob alexander with the Portland development commission.

Tom Fahey: I'm with u.s. Siltronic corporation.

Cutler: The city has access through the department of housing and urban development to the section 108 loan guarantee program, and it's to fund programs that are community development block grant eligible, and we are able to receive slightly reduced interest rates on projects again that comply with regulations. At the same time there's a brownfield economic development initiative, a grant that's attached to 108 projects, and that's a competitive process that's nationwide and there's \$25 million available nationwide. The maximum award is \$2 million. So the city, working with p.d.c., and siltronic, is requesting to apply for, a, the 108 loan guarantee program, and two, the brownfield economic development initiative grant of \$2 million. \$26 million loan, \$2 million grant. And just basically in terms of the 108 loan, we have a \$60 million capacity to borrow. We have borrowed funds for the new columbia just last year of \$11.5 million. We have a loan with the skidmore fountain building and then a lone in the north/northeast, in the enterprise community of about \$6 million of 108 capacity. That's the mechanics of the program. I'll turn it over to bob to talk about the particular application.

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Alexander: Good morning. Bob alexander again from Portland development commission. Just to remind you a little bit about this process that we're going through as commissioner Sten mentioned, this plant is an expansion of the existing facility, siltronic currently employs 1100 people in the northwest industrial area. This plant would expand their capacity to produce 300-millimeter or about 12-inch silicon wafers and employ approximately 500 people and the investment would be around \$466 million. This loan is important to attracting siltronic, because the combination of the section 108 loan and then the \$2 million grant would provide a stable source of funding, which acts as the cornerstone to our financing package. We, as you know, are in a competition internationally.

We are not competitive when it comes to certain items like labor rates. Frankly, thank goodness, we do pay good wages here. But we have to be competitive overall. So this kind of issue that is a stable source of long-term financing is very important to make us competitive for this facility.

Other incentives that we're using in addition to this would include a loan from the energy loan program, grants for work force training, special public works, and the governor's strategic reserve, and tax relief through the strategic investment program which mayor Katz has mentioned before, and we will probably be coming back before you on the details of that if we are selected as the site.

We're also, as you know, at your direction, evaluating an industrial urban renewal area in that area, and we're in that process currently. Just to give you a few words about community benefit. Over a 10-year period we would expect roughly \$4.5 billion worth of economic impact. We would be retaining the existing 1100 jobs in addition to adding 500 new, generating 630 secondary jobs, support services and suppliers. So this is good from a number of perspectives, and the section 108 and the grant are important component of our financing package. Tom fahey, director of h.r. At siltronic is here to answer any questions and to make a few remarks.

Fahey: Thank you. Good morning. Just like to say on behalf of our c.e.o., neil nelson and the 1100 hard working people at siltronic, we want to thank you for your support of these applications today. After 25 years in the community, we are very excited about the prospect of getting this largest expansion in our history, and look forward to a very long and prosperous future here anchoring the northwest industrial district. Also would like to acknowledge Portland development commission and the city in the help that they've given us in setting up this very innovative joint, public and private partnership through the ambassadors program of the p.d.c. to help get this project here for the city of Portland. This has been a very, very positive effort, and the company, quite frankly our management in munich, germany, has been impressed with the effort the city has put on. Thank you.

Sten: Thank you. Questions from the council?

Francesconi: So if we do all, are we going to get the plant here?

Fahey: We sure hope so. We should find out later this month.

Francesconi: Is there anything more we can do or any advice you have for us beyond what we're doing?

Fahey: Bob has just returned from a trip with our management, and our c.f.o. is coming over this week. We'll have yet another meeting here this week. We're getting down to the final parts. We're trying to leave no stone unturned, and looking for whatever grants, at the federal level also, as far as just a little bit might make a difference. We're trying to find that right now if we can.

Francesconi: Thank you.

Sten: Terrific. Thank you very much. Would anybody in the audience like to testify on this? I don't see anyone. Roll call on 801.

Francesconi: I appreciate the mayor's focus on this and your willingness. Could be the best development jobs effort to happen since we worked with you, 30, 40 years ago. It's not only the 500 jobs, but it's anchoring, making the cluster of high tech even stronger, with intel and everything else. This is a greatest effort. We appreciate your leadership on it. Aye.

