



CITY OF  
**PORTLAND, OREGON**

OFFICIAL  
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **22<sup>ND</sup> DAY OF SEPTEMBER, 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.

<b>COMMUNICATIONS</b>	<b>Disposition:</b>
<b>1097</b> Request of Adrian Martinez to address Council to apologize to true Christian people and plead with unrepentant elements to repent (Communication)	<b>PLACED ON FILE</b>
<b>1098</b> Request of Richard L. Koenig to address Council regarding referral from Police Commissioner to an officer sworn to support the Constitutions (Communication)	<b>PLACED ON FILE</b>
<b>1099</b> Request of Charles E. Long to address Council regarding what major league baseball will do for Portland (Communication)	<b>PLACED ON FILE</b>
<b>1100</b> Request of Glenda Johnson to address Council regarding Independent Police Review, Portland Police and St. Vincent DePaul and the homeless (Communication)	<b>PLACED ON FILE</b>
<b>1101</b> Request of Allan Ross to address Council regarding MAX rides and the bad language and behavior exhibited (Communication)	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>	
<b>1102 TIME CERTAIN: 9:30 AM</b> – Recognize National Pollution Prevention Week and develop a Toxics Reduction Strategy jointly with Multnomah County using the precautionary principle (Resolution introduced by Commissioner Saltzman)  (Y-5)	<b>36254</b>
<b>1103 TIME CERTAIN: 9:45 AM</b> – Accept the Sustainable Procurement Strategy: A Joint City of Portland and Multnomah County Effort-2004 Report with update on implementation of the City Sustainable Paper Use Policy (Report introduced by Mayor Katz)  (Y-5)	<b>ACCEPTED</b>

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<p><b>1104 TIME CERTAIN: 10:00 AM</b> – Ask Oregon State Legislature to ban assault weapons in Oregon or allow municipalities to ban assault weapons within their own municipal borders (Resolution introduced by Commissioner Francesconi)  (Y-5)</p>	<p align="center"><b>36255</b></p>
<p align="center"><b>CONSENT AGENDA – NO DISCUSSION</b></p> <p align="center"><b>Mayor Vera Katz</b></p>	
<p><b>1105</b> Adopt City of Portland Investment Policy (Resolution)  (Y-5)</p>	<p align="center"><b>36253</b></p>
<p><b>*1106</b> Authorize an Intergovernmental Agreement with Portland Community College for the Workforce Training and Hiring Program (Ordinance)  (Y-5)</p>	<p align="center"><b>178758</b></p>
<p><b>*1107</b> Authorize the Purchasing Agent to amend contract with Gresham Transfer, Inc. to provide transportation of biosolids for the Bureau of Environmental Services and provide for payment (Ordinance; amend Contract No. 40463)  (Y-5)</p>	<p align="center"><b>178759</b></p>
<p><b>*1108</b> Apply for a \$40,000 grant from the Oregon Department of Justice, Crime Assistance Section, Victims of Crime Act Project for staffing of the Crisis Response Team (Ordinance)  (Y-5)</p>	<p align="center"><b>178760</b></p>
<p><b>*1109</b> Authorize purchase contract for \$5,000 with Federal Emergency Management Agency Region 10 to support the Portland Citizens Corps Council (Ordinance)  (Y-5)</p>	<p align="center"><b>178761</b></p>
<p><b>*1110</b> Authorize a Historic Preservation Fund grant application for \$40,200 to supplement City historic resources program for the federal FY October 1, 2004-August 31, 2005 (Ordinance)  (Y-5)</p>	<p align="center"><b>178762</b></p>
<p align="center"><b>Commissioner Jim Francesconi</b></p>	
<p><b>*1111</b> Grant revocable permit to Kingston Bar &amp; Grill/Portland State University to close SW Morrison Street between SW 18th Avenue and SW 20th Place between SW Yamhill Street and SW Morrison Street from 8:00 a.m. to 8:00 p.m. on 9/25/04, 10/2/04, 10/12/04, 10/30/04, 11/6/04 and 11/20/04 (Ordinance)  (Y-5)</p>	<p align="center"><b>178763</b></p>
<p align="center"><b>Commissioner Randy Leonard</b></p>	

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<p><b>*1112</b> Extend the term of a temporary, revocable permit granted to Qwest Corporation to build and operate telecommunications facilities within City streets for an additional twelve months (Ordinance; amend Ordinance No. 175757)  (Y-5)</p>	<p><b>178764</b></p>
<p><b>Commissioner Dan Saltzman</b></p>	
<p><b>*1113</b> Authorize grant to Regional Arts and Cultural Council for repair and maintenance of the Shemanski Fountain (Ordinance)  (Y-5)</p>	<p><b>178765</b></p>
<p><b>*1114</b> Authorize application to the Department of Environmental Quality for a \$65,000 grant for a recycling project at Oregon Health &amp; Science University (Ordinance)  (Y-5)</p>	<p><b>178766</b></p>
<p><b>*1115</b> Authorize application to the Department of Environmental Quality for a \$11,470 grant for a recycling project at Portland State University (Ordinance)  (Y-5)</p>	<p><b>178767</b></p>
<p><b>Commissioner Erik Sten</b></p>	
<p><b>*1116</b> Amend contract with Camp Dresser &amp; McGee Inc. to provide post-remediation services for Portland Fire, Rescue and Emergency Services for an additional \$17,700 (Ordinance; amend Contract No. 32034)  (Y-5)</p>	<p><b>178768</b></p>
<p><b>*1117</b> Authorize Intergovernmental Agreement with Metro for maintenance of a computerized mapping system for Portland Fire, Rescue and Emergency Services emergency response vehicles, not to exceed \$20,000 (Ordinance)  (Y-5)</p>	<p><b>178769</b></p>
<p><b>*1118</b> Authorize an Intergovernmental Agreement with Multnomah County Fire Defense District for mutual aid assistance during disasters and other emergencies (Ordinance)  (Y-5)</p>	<p><b>178770</b></p>
<p><b>*1119</b> Donate used dive equipment to Newberg Fire Department (Ordinance)  (Y-5)</p>	<p><b>178771</b></p>
<p><b>REGULAR AGENDA</b></p> <p><b>Mayor Vera Katz</b></p>	

