



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

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

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

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

	Disposition:
COMMUNICATIONS	
839 Request of Charles E. Long to address Council regarding a bold move to change the City Charter (Communication)	PLACED ON FILE
840 Request of Freedom Child to address Council regarding Police lying, ineffectiveness of Independent Police Review process and bias of Capt. Schenck (Communication)	PLACED ON FILE
TIME CERTAIN	
841 TIME CERTAIN: 9:30 AM – Accept the Stormwater Advisory Committee report on stormwater management policy recommendations for transportation-related development and develop an implementation Workplan and process (Resolution introduced by Commissioner Saltzman; previous agenda 682) (Y-5)	36236
CONSENT AGENDA – NO DISCUSSION	
842 Vacate certain portions of SE Kelton Street under certain conditions (Second Reading Agenda 826; VAC 10018) (Y-5)	178592
Mayor Vera Katz	

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<p>843 Authorize City Attorney to appear amicus curiae in the case of State of Oregon v. Richard Michael Connally, to inform the Oregon Supreme Court of the City's interpretation of Portland City Code sections 14C.10.030 and 14C.10.040 (Resolution)</p> <p>(Y-5)</p>	<p align="center">36234</p>
<p>844 Authorize City Attorney to file a memorandum amicus curiae in the case of Susan Clark v. Urban Growth Property Limited Partnership, to defend the constitutionality of Portland City Code section 17.28.020A (Resolution)</p> <p>(Y-5)</p>	<p align="center">36235</p>
<p>*845 Approve an Intergovernmental Agreement with the Port of Portland to allow the Police Bureau to conduct Police Vehicle Operations training on Port property (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178593</p>
<p>*846 Approve an Intergovernmental Agreement with the Port of Portland to allow Port police officers to attend Police Bureau Police Vehicle Operations training (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178594</p>
<p>*847 Apply for a grant from U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance to reduce crime and improve public safety (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178595</p>
<p>848 Authorize Intergovernmental Agreement with the Mt. Hood Community College for participation in the Integrated Regional Network Enterprise (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178596</p>
<p>*849 Approve annexation to the City of Portland of property in case number A-1-04, 4703-4719 SW Patton Road (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178597</p>
<p>*850 Authorize a contract with Cale Parking Systems USA, Inc. for a 9-month pilot project to install 70 Pay and Display Parking meters and approve exemption of competitive bid process (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178598</p>
<p align="center">Commissioner Jim Francesconi</p>	
<p>*851 Declare surplus and authorize sale of 8480 SW Scholls Ferry Road to Tualatin Valley Fire and Rescue (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178599</p>
<p>*852 Authorize a First Amendment to the License Agreement between American Waterways, Inc. for permanent moorage of a dining vessel on the seawall at Gov. Tom McCall Waterfront Park (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178600</p>

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<p>*853 Authorize application to Oregon Department of Transportation for a grant in the amount of \$640,000 to develop a signalized pedestrian and bicycle crossing, sidewalks and street lighting improvements at NW Naito Parkway and NW Flanders (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178601</p>
<p>*854 Authorize application to Oregon Department of Transportation for a grant in the amount of \$140,400 to develop a signalized pedestrian and bicycle crossing of East Burnside at 41st Avenue (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178602</p>
<p>*855 Authorize Development Agreement with Mar Park, LLC for the improvement of NW 13th Avenue between NW Lovejoy and Marshall Streets (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178603</p>
<p align="center">Commissioner Randy Leonard</p>	
<p>*856 Exempt collection lawsuits filed by or on behalf of the Bureau of Licenses from the confidentiality and disclosure code provisions (Ordinance; amend Code Section 7.02.030)</p> <p>(Y-5)</p>	<p align="center">178614</p>
<p>*857 Establish a fee for Business License payment plans (Ordinance; add Code Section 7.02.560)</p> <p>(Y-5)</p>	<p align="center">178615</p>
<p align="center">Commissioner Dan Saltzman</p>	
<p>858 Accept completion of the NW 107th Ave./NW 4th St. Water and Sewer Rehabilitation Project with Brundidge Construction, Inc. (Report; Contract No. 31865)</p> <p>(Y-5)</p>	<p align="center">ACCEPTED</p>
<p>*859 Authorize grant agreement with the Friends of Tryon Creek State Park to partner on restoration grant from the National Oceanic and Atmospheric Association (Ordinance)</p> <p>(Y-5)</p>	<p align="center">178604</p>
<p>*860 Amend contract with SOLV to partner on community restoration projects including a restoration grant from the National Oceanic and Atmospheric Association (Ordinance; amend Contract No. 34133)</p> <p>(Y-5)</p>	<p align="center">178605</p>
<p align="center">Commissioner Erik Sten</p>	

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*861 Authorize subrecipient contract with JOIN for outreach to homeless campers in the amount of \$237,766 and provide for payment (Ordinance) (Y-5)	178606
*862 Authorize subrecipient contract with Youth Employment Institute for \$163,640 to assist young people acquire employment and to provide for payment (Ordinance) (Y-5)	178607
*863 Authorize subrecipient contract with Outside In to operate the Employment Resource Center in the amount of \$115,734 and to provide for payment (Ordinance) (Y-5)	178608
*864 Revise ordinance to adopt and authorize the submission of the Consolidated Plan Action Plan 2004-2005 and application to the U.S. Department of Housing and Urban Development (Ordinance; amend Ordinance No. 178478) (Y-5)	178609
*865 Accept grant agreement with Energy Trust of Oregon, Inc. for Photovoltaic Project (Ordinance) (Y-5)	178610
*866 Authorize contract with Alder Creek Lumber Company, Inc. for fire prevention, suppression and emergency response services for FY 2004-05 (Ordinance) (Y-5)	178611
*867 Authorize contract with Burlington Water District for fire prevention, suppression and emergency response services for FY 2004-05 (Ordinance) (Y-5)	178612
City Auditor Gary Blackmer	
*868 Assess property for system development charge contracts (Ordinance; Z0748, K0066, T0079, K0067, T0082) (Y-5)	178613

REGULAR AGENDA

Mayor Vera Katz

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***869** Establish a new City bureau known as the Portland Office of Emergency Management (Ordinance; amend Code Titles 3 and 15)

Motion to accept amended exhibits a and b: Moved by Commissioner Saltzman and seconded by Commissioner Leonard and gavelled down by Mayor Katz after objections.

(Y-5)

178616
AS AMENDED

Commissioner Dan Saltzman

***870** Remove requirement that only Commissioner in Charge of Bureau can place matters on Council Agenda (Ordinance; amend Code Section 3.02.040)

(Y-5)

178617

At 11:02 a.m., Council recessed.

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WEDNESDAY, 6:00 PM, JULY 21, 2004

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

July 22, 2004

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **22ND DAY OF JULY, 2004** AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Saltzman, Presiding; Commissioners Francesconi, Leonard, Saltzman and Sten, 4.

Commissioner Leonard arrived at 2:02 p.m.

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

<p>871 TIME CERTAIN: 2:00 PM – Appeal of Powellhurst-Gilbert Neighborhood Association against Hearings Officer’s decision to approve the application of Springwater Development for Cannon Estates 34-lot subdivision at 5669 SE 145th Avenue (Hearing; LU 04-002080 LDS)</p>	<p>Disposition: CONTINUED TO JULY 29, 2004 AT 2:30 PM TIME CERTAIN</p>
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At 2:42 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 File.

July 21, 2004
Closed Caption Transcript of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

JULY 21, 2004 9:30 AM

[Roll call taken]

Katz: We have a group of university students from -- let me see if I can say it right. A university from seoul, korea. Welcome to them. They're studying at Portland state for a month. It's a month? Yeah. When did you arrive? You're just beginning your studies. The studies include american culture, our constitutions, our government, experiencing american daily life. That's an interesting day-to-day activity. And of course improving their language skills. And then more important, bringing back to korea the knowledge and all of the good connections and -- that they've made back to korea for understanding each other even better than we understand each other today. So we want to welcome you.

*****: Thank you.

Katz: Do well. Have fun, but don't get arrested. Ok. Communications.

Item 839.

Charles E. Long: Yes. Good morning. My name is charles e. Long. I live in northeast Portland. I think that commissioner dan saltzman has struck gold as far as our city government is concerned. I note that the city charter was established in 1851, and it was -- had a strong revision in 1913, but in nearly a century it hasn't changed much, and I think to deal with problems of the 21st century and a much larger city we need a change in the city charter. We thank mr. Saltzman for pointing out the defect in the -- in the current system. I have a few suggestions that, although the mayor should continue on a four-year term, I think the city council personnel should run every two years, like -- like congress in Washington. That would give more accountability, and I think that the -- that they should vote in -- I mean, they should run in four separate district in the city. They should live in the district. And they could campaign more economically and -- and use their campaigning in a constricted area of the city. I also think that Portland should abolish the police force and have what is called a peace corps. I think that the chief of police should be required to have a masters degree in social psychology and the new recruits should have a bachelor's degree in either sociology or psychology, and I think that would help to improve the system as it is today. We've heard about the process of reforming the police department, but it never seems to happen. And I think that we must take bold measures. And I think that changing the charter would help a lot in this regard. Thank you.

Katz: Thank you. 840.

Item 840.

Moore: She's not able to be here.

Katz: Ok. Let's take the consent calendar. Any items to be move? I guess commissioner leonard has two.

Leonard: That's correct, 856 and 857.

Katz: Anybody else? If not, roll call on consent agenda.

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

Katz: Mayor votes aye. [gavel pounding] 856.

Item 856.

Leonard: If I could get --

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Katz: Wait. Let karla read it.

Leonard: I suppose it's unusual to have a consent to remove your own item from the consent agenda, but upon reflection we felt that the opportunity to more publicly explain a new process we're using to collect delinquent taxes owed by businesses was probably important and appropriate given this kind of new effort that we're undertaking to collect delinquent accounts, if for no other reason to make sure people are aware of this more I guess you would call aggressive approach to collecting taxes due the city. Thomas.

Thomas Lannon: Good morning, mayor and council. Thomas lannon Interim director of bureau of licenses. The two ordinances before you today are really housekeeping items. Amend p.c.c. 7 to allow for an increase in the ability of the bureau to pursue delinquent accounts. In particular accounts that were referred to the city attorney's office for legal action. We have approximately 900 business accounts that are the remnants of the effort that you may recall we launched in march to aggressively pursue those accounts that were seriously delinquent. And the particular 900 accounts that we're talking about today are in excess of 181 days past due, have demonstrated really no interest in coming current, and so that's -- we're at a point now where we're pursuing legal action as we discussed in our council work session back in april. So that's one of the ordinances, would allow essentially us to do that. And that really is an ability that we have in the code to pursue these accounts, but what this would do is make it explicit that there is no loophole that the city can't actually pursue an account because of confidentiality provision. The other change, of course, would allow for payment plans. So really it's a carrot and stick approach. One is to allow us to aggressively pursue those accounts that don't want to settle, and the other is, of course, a way to encourage businesses to come in to compliance, if they can't afford to pay their account in full, we want to encourage them to pay whatever it is that they can pay. This authorizes the bureau to assess a \$50 setup fee for a payment plan.

Katz: Do you want to add anything?

Harry Auerbach: Members of the council, i'm harry, auerbach, one of your chief city attorneys. I'd like to introduce us to shane abma, the lawyer linda has hired to actually do the collection work through an interagency agreement with the bureau of licenses. Shane comes highly recommended from his private practice experience and I think your accounts will be in good hands.