Leonard: Aye.

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Sten: I want to thank the mayor hard work on this. This is the best use of the 108 program i've seen in quite awhile. If we were to do the loan, it would be a third-party guarantee that we'll make sure nothing gets cut because of this, but it's a great opportunity to make money that wouldn't be spent for some time and put together a program to attract jobs. I want to thank howard and his team for this as well. So I vote aye.

Katz: I want to thank everybody as well for all the work that you've done. There's still more to do and we'll keep our fingers crossed. We'll put the package together. Aye.

Sten: Thanks. 801 passes. Roll call on 802.

Item 802.

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

Katz: Mayor votes aye. [gavel pounding]

Sten: We're just a little ahead of time on 803, so we'll move ahead to 818.

Item 818.

Ron Bergman: Ron bergman, general services director. Maybe and members of the council, we'd recommend to you at this time that you refer the item back to the mayor's office and the selection committee to -- so that they can review the proposals and ensure that the cost components are comparable between the various proposals.

Sten: Ok. So the recommendation is to refer this back to the mayor's office. Is there any council questions or discussion?

Leonard: I'll just say it's been helpful for me in the last week to have ongoing conversations about the issue that we discussed last week, and in so doing i've better understood some of the reasoning behind questions I raised at the last hearing. The issue for me is real simple. I ignore all of the stuff that the going on around me, except who's going to give us the best deal. So that's what i'm focused on. And I also understand from the discussions, particularly ron and I had, that there are different ways to calculate how we're going to get the best deal. But if there's a message being sent, it's only that, it's that I want to make sure when I vote on this proposal I am assuring the taxpayers of the most revenue possible.

Francesconi: I guess I agree with that. So I appreciate this approach. It's the least cost to the taxpayers is the criteria. And \$650,000, which may not be an accurate number, is too high a difference. So I appreciate that reporting. But I also appreciate the information that said that maybe it wasn't that much of a difference in the contract. So referring it back is right. But I also appreciate some conversations that the risk to the city, to people may be willing to share that risk as well. And so I think this is the right approach to benefit the taxpayers.

Sten: Do you have a sense of how long this would take?

Bergman: My guess is we'll be able to do the review in a two-, three-week period.

Sten: Ok. I think I need a motion to refer this back to the mayor's office, to send it back to the selection committee for a little more study.

Francesconi: So moved.

Leonard: And I second.

Sten: Motion is moved and seconded. Do I need to open this up for public testimony? I don't want to. Do I need to?

Harry Auerbach, Office of the City Attorney: We don't usually take testimony on referring it back to commission.

Sten: In that case i'm not going to take testimony. Roll call.

Francesconi: Aye.

Leonard: Well, not only should the question be who has the least expenses, that should be a question, but to be very clear about my position I also understand you have to invest money at times to make more money. It would appear from some of my discussions that i've had in the last week that might be one of the factors here. I don't know for sure. But that is definitely something that i'm

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cognizant of. So I want to be real clear that when I say that the taxpayers make the most money that may also include us spending some money up front to get to that place. I'm not insensitive to that fact. So I appreciate us taking this back, looking at it again, so that we can have, as a council, a better grasp of what the issues are before we award this contract. Aye.

Sten: Aye.

Katz: Aye. And ron, i'll be talking to you about this next week.

Sten: Ok. 818 passes. And we'll be taking testimony i'm sure when this comes back. Thank you, everyone. Still a couple minutes before 10:00, so let's read 819.

Item 819.

Leonard: This was an issue that was here last week. Some of the council wanted more information and the staff at b.d.s. was going to provide that, and they were completely unsuccessful with getting appointment members to come in and brief the council on the nuances of this. I'm open to the wishes of the council. If you want to postpone this until we can figure out how to get in and talk to you, we will do that. If you're comfortable after having analyzed and thought about what we discussed last week and are open to passing this, I would support that as well.

Sten: Well, I will open that up for council discussion. Is there any council discussion?

Francesconi: Well, you know, i'm open to talking to staff. So the fact it's been hard to schedule it, but I also want to be clear that even after I talk to your staff it's unlikely i'm going to vote for it. I just want to be clear about that. I'm not saying --

Katz: Commissioner Sten, I think probably we ought to delay this until everyone's had a chance. My staff has been briefed, but I still have questions.