Shane Abma: I don't have anything --

Katz: Oh, sure you do. [laughter]

Abma: All I can say is we'll make the city a lot of money. No, i'm just --

Leonard: That's what we wanted to hear.

*******:** The 900 accounts that --

Katz: You need to know that we hold people accountable in this city, so watch what you say. We wish you much luck, though.

Abma: Thank you. I was just going to add that the 900 accounts represent about \$870,000, and the first three or four may be filed as early as this afternoon.

Katz: Let me ask a question. I'm sorry, I interrupted you.

Leonard: No. I was --

Katz: These accounts will also be able to work with the accounts, so that to numbers can be even lower.

Lannon: Correct.

Katz: But you'll get something in return.

Lannon: Correct.

Katz: Ok. Further questions? All right.

Leonard: I just want to welcome shane. Thank you for coming on board. And then thank the bureau for their outstanding efforts of late. We're seeing increased revenues, and we all appreciate that.

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Abma: Thank you, commissioner.

*******:** Thank you, council, mayor.

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

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

Katz: Mayor votes aye. [gavel pounding] 857.

Item 857.

Katz: Roll call.

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

Katz: Mayor votes aye. [gavel pounding] all right. Time certain, 841.

Item 841.

Saltzman: Madame mayor, members of the council, i'm pleased today to introduce the third instance where our stormwater advisory committee has come before the council to present their recommendations on development policies related to stormwater impacts on water quality. This is also the third time we've scheduled this event, so I appreciate the members of the stormwater advisory committee for their patience. In the year 2000, they presented their report on regulations related to new and redevelopment. In 2002 they presented action to reduce the impacts from existing development. Those recommendations have been incorporated into the stormwater management manual, establishing a document that provides developers with greater options and flexibility to utilize the best practices for managing stormwater. For the past two years this committee has been grappling with one of the most difficult challenges in stormwater management, that is how to address the challenges of runoff from rights-of-way or our public roads.

Transportation facilities are main contributors to nonpoint source pollution, which is the largest source of water -- of pollution of our water today. Public rights-of-way account for 66% of the total quantity of stormwater discharges, and over 70% of the pollutant loads. This volume is distributed to our waterways, leading to erosion, degradation of fish habitat and flooding. The recommendations of this committee that we'll be presenting today will not only assist us in addressing these issues, but will help support our state and federal regulatory programs associated with the clean water act. I'd like to thank the committee for their continued hard work and especially its cochairs kathy and eric, and also like to thank the bureau of environmental services and office of transportation staff for their work on this. Environmental services has historically been the agency dealing with the challenges of stormwater management, but over the past two years the office of transportation has played an active role with their involvement in water quality friendly streets programs and sustainable infrastructure committee. Pdot staff has also been provided -- has also provided valuable information and input vital to assist the committee in the formulation of their recommendations. I hope this coordination will continue into the future and i'd now like to turn it over to mary wall from bureau of environmental services and grant williams from office of transportation.

Mary Wall: Thank you. Good morning. I'm mary wall. I manage the watershed and environmental management group at environmental services. Dean marriott was here the last time this was scheduled, but he's out of time this time. I'm standing in for him. I'd like to make five points. A bit of it will be a repeat of a couple things that commissioner Saltzman said. We covered in your 2000 report new and existing development -- or new and redevelopment. Then two years later existing development and now transportation. S.a.c. has been impressive in their dedication, expertise, and in their flat-out effort. Since you heard from them last they've had over 1,000 hours of work dealing with transportation-related issues and what that means to stormwater. My second point is that streams are like -- or streets are like streams in one way. Probably only one way, but it's an important way. That is they're the low point. They're where the water goes. So water goes there from yards, from businesses, as well as from the -- the streets also catch things from cars. So the water coming off streets carries pollutants from lots of different places. Streets are the key

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place or one of the key places where the city -- for the state protect streams. If we want to do something about water quality, we're needing to do something about what happens on the street. And that's where s.a.c. has been focusing its efforts. A few of those things are getting pollutants out of that water. The water's there, the water's not the problem. The pollutants in it are. Something else that we can do for managing stormwater on streets is to slow it down. If we slow it down, it doesn't gush immediately to surface water, to the river or to streams. Also, a big area that we've been looking at, and that s.a.c. Has spent a lot of time on, is making stormwater management facilities count in multiple ways. For instance, the landscaping that goes along in the right-of-way can also carry the -- take the stormwater and filter out pollutants, so there are a lot of things that can be done on streets and they're a key area for the city to look at. My fourth point is that one of s.a.c.'s concerns over the years has been tensions between multiple bureaus or if bureaus are looking at things differently. I want to point out that this one really is collaborative, that pdot has stepped up in a big way to the stormwater issue. It's not easy. This stuff is not easy, but this is what you're - - what you're seeing in front of you is a collaborative effort. My last point is that there are a lot of projects around Portland that have been shaped or influenced by what s.a.c. has recommended. Couple examples, the stormwater management manual. That's the one that talks about how to deal with development on site. And if you accept that a city redevelops over 40 years, or every 40 years, which is roughly accurate, some places more than others, then managing each site, the stormwater in each site, can get us out of water quality problems the same way we got in, one street at a time. Another area where s.a.c. has had a big influence is just the water-quality friendly streets promises, things like landscaping, the curb extensions, and other things that are starting to happen around the city, including changing our ditches in some cases, where it's appropriate, into swales that can filter the stormwater and can be pedestrian walkways. Bureau of maintenance has also done a lot with how we deal with stormwater on streets. I wanted to mentioned that one as well. Kudos to the s.a.c. group. They've done a lot to shape Portland projects. And thanks to pdot for its leadership in this sometimes difficult area. Brant?

Brant Williams: Thank you, mary. Brant williams, director of Portland office of transportation. I'm here to -- happy to be here this morning to really give you the full support of pdot for the recommendations and the final report that was produced by the stormwater advisory committee. Transportation in the past has really focused on the connection between land use and transportation. The past two or three years we've had more of an awakening, an understanding that it's more than just land use and transportation, that it's really about the environment also and stormwater, and the linkage between those three components. Environment, land use and transportation, are really key for the long-term sustainability of our city. We know that this is a huge problem, the street network, our sidewalks, and our impervious surfaces for our streets and sidewalks, are the major contributor to the stormwater problems that we have. As stewards of the transportation system we know we need to step up and work with b.e.s. to find solutions to these problems. The solutions are going to be significant. One of the big challenges we're going to have is to find the resources necessary to come up with the solutions that are necessary to fix these problems. At the same time we know that there's a lot of opportunities for cost effective, low-cost solutions that are -- that are passing us by right today, and we need to look for those opportunities, as we're doing our projects, implementing our programs, to try to minimize the impact of stormwater pollutants on our -- on our environment. So those are the challenges for us as we move forward into -- into implementing this report. The benefit of this overall effort, the work that the stormwater advisory committee has done in developing this report, as well as the water quality friendly street program that we worked on, and the sustainable infrastructure committee work that we did, has really been threefold. One, it's been a major educational effort for all of pdot staff. And i've just been real impressed. I've learned a lot personally, but I know a lot our staff has learned a lot about the importance of stormwater and making sure we look at that seriously as we do our projects. Following on the coattails of that, is

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we've been able to embrace this issue. Again, i've been very impressed with how our staff has worked with b.e.s. to come to an understanding of how big this problem is and how we need to step up to find solutions to it. And then lastly, and mary talked about this, and so did commissioner Saltzman, the strong relationships that have been gained because of the work that has gone on by the committee and bringing our staffs together to -- to deal with this subject and try to work toward solutions for stormwater in our city. I, too, want to thank all the hard work and the hours that were put in by the stormwater advisory committee members. Commission Saltzman, I believe it was three years ago that you asked us to put three additional members on the stormwater advisory committee, members that have, you know, transportation expertise, transportation background, so that they could provide a broader set of expertise for the recommendations that come out of this. And I feel that those three individuals have been excellent contributors to the process to come up with the 16 quality recommendations that came out of this report. And lastly, i'd like to thank the staff that has worked on this. From pdot, they put in a ton of hours. I really appreciate that. And of course mary wall and others from b.e.s., those six individuals really worked together to make this happen. Again, we very much support the recommendations out of this report and look forward to coming back to council to report how and how -- how we might implement this report. Thank you very much.

Saltzman: Thanks. Now we'll have the cochairs actually present the stormwater advisory committee's recommendations for this year.

Eric Strecker: Good morning, mayor Katz and commissioners. It's great to be here today. I'm eric strecker, one of the cochairs of the stormwater advisory committee, here with my cochair. We're very pleased to be here to present our report to council to you today. Also want to recognize that tim yamada from the stormwater committee is also here today as well. In our presentation today we're going to give you a little bit more of an overview of a background of the committee, although commissioner Saltzman and others have already done a little bit of that, give you an overview of what was in our 2002 report and the 2002 work items that we've been through, we're going to spend the majority of our presentation today on the transportation recommendations, and then briefly follow up with our next steps for the advisory committee. We've left about 10 to 15 minutes for questions and comments. In terms of background, actually you had a stormwater policy advisory committee that was formed in 1996 and operated through 1999 that was made up of both the city staff members as well as other interests and expertise in the community. And then in 1999 you formed the stormwater advisory committee to provide public input into the stormwater process. And the reports previously that we presented include the 2000 report on the stormwater management manual, 2002 on existing development, and then in 2004 on transportation land uses. Just a little more background on the members of the committee. We actually have representatives from the business community, the engineering community, landscape architects, watershed councilmembers, environmental groups, and science members, for example kathy is a member that represents the science part of things. I help represent from tryon creek watershed council. In our 2002 s.a.c. report status -- or the status of that report, that report included 34 recommendations, pretty far-reaching recommendations for managing stormwater from existing development. The city has actually presented to us a response report that provides details on those recommendations. Many of the recommendations have been implemented, such as the creation of a maintenance inspection program for stormwater facilities on private property, and finalizing the facilities sharing agreements, as well as stormwater management manual revisions. There are some that are on a longer-term time frame that the city will continue to report to us on. Throughout the 2002 to 2004 period, since we've initially presented that report, things that we've worked on and provided input to include the clean river discount and incentive programs, the regulatory improvement project. We provided comment on the draft 2004 stormwater as well as the underground injection control program, continue to provide input to the manual and also the friendly streets and then finally the

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transportation land use recommendations, which, again, we're going to focus primarily on in this presentation to you. Our transportation recommendations, the report that we provided to you, which you should have in your pact or received previously, includes an introduction and background. We then give general policy recommendations, greenscape recommendations, hardscape, but what we mean between those two is hardscaping the pervious -- or paved surfaces themselves, greenscaping being the landscaping and other nonpaved areas associated with the roadways. And then the stormwater system and facility recommendations, and then how to connect those with existing programs. I also want to echo the thanks that's been given to both members of the office of transportation and b.e.s. Staff as we put this plan together. Some of this information was presented, but again to briefly overview that, while roadways themselves and transportation right of ways make up almost 20% of the land area within the city of Portland, they almost make up about half of the impervious surfaces. And impervious surfaces really are one of the main issues with stormwater management in terms of creating additional -- lots more runoff, typically 200% to 300% more runoff than you would see from pervious areas, as well as vehicles associated with traffic and other kinds of pollution washed off those surfaces. So it's really a major part of the problem. A substantial number of our streets in the city are directly connected to the stormwater system, and most do not drain to what I would call a more high-end water quality facility. You know, we are street sweeping in the city of Portland, which has an effect. We also have catch basins, but typically we're not draining our streets to the more -- the kinds of management measures that are considered more effective for treating urban runoff. So in general, that runoff is not treated very well. Streets have a major effect on stormwater runoff, and as was mentioned earlier about 66% of the total discharge quantity comes from our street systems and about 77% of the pollutants. Those are very general numbers. Different pollutants would be a little bit different on eve, but just to kind of things put things in the ballpark there. The increased stormwater runoff and rates also just contribute to physical effects on our stream systems. If you go out and look at tryon creek, for example, you can see evidence of downcutting and erosion going on within the tryon creek and arnold creek systems which happens to be the creek I drain to. What you see there is response to that, sometimes we channelize things, fish habitat's degraded and flooding. It's more than a water quality issue, it's also a quantity issue. Also we see impacts just -- you get a rainstorm, like recently, you know, thunderstorm on a hot pavement situation, you can also just have temperature impacts on our stream systems as well. So that gives you a little bit of background. Again, we're going to go through the following categories. We actually -- the report contains 16 recommendations under these four general categories. And i've already gone through what those categories are, but what we did was try to align those up with the definitions used by the city's sustainable infrastructure committee, coordinated by pdot. We were trying to help sure this all kind of integrates with other efforts going on within the city. Now i'll turn the presentation over to kathy, who's going to take us through the different sets of recommendations and wrap up with what our work plan is going to be from here on out.