Sten: Sounds like we should set this over.

Leonard: I know how to count.

Sten: About how, should we be more realistic maybe and give it two weeks, or more?

Leonard: Yeah.

Moore: Staff had asked to continue it until july 21.

Sten: Ok.

Leonard: Ok. Which is two weeks.

Moore: Two weeks.

Sten: We will continue 819 until july 21.

Leonard: Great. Thanks. [gavel pounded]

Sten: And why don't we read 820 and take a vote on the second reading of 820, which will get us back to the 10:00.

Item 820.

Sten: Roll call.

Francesconi: This is a very good thing. Aye.

Leonard: Aye.

Sten: I'm looking forward to seeing these systems.

Katz: Mayor votes aye.

Sten: 820 pass. [gavel pounded] 803.

Item 803.

Sten: Ok. Do we have a presentation on this one? Barbara?

Barbara Sack, Planning: I'm here to present the planning commission's recommendation on a request for a tax exemption under the new multi-unit housing tax exemption program for a project called the block 14 apartments. The applicant is the block 14 limited partnership. With me here today is john warner of p.d.c. and ed mcnamara, the applicant, in case you have questions of them. This is a rental housing project in the river district with 210 units. It meets the locational criteria of the new tax exemption program, because it is both in the central city and the river district urban renewal area. This is an affordable housing project by a private developer. 198 of the 210 units are

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affordable to low and moderate income households. 72 units will be affordable to households at or below 50% median family income. 126 of the units will be affordable to households at or below 60% or median income. This project being an affordable project, has some subsidy, including p.d.c. funding, so these affordable units will be affordable for 60 years. This is a condition of the p.d.c. loan. This project is in two six-story buildings that occupy a full block between northwest 11th and 12th, northrup and overton streets. A linear courtyard separates the two buildings. It has a full block of underground parking with 131 underground parking spaces. There's ground floor retail space on the 11th avenue side of the building. It should also be noted that this project is on the westbound line of the streetcar. On June 9, p.d.c. held a hearing on this project and approved it because they found the tax exemption necessary for the financial feasibility of the project. They found that the project needed the tax exemption to attain an 8.9% internal rate of return. Without the exemption, keeping the rates the same, the internal rate of return would be minus 5.59%. On June 22, the planning commission held a hearing on this project and unanimously recommended approval. They found that this project was consistent with the central city plan goal of constructing 15,000 new housing units by 2010. The river district housing goal of constructing 5500 new housing units in that district. This project also contributes units to the low and moderate income targets of the river district housing implementation strategy. According to the annual report on the river district implementation strategy, there's about 500 more units needed in the low and moderate category, and this project contributes 198. The purpose of the river district implementation strategy is to assure that the housing built in the river district matches the citywide income profile, so this project contributes to the lower end of that profile. Also this project is in an area covered by the Hoyt Street Yards property agreement. And this agreement calls for 15% of the housing units built in the area covered by the agreement to be developed for household at or below 50% median family income. And 20% of the units to be developed for moderate income households, which is at or below 80% median family income. The planning commission also found that the public benefits were sufficient for the granting of this tax exemption. There's also a number of two-bedroom units. There's 47 two-bedroom units in this project, 40 of them will be affordable to low and moderate income households. The majority of the project has one-bedroom units. Having some larger units means that small families could live in the river district. And the fact that they're affordable to low and moderate income households means that lower-income small families could live in the Pearl District neighborhood, which is building out with high -- you know, a lot of high-end condo projects. Other benefits are that the project is transit-oriented. The developer is working to get a streetcar stop built near the project. There's an 11,000-square-foot courtyard open to the public between the two buildings. The developer is also looking to have flex car at the building so there could be flex car sharing. He's also retaining consultants so that the building will be built sustainably, it will be energy efficient and environmentally friendly. And if you need more information on that, we have ed here to talk about that. The conditions of approval that the planning commission are recommending is -- are that the project not convert to condos during the time of the exemption, that the affordable units remain affordable at the specified rent ranges, that the ground floor commercial be included in the tax exemption. This is a small area. And also, this project is on the northern edge of the Pearl District, so having some ground floor retail might be helpful to the residents. And also, that this project comply with all the applicable standards and requirements of the design review case. There was a design review case on this project, because it's in the central city, and it's subject to central city and river district guidelines. It was approved on March 5. So planning commission is recommending approval, and those are the conditions of approval. Are there any questions?