Kathi Futornick: Thank you, eric. As eric mentioned, the recommendations that i'm going to present to you are divided into four areas. The first is general policy. The second greenscape, the third hardscape and the fourth system and facility recommendations. The focus of our general policy recommendations is to implement policy and planning approaches that will improve stormwater management. The first general policy recommendation is to give priority to water quality friendly streets for both new development and retrofits for applicable transportation projects. The second general policy recommendation is to continue and to expand the water quality friendly streets program to build on a very successful existing program. The third recommendation is to adopt policies and standards that recognize and address project specific conditions, such as land use, topography and soils, all of which can impact water quality. By greenscape, as eric had mentioned, we mean right-of-way landscaping, including plants and organic materials. The purpose

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of these recommendations is to manage water quality and improve water quality and prevent and remove pollution. The ideas that the pollutants would adhere to the plant materials and the soils before entering into the subsurface. And the first greenscape recommendation is to retrofit roadside ditches to swales as mentioned earlier and provide stormwater management. We recommend providing pedestrian access where appropriate and working with adjacent properties to maintain the swales. Oftentimes the swales can become neglected or forgotten, and by bringing in the community to help address some of that, it can be a cost effective partnership. The second specific recommendation is to encourage the use of greenscape for stormwater management, to limit flow and treat runoff from roads. This would include approaches such as filter strips, swales, and retaining and plant of street trees. The third specific recommendation is to look for opportunities to use public and private greenscape adjacent to the right-of-way to manage street runoff. This could be done through techniques. Some have already been looked at and workshops held to take a look at some facility sharing agreements between private and public partnerships and there seems to have been quite a bit of interest on the interest of some private parties to do that. The fourth greenscape recommendation is to prevent or reduce and treat the flow of stormwater from existing development to the right-of-way by encouraging onsite stormwater management retrofits. The first couple of slides that you noticed were retrofits, and those were very successful. The one in seattle actually prevented any runoff from entering into the stormwater system and was able to retain most of the stormwater. So in many cases retrofits can be a very cost-effective approach. Hardscape, the runoff is not able to run through the materials and runs off into the storm sewer. The focus of these recommendations is to manage both water quality and impervious areas. The first recommendation is to use curb techniques to direct stormwater flow to landscaped stormwater facilities. The second hardscape recommendation is for pdot to exercise flexibility, address the connectivity policy and the use of materials to reduce effective impervious area. The third hardscape recommendation is to develop low-cost alternative streets and stormwater standards for upgrading unimproved and substandard streets. Examples of these include some of the gravel streets or paved streets we have. We also recommend that the city implement and monitor pilot projects to maintenance stormwater quality. There are several pilot projects that have gone on and are continuing to go on even in our cities, but having some site specific projects here in Portland would greatly benefit the evaluation of how these different facilities and recommendations can improve stormwater. Moving on to stormwater system facilities. Stormwater system facilities are techniques used to treat, detain and/or retain stormwater. The purpose and focus of these recommendations is to investigate and evaluate measures. The first is to look for opportunities to use space available within the right-of-way or acquire additional right-of-way for stormwater management. The second recommendation is to investigate or pilot test the use of various water quality inlets, such as filters, to trap pollutants as close to have the source as practical. The third recommendation is to reevaluate water quality or runoff design standards for streets to mitigate the negativity to streams. Eric had cited some issues in the tryon creek area. The fourth and fifth recommendations. The fourth is to continue to evaluate feasibility of using street and parking area flooding in some areas to detain -- for detention purposes. And this would enable some of the stormwater to be stored for some periods of time. The fifth recommendation would be to implement ways to incorporate stormwater retrofits into routine maintenance practices, such as street repaving or sidewalk repairs, so as existing jobs are continuing, identify opportunities in which stormwater facilities could be retrofitted into those jobs. The last recommendation is to evaluate using temporary -- consider stormwater projects not covered by the stormwater management manual. A number of other activities are also under way. The s.a.c. Concluded these -- included these current efforts in the recommendations to emphasize their importance and continue their -- encourage their continuation. The s.a.c. Also encourages pilot testing when appropriate. Pilot projects would help the city evaluate the feasibility of some recommendations rather than necessarily deeming them difficult to implement or assuming the

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opposite, that they are going to improve stormwater. They could also help determine costs, benefits and priorities. In addition, pilot projects could provide information and demonstrate the value of new approaches to the public. In the current set of recommendations, our recommendations do not address operations and routine housekeeping tasks, however the s.a.c. Believes that street and transportation stormwater system cleaning are critical for reducing transportation-related pollutants in stormwater and are essential components of efforts to improve water quality. Street cleaning and other operations and maintenance activities are included as best management practices in Portland stormwater management plan. The s.a.c.'s work in the coming year will include review and comment on these best management practices during the revision of the stormwater management manual and plan. The s.a.c. does not believe at this point that it has sufficient information about costs, benefits, city processes and technical considerations to assign priorities to its recommendations. Therefore the s.a.c. considers all of the recommendations to have high importance and would like to see most of them under way within three years. We also request that the bureau of environmental services and the Portland department of transportation prepare a joint response within nine months that indicates how and when they will address the s.a.c.'s transportation recommendations. This should include tasks, priorities and time frames, including relationships of work already under way. The report should include information on funding mechanisms to implement the recommended you can and the s.a.c. Has included possible funding sources and incentives in its report and would like both pdot and the bureau of environmental services to further investigate these possibilities. The s.a.c. Also wants to everyone terrorize the intra and interbureau coordination and cooperation essential to fund needed action. The joint contribution of pdot and b.e.s. to the discussions have set an excellent precedent for ongoing collaboration. And I -- I want to emphasize that i've been working with the city for many years, and this has got to be one of the very best collaborative efforts that i've seen. And I really have to commend pdot for attending every meeting, for working with us through work groups, and they've just done an excellent job. Over the next year, the s.a.c. will review and comment on a number of subjects. And i'll go into some of our next steps. The city's renewed stormwater permit and update for the stormwater management plan, including a public involvement process. Under ground injection control program and anticipated water pollution control facility permit. And an underground injection control management plan, which is required under that permitting process. 2004 revisions to the stormwater management manual, and then a review of the progress of the s.a.c.'s 2002 and 2004 recommendations. Those are a brief summary of what our next steps are thought to be. Again, we want to acknowledge the tremendous support from the bureaus, especially pdot in the development of this report. And want to thank all of you for your time and attention. And would like to open up the remainder the time to any questions or comments that you have.

Katz: Thank you.

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

Katz: Questions by the council?

Katz: I think you covered --

Saltzman: There was some discussion up here about asking for a response from b.e.s. and pdot within nine months as opposed to, say, 60 days?

Katz: That was a joke?

Saltzman: Oh, that was a joke?

Strecker: 60 days would be great.

Saltzman: There's some shorter interval than nine months that might be an appropriate response. Brant or mary, I would say perhaps, 90, 120 days, is that -- three, four months? Nine months is a long time around here. We tend to forget.

Wall: Thank you. Actually on this one, we won't forget. If we did, we would be reminded constantly on it. I think nine months is probably ok. If you would like an interim report we could

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sure do that and come back with the pieces we have. We work closely enough with the advisory committee that I think nine months is ok so long as we don't let some of the major ones slip through the cracks.

Katz: I'm sorry.

Saltzman: Ok. Thanks.

Francesconi: One question about parks. I think they're now part of the sustainable infrastructure, so maybe that takes care of it, but parks was just awarded a salmon safe -- salmon friendly certificate the first parks bureau in the country, and one of the reasons for that was how they're treating stormwater in parks adjacent to Johnson Creek and the Willamette River. So should they be part of this or is that a stretch given what you need to accomplish already? Or maybe they're part of it already and I don't know it.

Wall: Parks is part of the discussion. They aren't part -- you know, as intimately in this part of the stormwater discussion as PDOT and B.E.S. have been, but clearly in other forms we're working a lot with parks on how to deal with stormwater, and they and Bureau of Maintenance and others are doing a lot of work on this. But I don't think -- I wouldn't recommend bringing them in and making report in the nine months or --

Francesconi: Thank you.

Strecker: We could take a look at that issue and see whether that makes sense for us to perhaps work with parks in a same kind of fashion. Maybe wouldn't quite as onerous of this given the magnitude of the transportation system, but certainly within parks there's the opportunity to do -- manage the parks themselves well, but there's also the opportunity at times to combine the management of the parks with adjacent areas to achieve a benefit. A good example, Custer Park, when there was a new soccer field put, there was a stormwater drain running under the park, a swale system created there. There was a really good example of where we took the -- the city took the opportunity to not only enhance the park itself, but also do some water quality enhancement associated with that. So certainly that could be an option to take a look at parks similar to like what we've done here.

Francesconi: That would be good. I think that's fine. You might also -- what is the connection between this effort and the infrastructure committee that you referred to? Seems like they're dealing with some of the same issues here.

Wall: Commissioner, the truth is that a lot of people are dealing with different pieces of stormwater management. And for the sustainable infrastructure is looking at specifically what to do on streets and other areas. This one -- the advisory committee has been looking at stormwater management more broadly. Parks has been looking at the salmon safe stuff. It's all dealing with -- it all comes down to the same few things -- water quantity and how it moves, when it moves, what time it is in the -- in the streams or river. Water quality and what the combination of those do to habitat, and therefore to various forms of wildlife and to people. So it's all the same things. Parks is doing a lot. Eric is right, that there's a real nexus between what parks -- if there's a park next to an area that needs to deal with stormwater management, and they can do that without decreasing the park benefit -- I mean, the multiple efforts in -- on any single piece of ground is what we need to be getting at, and we are in lots of places. I think what Eric was getting at, there are obviously more of those places where we can get at multiple purposes on the same piece of ground, what we need to do ultimately.

Francesconi: Thanks.