Sten: Questions of the council? No. Would anybody like to testify on this? Seeing no one, roll call.

Francesconi: I guess I have one question for Ed McNamara.

Sten: Ed, could you come up?

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Francesconi: Hello, ed mcnamara. I haven't seen you for a while. It's my understanding if we put restrictions on these tax abatements after 10 years, the bank won't give you a loan. Is that right?

Ed McNamara: That's true.

Francesconi: And why is that?

McNamara: The taxes are a lien that goes ahead of the bank's loan. And so the uncertainty of not knowing what that amount of a future tax liability could be is not calculated into the bank's underwriting. The bank is already making this loan at a pretty low debt coverage ratio, 1.15 above the required debt service. Conventional loans are 1.2 or 1.25. So that means they're taking extra risks. They're doing that because we're making guarantees to them. By doing that, they increase the. Of their loan which lowers the p.d.c. investment in the project. They've already lowered it to a fairly risky rate. If there's an unknown potential liability out there, the only way the banks can underwrite that is to either require extra reserves up front or reduce the loan amount. So in this case according to u.s. Bank, they would need to do both. But the loan wasn't conditional on that, and we'd have to go back through u.s. Bank's five steps of approval, back to minneapolis, and that would be the process. So it's really -- it presents a future liability for the bank that's ahead of their -- has a claim higher than their debt service, so it puts them at greater risk. Does that make sense?

Francesconi: Yes. No other questions. Thank you.

Leonard: Since you raised that, can the p.d.c. come forward? I spent most of yesterday afternoon working on this because as the council is aware, and i'm assuming that p.d.c. is aware, since november of 2002 there have been three other projects come through asking for tax abatements. Each of those projects has had an amendment added to them that requires that a financial statement be received by the city every year showing that in fact a projected i.r., internal rate of return, is what it was represented to be in fact. In other words, if the internal rate of return is higher than what was projected, in fact higher than the 10%, that the p.d.c. uses a line to grant tax abatements, that the abatement be ratcheted down so that we're not in essence with public property tax dollars for local services subsidizing developers. What I learned from mr. McNamara and his financier is that this amendment wouldn't have been a problem had it been -- and correct me if i've got this wrong, ed -- had you been aware of it earlier in the application process, the loan application process, but that you had not been aware that this amendment had been something that council was doing on issuing abatements that came through, so at this late stage, having to go back and restructure the loan application is what caused the problems, not the amendment itself, but the timing of it. Have I captured that?

McNamara: For me it wouldn't have been a problem. I can't speak for the bank. I think we could have worked it out with a bank, but it probably would have resulted in a much smaller loan with them.

Leonard: My conclusions were different after talking to the bank.

McNamara: Ok.

Leonard: And from I what looked, the bank doesn't care where the income comes from, as long as the income is there. And all this amendment does is -- you're shaking your head. Were you shaking your head?

Sack: No.

Leonard: oh, i'm sorry. That the bank, all they cared about was a guaranteed level of income in order to assure them that you could repay the loan. And our conversations with the bank, that was their main concern. It was just that the loan application wasn't structured in a way that showed that there would be this provision that would kick in, if in fact the rate of return was higher than 10%. So my point being this, that I wished -- and I don't quite really understand why the p.d.c. wouldn't have raised this issue earlier, knowing that this comes up every time an abatement comes forward, and why there's a resistance to -- from the p.d.c. to what I consider to be a good public policy, to make sure when we're in essence dedicating over a million dollars of taxpayer funds to a private

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sector project, notwithstanding the fact it's a good public policy project, still over a million dollars of public monies, why you folks would appear to do what you can to subvert the intent to make sure that we have some evidence as the project proceeds into its life that we aren't subsidizing the private sector unnecessarily.

John Warner, Portland Development Commission: I'm John Warner from the commission's housing department. I think I need to offer you an apology and take personal responsibility for having not conveyed your desires to the developer as early as would have perhaps as you're describing it allowed the bank to assimilate those requirements and still underwrite the loan at the level they funded. It was perhaps I was mistaken in having the impression that it would have resulted in about a million and a half dollars reduction in their financing based on my analysis. But I'll offer that as a justification for not having gotten that information to all the parties earlier. So I just think we'll need to confer more closely with your office and make sure we understand what it is your desires, and get those to the borrowers as early as possible in the future.