Katz: Further questions? All right, thank you. Anybody else want to testify? Roll call.

Francesconi: Well, it's terrific the process really led by Commissioner Saltzman and staff, at least originally by B.E.S., who's been such a fierce advocate for environment for a lot of years. It's great having the citizens' help to shape this. It was great that you give recognition to Brant and to PDOT, because we just undertook a strategic plan at transportation, and it really came up from the

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employees. I'm sorry don garner left, but the whole idea of land use and transportation which has been integral, not only to pdot, but to this region, the employees themselves and the citizens we talk to, wanted more an emphasis on environmental quality, especially since stormwater affects it so much, and 60% is on the roads. So there's been a whole ethic led by many of the employees at pdot to integrate this into the mission. It's been reflected at the top at brant. But this also came back to conversation after a work session several years ago that commissioner Saltzman and I had, and it gets to the second point and final point, how are we going to pay for this. You know, b.e.s. Bears the brunt, with water, of rising sewer rates, at a time our citizens are having trouble affording it. Pdot on the other hand has a different issue. They have -- well, they have increasing demands, too, but no source to pay for it. So in the past I think the reaction you got from bureaus was, we don't want to be involved in this because we don't know how we're going to fund it given our current limitations in funding. And now, under brant's leadership, you're seeing it's all of our problems, regardless of what the bureaus are. And so there is a coming together. I suspect you need the nine months to try to figure out how we're going to pay for this. I'm seeing some heads nodding in the back. But it's great that pdot is cooperating in this, because we're part -- you know we, do have the roads. They're a big part of the problem. We recognize that, commissioner Saltzman. And so we knew, getting into this, that that was going to be part of the deal -- how do we pay for it? But we want to cooperate because it's our city and this is important that we do this. Not to mention the Portland harbor that's sitting out there, as a liability, potential liability. So we'll see where this goes. Let us know how we can help during the interim, as you work towards a solution. Aye.

Leonard: Aye.

Saltzman: Well, again, I want to thank the committee for its long work. They do work very hard and very diligent on issues that are of grave importance to the water quality of the city of Portland, of our streams and rivers, and in general environmental enhancement. So the stuff you do is very important. As I said earlier stormwater is the largest source of pollution of our waterways today and we need to figure out ways that are in sync with the state-of-the-art environmental planning to keep stormwater out of our systems and to clean it up as well. And the work -- the cooperation between environmental services and transportation has been great. Don garner's been very helpful in this effort, and there's been remarkable, as brant said, in the last two or three years, remarkable progress, new thinking about transportation's contributions to effective ways to manage storm waters. Very good improvements, and i'm sure they'll be hall marks of future transportation improvements as well. So keep up the good work. Thanks to all the members and all of staff of both bureaus. Aye.

Sten: I want to thank and commissioner Saltzman. His team, very good work. I guess it takes a while to implement it, but as I look at this probably could have built a city a long, long time ago that didn't push all the -- the dirty stormwater into the river, but we didn't. That was the state of engineering at the time, what was important for safety was to get things moving quickly, and so we really viewed the rivers as the quickest and most expedient way to get rid of the junk. It's going to take quite a few decades of rebuilding to actually rebuild the whole city, because it's changing the whole paradigm at which the city's engineered. Of course to do that, you've got to start now and start on every project. Eventually this work will be a tremendous legacy for the future, because I think if you do start making the changes you're talking about now we will get it fixed, but it has to be almost on every project and we have to figure out how to then -- the way you pay for this is that you build the expectation that it's built in an environmentally sound way into the projects itself. We will never pay no this strategy by having to add add-ons to each fee and create new taxes and other things to pay for stormwater. The way we have to do this is to show the proper way to account for environmental costs in this case is for the roads projects, the building projects and everything else, to pay them as fundamentally as they would pay for the price of the concrete or anything else. So I think that's the way it has to be done. I think your work really has -- maybe as long and hard as it's

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been, and just getting started, gets us going in that direction. It's really about true cost accounting and how we change thinking about things. It's a great pleasure to vote aye and thanks again.

Katz: Commissioner Sten just raised an interesting issue that I would like for you to take a look at, is in terms of the costs and the investment that we make and how we can recover those costs by doing things differently, using different supplies, managing the right-of-way in a different manner, so that when you come back in nine months you can tell us that in fact the cost would be the same, or maybe even less, that that would be our hope. Having said that, i've learned from many of you, i've seen some of the projects out on the street. I'm very impressed. You've done excellent work. Thank you. Aye. [gavel pounding] ok. 869.

Item 869.

Katz: We established this a long time ago, but actually didn't change the code. So the office has looked at the code, made some tweaking, and i'm going to turn it over to miguel.

Miguel Ascarrunz, Director, Portland Office of Emergency Management: Thank you, mayor. Good morning, mayor Katz. Glad to see you and city councilmembers. With me today is elise marshall and our fire chief ed wilson. We're pleased to bring to council for your approve two city code management. New title three, formerly establishing poem as a city bureau and title 15, the city's emergency code. A few militaries to the proposed code amendments include clarification of line of succession. The formal establishment of the city's disaster policy council and a newly-created group known as the emergency management committee. Briefly the disaster policy council is charged with providing policy oversight of integrated citywide emergency planning and preparedness activities, the emergency management committee is charged with developing an implementing integrated citywide emergency plans and other preparedness initiatives approved by the disaster policy council and city council. We believe these formalized groups will enhance citywide collaboration and provide for an organizational framework to improve the city's preparedness and response to emergencies and disaster events. Recently mayor Katz asked me to provide her with a six-month assessment of citywide management issues and priorities. One of the priorities was to take this first step to formally establish the disaster policy council and emergency management committee. The city framework for emergency management will enhance interbureau collaboration and communication. As we develop a new initiative known as the citizen corps council, which ms. Marshall will describe shortly, will focus on collaborative partnerships with the community, including businesses, neighborhood associations, academic constitutions, and nongovernmental organizations to improve the community's emergency preparedness at every level. In my assessment, i've also recognized the high level of citywide bureau support to poem and our mission. A perfect example, as you know was, coordinating with the office of management finance, and other key bureaus to secure over \$1.7 million in disaster recovery funds from fema for the 2003-2004 winter storm. In a moment ms. Marshall will provide specific examples of other collaborative city and regional emergency management projects and activities. I'd like to commend mayor Katz and councilmembers for your leadership and vision in creating the Portland office of emergency management. The newest city bureau in over 20 years. I would be remiss if I didn't recognize the leadership of chief ed wilson, who also had a hand, in the creation of poem. Portland is one of the few cities that recognize the importance of establishing its emergency management agency under the direction of the mayor as a city's chief executive. Finally to commemorate a one-year poem anniversary, i'd like to remind you and other city staff to attend our open house this afternoon from 4:00 to 6:00 p.m. At this time i'd like elise to highlight some of poem's achievements over the past year, as well as ongoing projects, which again we could not have accomplished without support from other city bureaus and external emergency management partners. After elise's overview, we'd be pleased to answer your questions. And again chief wilson has some comments and will be available to answer any additional questions as well as here today.

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Katz: You have some technical amendments as well.

Moore: Right. They've amended exhibits a and b.

Katz: A and b. Human cause was substituted for human made. Minor. We'll have to deal with those.

*******:** That's correct.

Elise Marshall: Thank you. Elise Marshall, assistant director of poem. Mayor, members of the council, we've been before you several times regarding homeland security grants, so I won't go into detail on those again. Just to mention that since the mayor implemented poem last year, we have brought in -- we will have brought in by August around \$20 million for the region for emergency preparedness and for our first responders. We have only been successful in doing this because we have worked with other counties in the region. In fact, we're not eligible for most of the homeland security money if we do not organize around the region. Recognizing the catastrophic events have no city limits or city boundaries, we have been successful in working with Multnomah county, Clackamas, Columbia, Clark and Washington counties to secure these funds so that all of our first responders are consistent in their training and their equipment and their ability to provide mutual aid to each other during an event. And so I think that all of us around the region who have come together for the first time in a big effort like this have really been successful in cooperating on regional emergency preparedness. Very, very important to our police and law enforcement agencies. Again, as Miguel mentioned, we were eligible this year for \$1.7 million in reimbursement from FEMA for the winter storm. We need to do a significant plan to be eligible. We have 60-plus employees from all of your bureaus participating in that plan where we will be developing mitigation policies for landslides, earthquakes, major, extreme weather, urban wildfire and floods. That plan is due into FEMA and into the federal government by November. So we'd like to thank B.E.S. and all of the bureaus that were PDOT, planning bureau, working on that with us. The mayor had asked Dan Saltzman, who graciously accepted the role as helping Dr. Ron Tanner from the Hatfield School of Government lead that effort, and it's going on at this moment. We'll be back to you probably in October to present that plan and get it to the feds by November. One of our priorities that the mayor asked us to look at, when we developed poem also, was our emergency operations center. We are reviewing how we can eventually improve that center. Right now our O.C. at Boec is located on two floors. It's not the best way to communicate. If we have a catastrophic event and the disaster policy council is there, the mayor and other council people are there trying to figure out what to do, we actually have two floors. Ideally, optimally, we'd like to have one floor. On our wish list would be a brand-new E.O.C. facility, separate from our communication center, so that they both wouldn't be affected at the same time by a catastrophic event where poem could be housed. So in the future, in our global thinking, that's the way we ultimately think we ought to go with our emergency operation center. We hope to get there. We have also -- even before poem was created -- started to have mayor's tabletop exercises. I know most of you have been to some of those. Just briefly, so that you know what we are exercising on and what we're getting prepared for, we have exercised with Tri-Met on an exercise called Operation Night Rider that was a chemical event. We have exercised with Multnomah county and other counties on medical care points for a biological event. In the Portland area, and in this region, we have very limited hospital capability. If we had a catastrophic event, we would have to set up medical care point. We practiced at Duniway Park, a very successful exercise. We've worked with the water consortium in the region on a bioterrorism on the water supply. A mayor's tabletop on Black House, and operations red rows one and two, which were radiological events. We've also worked with Multnomah county public health, a very important partner with us on a bioterrorism event. We've exercised with Fairview on a winter storm and again with Tri-Met on a mass casualty incident, as well as Mount Hood on a volcano eruption. In OK, again at the mayor's direction, we will have a full scale earthquake exercise.

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Katz: Hope it's not too late.

Marshall: I hope not either. Larry parks has been very accurate lately. There was an earthquake on the coast yesterday. We are planning our scenario to be a 6-point earthquake in the center of town, a crustal earthquake, it will do a lot of damage. We're going to exercise police, fire, public works, and the region's ability to respond to an earthquake. We will be asking all of you to participate and all of your bureaus to participate. We will activate a full-scale e.o.c. and we will do this across an employment shift. We'll see how we can work as we trade off from one shift to another. So it will be a full-scale exercise in October and we'll provide more information as we develop the exercise. Finally, in terms of poem, we have a website, which we intend to build on. Again, another they think the mayor had asked us to do was really concentrate on public education and public information. Bottom line, in a catastrophic event, people are going to have to take care of themselves. And so we are training people -- we do classes all of the time for employees, citizens, businesses and organizations on family emergency preparedness. I know the mayor has a particular interest in what happens to the elderly. We have talked to doctors at the county about what we do with people who need medical attention, ongoing dialysis, medical attention, who need food that are elderly. We're working very closely with social service agencies, also working with the homeless agencies to make sure those people have a plan in the event of a catastrophic event in Portland. Finally, I think that covers everything. We are working hard. We have a lot on our plates. We are working on poem's first strategic plan. We will be developing that plan and talking to stakeholders who will be coming to your offices and all of your bureaus to ask how we can provide customer service to your bureaus as we move through this area of emergency management, and expect that strategic plan to be done early fall, and would like to come back with that strategic plan and report to council.

Katz: Thank you.

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

Katz: Chief?

Ed Wilson: Thank you, mayor Katz, members of council. Ed Wilson, fire chief for the city of Portland. I'm just here today to show my support for the office of emergency management and to thank you, mayor Katz, and commend you and council for the establishment of this one-stop shop, if you will, of emergency management. As you're aware, the office of emergency management for many years resided within the fire bureau, but, again, I think after 9/11, council saw the wisdom of creating an office to coordinate all of the resources of the 30-some bureaus in the city of Portland, but also in coordination with the regional responders that we interact with on a daily basis. So it's a challenging position, task, utilizing the all-hazard approach that we have for years, but it's become even more challenging since 9/11. I want to commend council for establishment of this bureau and show the commitment fire has to it.

Katz: Thank you. Questions?

Leonard: I do. On the topic of emergency communication centers, how successful have we been in establishing one place where all bureaus go to? I'm aware that in the past the police bureau's had a separate one. Water bureau has had a separate one. Fire bureau.

Ascarrunz: Yes, commissioner. We do have a need to have key bureaus in the city also have established e.o.c.'s, and some of those include water, maintenance for example. They also activated during the winter storm. But the primary e.o.c., the central coordinating point where the disaster council would report to is the primary e.o.c. at our facility. As you know, commissioner, so I do support the need to have additional e.o.c.'s at the bureau levels, and maybe chief Wilson also has one at his bureau.

Leonard: Separate from the central e.o.c.?

Wilson: As you know, commissioner, we have odd and even teams, and appropriately-trained personnel and fire bureaus and other bureaus to respond to the city's e.o.c., located at the 9-1-1

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center. I support that. You need key decision-makers there for the high policy decision. But. Of the larger bureaus, including fire, do have a need to have kind of a work site, if you will, battalion headquarters, because while a lot of major decisions are being made at the e.o.c., 9-1-1 center, city's e.o.c., we're backfilling positions, calling back people. So there's a need to have -- I would agree that you do not want the police bureau and the fire bureau and several other bureaus making city decisions from remote locations. Those all should be coordinated from --

Leonard: Maybe I misunderstood. I understood that's what's happening now, that the police bureau doesn't have a presence at 9-1-1 when you have all of the leaders at e.o.c. That they had a separate facility. Am I --

Ascarrunz: They are present at the primary e.o.c., commissioner. We have designated staff as the chief mentioned from each of the primary bureaus established at the e.o.c. Basically its own incident command system structure within the e.o.c. However police also has a separate center. Whether that's at the water facility, which we need to have more discussions with chief foxworth on, versus at a separate facility since they seem to be sharing with -- with the water bureau.

Leonard: Ok.

Katz: Let me just clarify. Miguel is right, when there's a large demonstration or a large march the facility at the water bureau is open for -- for police, and there is presence from the fire bureau as well. But on disasters, all of those teams are at the 9-1-1 center.

Ascarrunz: That's correct, mayor.

Katz: So -- the issue that you raised, commissioner leonard, is a valid one in terms of how many do we need, how much equipment do each of them need to purchase. Are we overequipping all of them? That's another charge we have right now. Ok. Anybody else want to ask any questions? Anybody else want to testify? If not, roll call.

Moore: Amendments.

Katz: Oh, i'm sorry. Amendments. Can I hear a motion?

Saltzman: Move for motion of the amendments.

Leonard: Second.

Katz: Roll call.

Francesconi: This is a recommendation that makes our citizens safer. This isn't just moving boxes. This is making sure citizens of Portland are better protected, but the whole region, and that was emphasized by everyone that just testified today. And it all happened because of the mayor. She wants to make sure that -- that we're left in a position where we can respond effectively, we have an organization that can respond. Nobody else took this up except her. The fire bureau, I believe, was very well positioned to respond within fire bureau resource, but in terms of communicating to the broader public and how it relate, even though we had good working relationships with police and everybody else through fire, elevating this to a much higher level, including the hospitals, including the regional partners, including our citizens, and having it directly in the mayor's office, report to the mayor, it should have happened a long time ago. And it took the mayor to make it happen. It took all of you to implement it. So thank you all for making our citizens safer for the day that we hope never comes, but may. Aye.

Leonard: This is a very important initiative. But there's no substitute for a well-trained, well-staffed group of emergency workers that respond when everything else fails. I'm reminded of the earthquake in san francisco in 1989, I think it was, that really -- any planning, any forethought, was leveled by mother nature, and we have to remember that that's -- we have to plan for having there be nothing but well-trained individuals who are staffed, on duty, around the city, police, fire, public works people, that can hit the ground running, assuming there is no emergency communication center and that we've given them what they need to help save lives at a time when there may be no direction and there may be no coordination. So it good to think about that, too. I know the fire

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bureau does think about that. It trains for that. So I do appreciate the effort that's gone into this. Aye.

Saltzman: Well, the universe of emergencies that cities, counties, have to respond to these days has certainly changed in the last three or four years. Our traditional thinking of natural emergencies has now been supplemented by man-made emergencies as well. And this is -- there's no better time than now to create this office, this new bureau, with direct reporting relationships, because I know from the exercises that I've participated in that the logistics of responding to any emergency are -- can be quickly overwhelming, despite the capabilities and training that many of our city employees have. There's so many other employees involved, the medical community, the transportation community, the utility community, hospitals. It's easy to see how quickly, I think, we always end up at these exercises, asking more questions than we get answers to. That's a little scary. So we need to keep pushing forward. This office is appropriately the good focal point for not only securing our share of homeland security grant, but doing the necessary planning and preparedness that we need to do. Aye.

Sten: It's well thought out and the right step. Thanks, mayor. Aye.

Katz: Commissioner Saltzman is right. We discovered at the y2k council all of the other key private players in our community. Utility companies, hospitals, a myriad of other people who have never been around the table. And that was when the notion came about that if -- if we haven't even done that, we haven't even touched our own community here in the city of Portland. And so that was the notion that we merge those existing emergency management operations, and that we create a council to include all of these partners that were at the table of y2k. Having said all of that, not only is commissioner Leonard correct, that it's the emergency workers, but it also critical that the citizens of this community understand their role, because if a disaster happens, there will be nobody there to help. We'll be dealing with bigger issues. So family plan, we've talked about the necessity of having a family plan, where you're going to be if something happens, who's the point person. Having a bag of emergency equipment in your hall closet by the door, at work, at home, in the car. You can get on the American Red Cross website and it will tell you everything that you need, including a flashlight. And then the last thing is being aware of your neighbors, because there are elderly people around that will need your help. So all of those issues are important. We as citizens need to take a lot of responsibility to be partners in these efforts. Ok. Aye. [gavel pounding] the next item you've been all been waiting for, 870. Commissioner Saltzman.

Item 870.

Saltzman: Madame mayor, members of the council, the moment we've all been waiting for. I think it came as a -- I think the ordinance on presenting here is really one that's really speaks to what is the role of a city commissioner and indeed a city council. We are elected by citizens to serve on a citywide perspective. We know in this city we're not elected by geographic districts. Each one of us is elected citywide and I think we're expected to use our instinct skills, perspectives, on a citywide basis. Having said that, we do have a form of government in place, a weak mayor form of government where the mayor assigns bureaus for each one of our commissioners to oversee and operate. And we've become also not only citywide commissioners, but we've become also what's called commissioners in charge of those bureaus. And I think the system -- I think we've all at one time or another sort of bemoaned the shortcomings of the system. It has its assets and shortcomings. One of the shortcomings I think we've all talked about is having the commissioner in charge system does tend to breed what we call the silo mentality, where we tend to focus on issues that relate to our bureaus and sort of see everything through those lenses from our bureau's perspective or how a change or policy affects our bureaus as opposed to necessarily what's in the best interest of the city. And I think that this ordinance is a simple attempt to change what is -- has always been an informal rule, which is we tend to defer greatly to commissioners in charge of matters of policy and ordinances, and that will continue, I'm convinced of that, but it ought not to be

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a formal rule. And myself and I think several members of the council in the last couple weeks discovered that there was indeed a provision in code that technically prevented, other than a commissioner in charge, from introducing a resolution or ordinance affecting another bureau. As I said, as an informal rule, that's the way it is around here, but it ought not to be a formal rule. I think it's simply bad policy for city code to prevent a member of council from weighing in on important matters simply because the relevant bureau is managed by another commissioner. I think voters elected us to be citywide commissioners, and I think that's what we should do. As I said last week, I took an oath of office to be a commissioner, not to be a commissioner in charge. And having said that, I think we -- this amendment does incorporate what I call sort of the civility clause in it, and it does require -- because how this council functions it's very much a function of the five personalities up here, too. It acknowledges the tradition of the commissioner in charge role, and acknowledges the of how important it is for all five of us to work together for the best of our city. There's a provision in here that if a commissioner, who's not the commissioner in charge, is filing an ordinance or resolution that affects another bureau, not in his or her domain, that there be notice given to all members of the city council, one week prior to the item appearing on the agenda. So I think that gives proper deference, again, to the commissioner in charge role, if it is a situation where the commissioner in charge and the other commissioner can work things out, that gives the time and notice to all the other members of the council that this is going happen. Having said that, I don't think this is going to -- I don't think this change should shake the foundations of government. I don't think it's going to breed chaos in the city or in the city government. I don't think it's going to leave the 13 or now 14 bureau directors wandering in the desert about who they report to. I think we'll all live through this change. I think we'll have a better city government, albeit not necessarily noticeable right away or even immediately, but it is a change that, as I said, that's a restriction that ought not to be in the code. It's fine operating as an informal rule, how we operate. I would urge adoption of this ordinance.

Katz: Thank you. All right. Anybody want to testify? Come on up.

Irwin Mandel: Good morning. Irwin mandel, downtown resident. I understand commissioner saltzman's reasoning in presenting this code change, but I totally disagree. Under the present code, commissioners vote and therefore weigh in on every issue affecting every bureau once it comes before council. Under this process all commissioners have the right to voice their own opinions about the issue, to suggest changes, to amend the proposal, and even to vote it down. At this point, any potential silo effect disappears and the citywide perspective demanded of all of you takes over, once we have something in front of council. The code change under consideration will produce a salemization of the council. This citizen does not want to see the self-serving, back-biting divisiveness, polarization and stalemate that occurs all too frequently down south. We elect our councilmembers to work for our mutual benefit and not to go on self-promoting ego trips. The present code prevent anyone from buying a ticket for an ego trip and dragging the rest of us along. Do not open pandora's box.

Lili Mandel: Lili mandel, downtown resident. I don't really like disagreeing with you, dan, but I thought it over and I have to.

Saltzman: I guess I struck out on my conversation over coffee with them last sunday. I'm going 0-2 with them. I thought I got maybe at least one of you, but ok.

I. Mandel: It wasn't a planned meeting.

L. Mandel We're latte liberals. I'm sorry, I couldn't resist that. [laughter]

Katz: You're on the record.