Leonard: We are working on -- and with p.d.c. -- a citywide policy that will be before the council soon, but the point is, is that the p.d.c. does not offer abatements unless the prom has an internal rate of return of less than 10%. All the amendment says is that the rate of return is higher than 10%, whatever that amount is, it gets returned back to the taxpayers, to a floor of 10%, so we're not unnecessarily subsidizing private projects. I mean, it's a major concern of mine, and I think most taxpayers, to make sure when we're expending dollars such as this we're expending it for the reasons stated and not to unnecessarily subsidize projects. So I appreciate your -- what your response was, and, you know, I wanted to know I'm not -- this isn't all about trying to penalize you or punish you. And I've come to understand that notwithstanding your best efforts, you weren't aware that this was coming, and I don't want to do anything to unnecessarily burden you or the project. It is a good project. The kind of thing that I support, but I also don't think that means we shouldn't have some accountability. I think Ed agrees with that along the way of how public tax dollars are spent. So I will be supporting this.

Sten: John, does this have a direct p.d.c. loan as well in this?

Warner: It does. We have a \$9 million subordinated loan in the transaction.

Sten: And does it have the typical clauses, that if there's more money coming in payment accelerates?

Warner: It certainly does. We have substantial cash flow participation in any upside that might occur because rents increased or expenses were low were pro forma'd, because the tiering in of debt service over time. If things going according to pro forma, and revenues increase, we will incrementally overtime -- Ed is facing increasing obligations to the city going forward to accelerate the reduction in our loan.

Sten: I appreciate that. I don't want to get into a big debate over this, but I did not view this project as analogous with the other three, because on any project that the city puts direct money in as the housing commissioner, we take a share of that, we get repaid faster. The other three projects were something the city wasn't investing in, other than an indirect tax abatement. The theory is if the developer does better, we should invest less makes perfect sense to me. From my point of view, it's a belt and suspenders kind of issues because it's already taken care of. So I think the intent was there, because if more money comes in, we ought to get paid back faster. And then, you know, the developer goes from there. I think it was there in this case. I'm not in anyway saying that p.d.c. shouldn't have been aware that that was your desire, but I think John do has an argument, that this deal already to speak to that issue.

Leonard: Just to be really clear. The p.d.c. is appropriating \$9 million from their budget. I'm discussing a separate source of money. And you're exactly right, there's a provision to accelerate the repayment of that \$9 million if they do better than projected. That has no effect without this amendment on the \$1,021,000 that the project realizes. If they realize an average of 12% return

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over the life of this project, without this amendment, and notwithstanding the fact that they're making more than the 10%, which is a threshold to qualify for the abatement, they'll still be subsidized by the taxpayers of more than a million dollars.

Sten: I don't agree with the analysis. The fund would be paid back faster under that analysis.

Leonard: Of the \$9 million.

Sten: Right, but by recapturing that money, anyway, you would take most of the money they were getting in the extra return up until that point.

Leonard: I understand that, but this is a separate allocation in the form of an abatement.

Sten: I understand that. I just think it doesn't matter. Roll call.

Francesconi: This points out the need for the general policy. We can't keep doing this project by project. We have to have a general policy so people know the rules ahead of time, especially when we're trying to encourage the private sector to do good which is what this does, with so many affordable units, and also the low-income family units that you talked about. We want to do two things. We want to end the subsidy to the rich condos just because they're on transit lines that don't serve low-income folks. That's not this project. And we also, if the unlikely event that there's a windfall return to somebody doing a difficult project like this, having a general policy that commissioner Leonard's trying to establish, to capture some of that, that also makes some sense, but you have to do it as a general policy on this type of project before the fact, not after the fact. Aye.

Leonard: Aye. **Sten:** Aye.

Katz: Mayor votes aye.

Sten: That takes care of 803, and there's no meeting this afternoon of the council, so the council is dismissed until next wednesday or thursday. [gavel pounding]

At 10:15 a.m., Council adjourned.