L. Mandel: It's ok. I'm not ashamed of it. I'm not ashamed. I'm not hiding.

I. Mandel: No. We were reading a particular magazine.

Katz: All right, lili. Go ahead.

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L. Mandel: The code, as written, prevents self-aggrandizing and grandstanding. Now how would you like it if you had been working on a policy for one of your bureaus and one or two fellow commissioners decide to write their own, without even seeing what had been written by you and not informing you of their plan. I have been testifying at council for about 10 years, and this is the first time anyone has tried this shenanigan. What code can you write that is greater than civility? Thank you for listening.

Katz: Thank you. Anybody else? All right. Roll call.

Francesconi: Well, we need to be able to fight for change and to improve the city regardless of the issue. And commissioner Saltzman's measure recognizes that it's the responsibility of all of us to address any issue and challenge facing the city without preference to -- without sole exclusive preference to who has the bureau. So this make us a better city. Aye.

Leonard: Well, this is not a topic that i'm recently accustomed to discussing and/or debating. As early as 1996, I worked with the late senator bill mccooy on an initiative that unfortunately we couldn't pursue because of his untimely passing to create districts within the city. So this -- this is relates to an interest of mine in making Portland government more responsive, responsible, and accountable. I think it's important to remember that the creators of this system created a unique system, and it's a blending of executive authority and legislative authority, and even quasi-judicial authority. So empowered within each of us are each of those responsibilities. It does not take away from what I believe the founding fathers of this country wanted, which is an adequate system of checks and balances. As commissioner Saltzman indicated, a lot of us were surprised that that check and balance was not reflected in our code. For an example, we have a mayoral candidate who is suggesting that were he elected, he would take all bureaus for six months, which is his right under the charter. I can't believe that anyone contemplated that you would have four members of the city council sitting here with absolutely no legislative authority to introduce any ordinances relating to any bureaus because the mayor had assumed all bureaus under his portfolio, and that we would sit here with what to do for six months. I think that it in fact suggests that we do need to have a provision in our code that does allow for some checks and balances. Having said those things, what i've been interested in in this discussion is the lack of acknowledgment that introducing a resolution or ordinance does not imply passage. You need to have three votes to pass song here. We can introduce resolutions and ordinances till the cows come home, and unless you convince two other people up here, which believe you me is no easy task, you go nowhere with your resolution. So the most important thing is what mrs. Mandel referred to -- civility. It is if you are as a legislator, and we are legislators in the capacity that when we're at council, ignoring developing working, respectful and collaborative relationships with your colleagues, you're wasting -- the taxpayers are wasting their dollars on you. You're not going to be effective if you can't work with your colleagues. Having said that, there has to be a system where each of us up here, have the ability, after we've tried everything that we have, to introduce ordinance to have a broader discussion amongst our colleagues, and then hopefully have a majority of the council support us when we do that. But if we haven't done that and haven't made the case that we've worked with our colleagues, believe you me it will be a 4-1 vote every time. So I appreciate commissioner Saltzman's work on this. And I think it's actually a furtherance of accountability in our city. Aye.

Saltzman: Aye.

Sten: Well, I think I share the tone that commissioner Saltzman brought to this. I'm fine with the change. And I think it will make sense. I don't think resolutions brought hastily do much. I had contemplated, still thinking about it, decided not to morning, offering two amendment, but i'll say verbally why I didn't and why I would have brought them. I thought maybe two weeks' empties would be more appropriate. A week's notice means if it's a thursday hearing, the commissioner gets it one day before it's filed. That's not a lot of time. If somebody brings a resolution to me and the first time I see it, and it's important like it was last time, even if I agree with it, i'm not going to vote

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for it because it's not fair for the commissioner in charge to have it go out to the public the same day they get to see it. I don't think the notice in this is adequate for civility, but what convinced me today is trying to legislate civility is not going to be successful. I'm not going to introduce that, though I thought about it. The other one I thought about introducing, these should not involve personnel matters. And I can anticipate a matter where somebody on the council loses faith in the bureau director not under their control. And under our code, with a voter-passed change -- or charter actually that commissioner Saltzman actually introduced, every bureau manager hired since the date of that charter works strictly under the decision of the commissioner in charge. But if you're having problems with that person as many of us know from issues that we've had, you cannot discuss them publicly without really hurting your chance to do the right thing with personnel. So I'm just going to say out loud, it would be a grave mistake if anybody brought personnel matters through this process, but I've decided I don't think we need to amend this to say that, because it's such a common sense issue. I'll just say it out loud. With that I vote aye.

Katz: I guess I've thought long and hard about this as well. This could have little practical impact on how the city council does business or it may fundamentally change the relationships between the councilmembers and some of the issues that we raise and how we work through them.

Commissioner Leonard raised the issue of charter reform. This is a very small part of it, but what I think we need to do is to take a look at charter reform in a holistic manner, because if we give councilmembers additional responsibility, and you don't give a city manager or the mayor the ability to really be accountable for the final results, you have -- you really don't have a form of government that -- that can manage itself. This is a small piece. It not going to create a major problem. But I think the city council need to begin looking at how do we correct this dysfunctional form of government to one that could work, and how do we provide the ability to give the mayor powers so that he or she is held accountable for the you can of the city council. In many forms of government, that's a veto that could be overridden, which was something in some charter reform language. I think what really bothers me more is that I hope it doesn't change the way councilmembers work with each other. Civility, respect, responsiveness, are really key values for this council and how we deal with each other. Let me give you an example. It became very evident over the months that several councilmembers wanted commissioner Saltzman to deal differently with the friends of the reservoir and the covering of the reservoir. A resolution could have been presented under this -- this code amendment, requiring him to do something that the council would want him to do, but something that he wasn't ready or hadn't really thought through all the details. What we did, and what many of you did, was work with commissioner Saltzman, lay out the arguments, and give him time to come back with something that he thought through and felt comfortable presenting to the council. As a result of that, things changed, and commissioner Saltzman took a huge step in being responsive to the council as well as to a large group of members of the community, and it was successful and we all applauded him. That's the way that I see this council working and should be working. So this change could make some real changes in -- in how we deal with one another. I guess as a mayor whose one responsibility is the preparation of the budget, I have concerns that if this goes out of control, that additional resources will be needed to implement many of the proposals that would be coming from other commissioner, that the commissioner in charge is -- is not particularly interested at this time, because of the limited finances. Most city councils have a huge appetite for programs and for expenditures. We're no different. If I add them up, there are millions and millions of dollars. We can't continue to be fiscally irresponsible if we place resolutions that have a financial impact on the city. The other issue is that all of us have bureaus that work with a work plan. We demand a work plan from our bureau managers. We ask the bureau managers for time lines. They're not always met, but they're followed through. And changing work plans creates some chaos. Now there's abilities for bureau managers to tighten up and give more work for employees. There's no question about it. But after

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five years of budget reductions, that flexibility is somewhat dissipated. And changing work plans really does create some element of chaos for the commissioner that is accountable and for the mayor who's ultimately accountable for work plans and for the budget. I won't be around after december 31, and I want to say there are advantages to diffusing the power of city government, but remember that in this form of the city government a mayor has relatively little power. And I need you to keep that in mind, because the ultimate -- the person who is ultimately responsible for a balanced budget, who's ultimately responsible to answer the questions of the community, even though he or she may not have the bureau in their portfolio, is the mayor of a city. And so keep that in mind, and use this code amendment judiciously. Aye. [gavel pounding] ok. There's no more business before the council. And we'll stand adjourned until thursday at 2:00.

At 11:02 a.m., Council recessed.

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JULY 22, 2004 2:00 PM

Saltzman: Karla, could you then read the item before us?

Moore: 871.

Item 871.

Saltzman: Thank you. This hearing is on the record. Now i'll ask our attorney, katherine beaumont, to describe this hearing and how it will be conducted.

Kathryn Beaumont, Senior City Attorney: Thank you. Before we formally begin the hearing i'd like to make several brief announcements about the nature of the hearing, the order of testimony, and some guidelines for presenting testimony. As commissioner Saltzman indicated, this is an on-the-record hearing. This means you have to limit your testimony to material and issues in the record. During this hearing you can only talk about the issues, testimony, exhibits and other evidence presented at the earlier hearing before the hearings officer. You can't bring up anything new. This hearing is designed to only to decide if the hearings officer made the correct decision based on the evidence presented to him. If you start to talk about new issues or try to present new evidence today you may be interrupted and reminded that you must limits your testimony to the record. In terms of the order of testimony for today's hearing, we'll begin with the staff report by the bureau of development services staff for approximately 10 minutes. Following the staff report, the city council will hear from interested persons in the following order. The appellant will go first and will have 10 minutes to present the appellant's case. Following the appellant, persons who support the appeal go next. Each person will have three minutes to speak to the city council. Next will be the applicant who will have 15 minutes to address the city council and rebut the appellant's presentation. After the appellant, the council will hear from persons who oppose the appeal.

Again, each person has three minutes to present testimony. Finally the appellant will have five minutes to abut the presentation of the opponents of the appeal. The city council may close the hearing, deliberate, and take a vote on the appeal. If the vote is a tentative vote, the council will set a future date for the adoption of findings and a final vote on the appeal. If the council takes a final vote today, that will conclude the matter before the council. Again, a little -- a few guidelines for presenting testimony. Again, this is an on-the-record hearing. This means you must limit your remarks to arguments based on the record compiled by the hearings officer. In presenting your argument, it's permissible to refer to evidence that was previously submitted to the hearings officer.

It's not permissible to submit new evidence today that was not submitted to the hearings officer. If your argument includes new evidence or issues, the council will not consider it and it will be rejected in the city council's final decision. If you believe a person who addressed the city council today improperly presented new evidence or presented a legal argument that relies on evidence that is not in the record, you may object to the argument. Finally, under state law, only issue that were raised before the hearings officer may be raised in this appeal to city council. If you believe another person has raised issues today that were not raised before the hearings officer, you may object to the council's consideration of that issue. Additionally, if the applicant fails to raise constitutional or other issues relating to proposed conditions of approval with enough specificity to allow council to respond, the applicant will be precluded for bringing an action for damages in circuit court to challenge the conditions of approval. That concludes the statements I need to make.

Saltzman: Thank you, kathryn. Do any members of council wish to declare a conflict of interest? Do any members of council have ex parte conflicts to declare or information outside of this hearing to disclose?

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Leonard: I did have contacts with some of the residents early on. They contacted my office for information and reference and referrals to bureaus that had responsibility for some of the issues raised here. It has not impacted my ability to listen to the case, however.

Saltzman: Ok. Any members of council have any other questions before we begin? Ok. Let's begin with the staff report.

Stephanie Beckman: My name is stephanie beckman, i'm with the bureau of development services, and i'm the staff planner assigned to this land use case. I'll be giving a brief presentation about the proposal and responding to the appeal issue. If you have more technical questions later, there are also staff people here from the bureau of environmental services and the office of transportation. As you know, the purpose of today's hearing is to consider an appeal of the hearings officer's decision to approve with a number of conditions a 34-lot subdivision. The appellant of this case is the powellhurst-gilbert neighborhood association. The applicants are corey larner and jeff jorgenson of springwater development, represented by daniel kearns, attorneys at law. The decision of council will be to uphold the hearings officer's decision, uphold with modifications or overturn the hearings officer's decision. The proposal made by the applicant was to subdivide a \$4.54-acre site in the r-5 zone to create 34 lots, ranging in size from 3400 square feet to 5,326 square feet. There's two new public streets proposed. A private street tract that will serve three lots and a stormwater tract to contain a public stormwater pond. This is a zoning map that shows the site. Again, it's zoned r-5. It's at the corner of southeast ellis and 145th. To the west of the property, in the open space-zoned area, is powell butte nature park. You can see the recreational trail through the south of the property. That's the springwater corridor trail. This is the aerial photo. Just gives you a little bit more visual idea of what's going on around the site. There is a lot of open land adjacent to the site that does have a lot of development potential as well. This is an existing conditions plan. It shows there is one existing house on the site that's proposed to be removed. There are moderate slopes on the site, ranging from 10% to 20%. You'll see in this area, there is a depression that runs across the site which we believe to be a possible former drainageway or stream that crossed the site that's basically been cut off from water due to some issues that are taking place in the park as well as -- as the street that was constructed and the right-of-way. I'll talk about that a little bit more. It's a subject of the appeal today. This is the preliminary subdivision plan. Again, you can see there's 34 lots proposed. The streets here in the east/west direction, new street and south reedway street are proposed public streets. They're intended to connect through in the future. Down here, you can see the private street tract that would serve three lots, and then down at the very southern end is tract b, which is the stormwater tract, which would contain a public stormwater pond. This plan is basically the same thing, but it also shows street improvements and utilities. We have a few photos of the site. This is southeast ellis, looking east. The site would be on the right here. And looking straight ahead, you're seeing powell butte park. This is looking directly south at the site from ellis -- at the site from ellis street. This is 145th, heading south. You can see the existing improvement in the right-of-way is really just a paved driveway to the existing house. The site is on your right. The powell butte park is on your left. This is a photo of the depression area that I described earlier, looking at it from the corner of southeast 145th and ellis. And this is just a photo looking north from the interior of the site back towards the house and ellis street. This is the existing house located on the site that is proposed for removal. The hearings officer's decision addresses the approval criteria for land divisions and open space in residential zones. Those refer back to a number of chapters of the land division code, and they're all listed and addressed in detail in the hearings officer decision. The staff recommendation was approval subject to conditions. The hearings officer did approve the subdivision, subject to the same conditions recommended by staff. To get into the appeal, the appeal statement provided by

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the neighborhood included three areas of opposition. They dealt with stormwater management, streams, springs and seeps, and the mitigation option for tree preservation. I'll touch open each one of those issues. First of all, stormwater management was fairly challenging for this site. To deal with the public street improvements, the applicant came up with a number of different solutions to deal with stormwater. They're proposing stormwater swales in the planter strips on most of the public streets. They're doing a couple of public sumps, which are large dry walls located in the public streets. They're also doing the public pond at the southern end of the site that I mentioned earlier. In addition, each individual lot will have a soakage trench which allows water to infiltrate into the ground to handle the stormwater from those houses themselves. The appellants raised a few different issues regarding stormwater. They raised concerns about the size of the stormwater tract and the pond that's located at the southern end of the site. And also some reduced pond setbacks that were approved by the bureau of environmental services. They are concerned that development from this development will exacerbate current flooding problems in the area. And they're also concerned about water from a diverted stream in Powell View Park entering the stormwater system for this site and again causing flooding. I'll go into that a little bit more in a little bit. First of all, for the size of the pond, and the setbacks, b.e.s. reviewed the plans submitted by the applicant, as well as calculations provided by the applicant, and they did determine that the size of the pond in the tract is adequate, and that's supported by an exhibit in the record that -- from b.e.s. That makes that statement. They did, however, approve reduced pond setbacks in the tract from 20 feet to 10 feet in order to increase the pond capacity. And the pond setbacks are something that is -- in the stormwater management manual is not a requirement of the zoning code.

So I want to emphasize that this is a modification that b.e.s. has the authority to make outside of the land use process and it's really a technical decision that shouldn't be subject to the land use appeal process. And if you have questions, specific questions, about why they determined it was ok in this case to reduce the setbacks, I think they can respond to that. But again, it isn't something that was a decision made as part of the land use process. This is a detail of the improvement plan. You can see the pond at the bottom of the plan here. And it's just noting the 10-foot setbacks on all sides from the edge of the tract. With regard to flooding, it's important to note that there are areas south of the site that are -- that are in the 100-year floodplain. So instances of flooding are expected in those areas. This particular site is not in the floodplain. As I mentioned earlier, there's a number of different stormwater facilities that are proposed to collect the water and dispose of it on site. So stormwater from this site will not be exacerbating flooding problems south of the site. And I have a map here that shows the floodplain in this area, the blue is -- is the floodplain. You can see the site here. And it's separated from that area by the springwater corridor, which is built up on a berm, so it's even less likely, you know, even if there was a problem, that water from this site would get into those floodplain areas. This map is also helpful for understanding the concerns that the neighbors have about the water from the park affecting this proposal. And I should probably note that this -- I don't know that this stream locations are exactly accurate on this map, but it shows you the idea and the topography shows you that at some point the natural drainage course was probably to leave the park and cross the site. It no longer does that. There was some type of diversion that happened within the park, we believe upward of 30 years ago, that has caused the water to no longer flow into -- basically across 145th. As I showed in the pictures, there's also been street construction and driveway construction that's essentially cut off that flow. Again, we think that took place at least 30 years ago, if not more. So at this point what the appellant is arguing is that that stream could come back to its natural channel, enter the right-of-way of 145th in this area and will find its way to the stormwater pond, the southern end of this site, cause flooding problems, which would obviously affect the neighborhood. So in response to that

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concern, b.e.s. Watershed staff has gone out to the park and the site a number of times, has looked at what's going on with the stormwater flows, and they've indicated that they don't see any reason to expect the stream to go back to its normal channel. Its natural channel and flow into southeast 145th. If some water does enter the 145th right-of-way, it would likely enter the existing ditch along 145th. And that ditch runs down along 145th for a while, and then directs water back into the park. Therefore it's very unlikely that stormwater from the park is going to enter the stormwater pond on the site. It's also important to note that the applicant is responsible for only addressing stormwater from this proposed development. They aren't responsible for addressing stormwater that runs off an adjacent property, in this case the park, or for addressing stormwater issues that might occur on the other side of the street, because they're only being required to do street improvements on the west side of 145th. I wanted to also point out that the hearings officer's decision actually addresses all of these issues. They were all brought up before the hearings officer in public testimony, and b.e.s. has responded to all these issues in writing and exhibits that are in the record. In terms of streams, springs and seeps, which is another area of appeal, the appellant listed their concerns about the diverted stream, and water entering the stormwater pond under this approval criterion. I wanted to respond to it briefly. This chapter requires that streams, springs and seeps located on the site be placed in the -- in a tract for protection. As i've noted earlier, the depression that runs through the site has been cut off from its source. It's no longer an active drainageway or stream by any definition. Therefore the requirements of this chapter don't apply. And the concerns about the stormwater from the park entering the pond really aren't applicable to this particular approval criterion. And so, you know, i've addressed those under the stormwater management section. In terms of tree preservation, you probably know that the tree -- the land decision code requires that a certain percentage of trees on a site be preserved when you're doing a land division. Under certain circumstances, the applicant can request to use what's the mitigation option in lieu of preservation. In this case the applicant has requested to do that. Because of the need to provide for adequate stormwater management and grade the site accordingly. With some coaxing, they have agreed to preserve five trees on the site, which is a total of 20% of the total tree diameter. And for comparison, the most regularly-used preservation option would require 35% to be preserved. They've also indicated that they would -- they intended to preserve an additional tree, a 24-inch fir tree, tree number 11, but wanted additional flexibility during construction to remove it if needed without additional review. The appellant has basically requested that the developer be required to save this tree and not be provided that extra -- that extra flexibility, and they noted that they should be required to use one of the suggestions for preservation that are listed in the hearings officer decision. This is a plan -- this is the applicant's clearing and grading plan. It shows the five green arrows, show the trees that the applicant has committed to save, and then the tree number 11 here in the red circle is located on lot 17 and that's the tree that is -- has been I guess I would say required to be preserved, but still has the flexibility to remove it.

Francesconi: That's an interesting choice of words. [laughter]

Beckman: As I noted earlier, the decision -- the hearings officer decision does discuss a number of minor changes that the applicant could make to the plans that would make it more possible to preserve this tree. Those are things like possibly moving the street slightly north getting rid of a public utility easement, possibly doing a curb-type sidewalk. There's a number of options, all spelled out in the decision. The decision also included a modification to building setbacks on two lots to reduce side building setbacks down to -- from five feet down to three feet to allow the developer some flexibility to move the new buildings away from that tree. So the conditions at this point, set by the hearings officer, require that tree number 11 be preserved unless it's determined not to be feasible during construction. So they're going to need to show how they're going to

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preserve that, but in the grading or house construction, if they find they just can't do it, they would be allowed to remove it. If it is removed, additional mitigation would be required. There would be no additional review needed.

Francesconi: What kind of mitigation?

Beckman: The mitigation required is 24 inches of tree plantings of native conifer trees or an equivalent payment into the tree fund.

Saltzman: Is that 24 inches of planting would be on the site?

Beckman: I believe the condition allows the flexibility to either plant it on the site or with -- on park property. The idea was it could potentially be within the springwater corridor or in powell butte or, like I said, a payment to the tree fund. There is also, I should note, because the applicant also isn't meeting the tree preservation standards, even with this tree they wouldn't meet the tree preservation standards, there's also mitigation required for that. And this is just -- this extra 24 inches would be tacked on if they don't preserve that tree.

Francesconi: But that was not a grounds of appeal?

Beckman: It wasn't. The appeal statement just focused on this one individual tree. And just to explain the conditions a little bit, I wanted to say that this is -- the conditions are unique to this case. We don't normally have a situation where someone has kind of an option to either preserve or take out a tree. Usually it's just required to be preserved, it's determined it's not really feasible. The mitigation option approval criteria requires that as many trees on the site as possible to be preserved, and that's really where this came from, is that we were having a difficult time determining if they were preserving all the trees as possible, but the applicant was hesitant to commit to saving this tree, because there are going to be -- there are going to need to be some encroachments in this re-protection zone. So this is as a result of negotiations with the applicant. I would encourage them to go ahead and provide some more information about what their position is on this issue. Again, tree preservation is discussed in detail in the hearings officer decision as well. Go back over the alternatives facing the council today. They would include deny the appeal and uphold the hearings officer's decision. Deny the appeal and uphold the hearings officer's decision with modifications. Or to uphold the appeal and overturn the hearings officer's decision. And just one more thing to go over, is the review timeline. As you know, state law requires local jurisdictions to make a final decision on a land use case within 120 days of the application being determined complete. For this case the final council decision is due by July 30, which is next Friday. So we're on a fairly tight deadline, unless the applicant agrees to extend that, that time frame. And in order to comply with 120-day rule, we did have to shorten the public notice period for the appeal hearing today. Zoning -- the zoning code requires a 21-day notice period, and question provided a 16-day notice period. I think you might hear about that from some of the neighbors that -- that they at the present time think that was appropriate. Basically staff felt their hands were tied, because we needed to meet the 120-day rule, and 16 days would provide adequate notice in this situation.

Saltzman: Thank you, Stephanie. Any questions of Stephanie? Ok. Well, let's hear from the appellants, the Powellhurst-Gilbert neighborhood association. Do they have representatives? And you'll have 10 minutes. And the clock is on the screen there, on the --

*****: I'm sorry. We get 15 minutes.

Saltzman: 15? Am I incorrect on that, that the appellant has 10 minutes?

*****: Generally the appellant has 10 minutes for their initial presentation, and five minutes at the end for rebuttal. [inaudible]

Saltzman: That may have included the rebuttal time. [inaudible]

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Saltzman: Ok. So you'll have 10 minutes. The clock is in the bottom of the video terminal there and karla, please start the clock. If you could please introduce yourself.

*******:** Go ahead.

Erin Divine: Good afternoon, commissioners. My name is erin divine, I live at 5912, southeast 145th, adjacent from the property. First I will be reading the attorney representing the powellhurst-gilbert neighborhood, who is -- cannot be here today. Shelley delao. Dear, city council, i'm an attorney representing the powellhurst-gilbert neighborhood association in this matter. I would be appearing before you today in person were it not for the bureau of development services express violation of the city's code regarding scheduling and notice of this hearing. Chapter 33.730.030h sets forth the scheduling and notice provisions. It specifically states that type three land use appeals "must comply with the subsection." sub section 3 states that the city auditor will schedule a public hearing to take place at least 21 days from the mailing of the notice of the appeal. The mailing of the notice of this appeal was july 6, 2004. The notice set the hearing date of july 22, 2004. This is only 16 days after the notice was mailed rather than the requisite 21-day notice. This hearing is therefore out of compliance with the city's own code. Tomorrow i'm getting married at timberline lodge. This afternoon i'm attending a wedding shower. This event has been planned since january and has been attended by 40 women friends and family members from all over the country. When I received the notice on july 8, 2004, I immediately contacted stephanie beckman at b.d.s., explaining the deficient notice issue and my prior commitments and set forth why this would cause prejudice to the neighbors of the development and the neighborhood association. Ms. Beckman responded that she would contact the developers, advise them of the deficient notice issue and the scheduling conflict, and suggest that we reset the date for a time that was legally compliant. Despite being represented by counsel, we should have been aware of the legal ramifications and prejudice that the deficient notice would cause in this case. The developers did not agree to move the hearing date. This defiant notice has caused prejudice to the neighborhood association. The applicant is represented by legal counsel, who's able to appear at the hearing. The neighborhood association is represented by legal counsel who is not able to appear at the hearing. I reviewed the entire land use file, studied the relevant reports, attended and spoken at the hearing and neighborhood association meetings. And completed the appeal paperwork. For me to be unable to represent the neighborhood association at this critical juncture, particularly for a development that is so controversial, ill-conceived is truly prejudicial. Therefore on behalf of the neighborhood association, I respectfully request that the city council suspend its on-record hearing of this appeal and require b.e.s. To send out a new notice of hearing that provides at least a 21-day notice. Should the security council choose not to reschedule the hearing and subsequently vote to deny this appeal, please be advised I will appeal to luba. Sincerely, shelley r.delao.

Francesconi: Can I ask a question of our legal counsel before we proceed? Do you recommend we proceed or postpone this in light of what was just said?

Beaumont: I think the council has several options available to you. Unfortunately, with the 120-day limit our options are dependent on the -- the applicant's acquiescence. I think the council can proceed with the hearing today. One issue you may want to discuss with the applicant is whether you want to allow an additional week for people to submit additional evidence into the record and continue the hearing for that purpose, to make sure that people have had a full 21 days to submit whatever -- whatever argument they want into the record. And I did misspeak. If you continued it for a week, it would be for the purpose of allowing people to present any arguments they wanted to present in writing so they will have had a full 21-day period to do that. The 16 days prior to this hearing, and any additional time you grant. In order to do that, you will need the applicant to agree to extend the 120-day period by one week. If the applicant is unwilling to do that, or if you choose

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not to exercise that option, then you can proceed to make a decision. If she appeals it to luba, we will have to -- we'll discuss with luba to what extent the neighborhood association has been prejudiced by the shortened notice.

Leonard: Well, just pursuing that, i'm just curious about the position that the 16 days violates our code, and maybe you could help clarify that in the context of the 120-day issue.

Beaumont: Basically under state law we have 120 days to make a decision, and that 120 days starts to run when the application is deemed to be complete. We have to make a final decision, including all appeals by the -- by the end of the 120th day.

Leonard: I see.

Beaumont: If, as in this case, it's taken longer at the hearings officer level to make a decision, and has left a shortened time for the council to make a decision, when there's a conflict between what our code requires, which is 21-day notice, and what state law requires, which is a final decision within 120 days, we have to operate by -- we have to comply with state law, and sometimes that does require a shortened notice period. The only way out of that dilemma, to both comply with our code and comply with state law, is for the applicant to agree to extend the 120-day period by a certain amount of time.

Leonard: I see.

Beaumont: And at least at this point we don't have that agreement from the applicant.

Saltzman: Well, does council wish to proceed or to ask the applicant whether they're willing to waive or extend the 120-day period before we decide to proceed?

Francesconi: I think we should at least ask the question, if you don't mind, mr. President.

Saltzman: Ok. Well, are we allowed to deviate from our procedure to invite the applicant up, ask about the 120-day, and depending on what we decide, resume the testimony of the appellant.

Beaumont: Yes, you can do. Hopefully karla is keeping track of the clock and will know how much time the appellants will have left.

Saltzman: Right.

Beaumont: The other alternative would be is simply allow the appellants to make their full presentation and anybody that supports them, make their presentation, and then hear from the applicant and make your judgment then as to whether you want to continue this or -- for an additional week, or allow an additional open record period.

Saltzman: Uh-huh. Council preference? Do you want to let the appellants finish and hear from the applicant and then --

Francesconi: I'd rather do the other, hear from the applicant. Because if their lawyer isn't here, it's better to have the lawyer here instead of doing this twice. That would be my preference. I have a feeling the applicant --

Saltzman: Ok. Why don't we, if you wouldn't mind, going back to the audience. I know the applicant's attorney is here.

Dan Kearns: Good afternoon. For the record, my name is dan kearns. 610, southwest alder street, suite 910 here in Portland. I'm the attorney representing the applicants. And we're aware of this issue coming into it. And to begin with, we don't really agree with how the city's calculated the clock on this. We believe it started approximately a month prior to what the staff believes, but we would like a decision from the city council. So we would agree to extend the 120-day period by seven days in order to allow submission of additional material. I mean, it's important to know that the attorney who represents the neighborhood association, it's her personal interest in this. She doesn't live in the neighborhood. She lives catty corner to the property. And so she participated fully at the hearings officer level, and I think there's a lot of information about her issues in the

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record. But we would like a decision from the city council, and so we'll extend the 120-day period by seven days for the submission of additional written material.

Saltzman: Seven days, to june 29, then? Seven days from the july 30.

Beaumont: I believe that would be -- that would make the last day july 6. Am I correct?

Saltzman: August 6.

Beaumont: August 6. I'm sorry, you're correct.

Saltzman: I started that.

Kearns: I think that would do it. And when would the council come back, reconvene? If we proceed along this path.

Beaumont: Assuming we have the appropriate number of councilmembers, it could be next wednesday or thursday. Karla?

Moore: Wednesday the 4th or the 5th?

Beaumont: Yeah.

Moore: Just commissioner Saltzman is out that week. You'll probably want to do it on the 5th. That's open. That's thursday, august 5th.

Saltzman: Thursday, august 5th.

Francesconi: Is she a witness or representing --

Kearns: She's a neighbor, catty-corner across the springwater corridor, and also happens to be an attorney. So she instigated the neighborhood association meeting and the vote occurred to appeal.

Francesconi: Well, she's representing them. If she's just a witness, then that's one thing. If she's representing them, shouldn't we do the hearing all at once, instead of holding the record open, bringing it back, i'd rather have one hearing and make a decision next week. That's my preference, mr. President.

Saltzman: I think that's what we're talking about, is postponing this entire hearing until august -- august 5 or --

*****: That's two weeks.

Saltzman: Two weeks from now. So we could do it next week if we could schedule it.

Kearns: I hear my client calling me. Can you hold on one second, please?

Saltzman: Sure. The 29th of july.

Beaumont: I was going to comment, that it is unclear to me from the letter they read whether ms. Delaio is complaining on her own behalf or complaining as the attorney for the neighborhood association. Perhaps they could clarify what her status is. Is she representing you, the neighborhood association? Is she your attorney, or simply an individual --

*****: She couldn't be here and the developers have refused to extend this hearing to accommodate her, and we are sharing the presentation. They refuse to make a concession.

[inaudible]

*****: We just want our legal counsel and because of --

Saltzman: What's july 29 look like?

Moore: Probably 3:00 on the 29th.

Saltzman: Ok. So we have something prior to that, at 2:00?

Moore: Yes, a couple of quick items. We got a five-minute one, and then we have your resolution.

Sten: That shouldn't take all that long. 15 minutes.

Moore: Then probably 2:30 for this item today coming back on the 29th.

Saltzman: 2:30 on the 29th. One final thing from mr. Kearns.

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Kearns: The reason why I paused, is because this is the first we've heard that they've been represented by counsel. Ms. Delayo was a witness, she's a neighbor on the property. If there was someone here from the neighborhood association here to confirm that the association is now represented by counsel, that would be one thing. But up till now she's just been a concerned neighbor, who happened to live outside the jurisdiction of the neighborhood association. To characterize her as counsel for the neighborhood association is new, somewhat surprising, and she was a witness.

Beaumont: Dan, we can call the neighborhood folks up to confirm. While you were out conferring with your client, I asked the question whether Ms. Delayo was representing the neighborhood association or was simply appearing as an individual, and they confirmed that she's representing them and would have been here today to present -- make the presentation on their behalf but for a prior engagement. I'll let them speak for themselves, but they have clarified that she is their attorney.

Francesconi: There may be rules that prohibit a lawyer from also testifying and representing the client, I don't know, but that's a separate matter.

Kearns: We're not in court, so --

Saltzman: I think what we're going to do is reschedule this to next thursday at 2:30. That will fulfill the notice requirements and allow their counsel to be present.

Leonard: We have to be careful, because as I understand what the deputy city attorney is saying they have to agree to that, because it will extend past the 180 days required by state law. So are you agreeing to --

Saltzman: I was assuming you had agreed to --

Leonard: They're shaking their head no in the back.

Kearns: I would agree to the original proposal to have the hearing today and keep the record open for written materials, or additional seven days, which I think is appropriate. They've had, you know, quite a bit of time to --

Leonard: Your clients can certainly do that. But i'm going to be real up front with you, i'm going to take into account that they're not represented by their counsel here. That's up to you to decide.

Beaumont: Maybe I can clarify with staff. As I understand it from the hearings officer's decision july 30 is the last day under your 120-day calculation. So under that calculation, if you do continue it to july 29 --

Saltzman: Still gives us time.

Beaumont: Still gives us time, but cutting it about as close as we can.

Saltzman: Ok. Ok. Then I think it's within our prerogative to go ahead and reschedule this to the 29th and we'll do that.

Kearns: Ok.

Saltzman: So thank you.

Kearns: Thank you.

Sten: And thank you all for being here, but we'll --

Beaumont: So to clarify, it's July 29 at 3:00 p.m.?

Saltzman: 2:30.

Beaumont: 2:30. Sorry.

Saltzman: So we stand adjourned until next wednesday. We'll see people back here on thursday.

At 2:42 p.m., Council adjourned.

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