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<p><b>*1120</b> Amend budget to transfer \$300,000 from General Fund operating contingency to Portland Fire and Rescue for Station 6 lagoon dredging (Ordinance) (Y-5)</p>	<p><b>178772</b></p>
<p><b>Commissioner Jim Francesconi</b></p>	
<p><b>1121</b> Adopt the East Columbia Boulevard to Lombard Street Connector Project Access Management Plan for a portion of NE Killingsworth Street as an operational policy to be administered by the Office of Transportation (Resolution) (Y-5)</p>	<p><b>36256</b></p>
<p><b>Commissioner Randy Leonard</b></p>	
<p><b>*1122</b> Authorize an Intergovernmental Agreement between the Bureau of Emergency Communications and the Port of Portland to allow the Port to use City Computer Aided Dispatch System and to create a back up system (Ordinance) (Y-5)</p>	<p><b>178773</b></p>
<p><b>Commissioner Erik Sten</b></p>	
<p><b>1123</b> Accept update of Fire Station 6 lagoon dredging cost and appropriate \$300,000 from the General Fund contingency in FY 2004-05 (Report) <b>Motion to accept the Report:</b> Moved by Commissioner Leonard and seconded by Commissioner Francesconi and gavelled down by Mayor Katz after no objections. (Y-5)</p>	<p><b>ACCEPTED</b></p>

At 10:49 a.m., Council recessed.

**September 22, 2004**

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

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

Commissioner Saltzman arrived at 2:02 p.m.  
Commissioner Francesconi arrived at 2:03 p.m.  
Commissioner Leonard arrived at 2:04 p.m.

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

		<b>Disposition:</b>
<b>1125</b>	<b>TIME CERTAIN: 2:30 PM</b> – Revise seismic design requirements for existing buildings (Ordinance introduced by Commissioner Leonard; amend Chapter 24.85)	<b>CONTINUED TO OCTOBER 6, 2004 AT 10:15 AM TIME CERTAIN</b>
<b>1126</b>	<b>TIME CERTAIN: 3:00 PM</b> – Amend Title 33, Planning and Zoning to update regulations that protect Portland historic resources and include amended demolition review procedures and zoning incentives (Ordinance introduced by Mayor Katz; amend Title 33)	<b>CONTINUED TO OCTOBER 6, 2004 AT 10:15 AM TIME CERTAIN</b>

At 4:25 p.m., Council recessed.

**September 23, 2004**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **23RD DAY OF SEPTEMBER, 2004** AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Saltzman, Presiding; Commissioners Leonard and Sten, 3.

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

<p><b>1127 TIME CERTAIN: 2:00 PM</b> - Appeal of Reed Neighborhood Association against Hearings Officer's decision to approve the application of John Welsh, Michael Andresen and Pamela Andresen for a zone map amendment and land division to divide the site into two parcels at 3407 SE Steele Street (Hearing; LU 04-017115 ZC LDP AD)</p> <p><b>Motion to overturn the Hearings Officer on the zone change and the land division and to uphold the Hearings Officer on the adjustment:</b> Moved by Commissioner Sten and seconded by Commissioner Leonard.</p> <p>(Y-3)</p>	<p><b>Disposition:</b> <b>TENTATIVELY OVERTURN HEARINGS OFFICER'S DECISION ON ZONE MAP AMENDMENT AND LAND DIVISION; UPHOLD HEARINGS OFFICER'S DECISION ON THE ADJUSTMENT. PREPARE FINDINGS FOR SEPTEMBER 29, 2004 AT 9:30 AM</b></p>
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At 3:56 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.

**September 22, 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.

**SEPTEMBER 22, 2004 9:30 AM**

[Roll call taken]

**Katz:** All right. Let's take communications. Item 1097.

**Item 1097.**

**Katz:** All right. I'm ready. Nobody's here?

**Moore:** I didn't hear from him.

**Saltzman:** Too late for us.

**Katz:** 1098. All right, richard?

**Item 1098.**

**Richard Koenig:** Richard koenig, for the record southeast Portland. Good morning, Portland and city council.

**Katz:** Good morning.

**Koenig:** Judy tuttle has done it now. Vera Katz's honcho committed to paper the rejoicing that took place when some of your unnamed associates speculated that they had successfully driven me over the edge. Or at least to the point of making death threats against the mayor. Judy reasoned in her letter that because of my obsession with finding the authority the police bureau to regulate the public of their automobiles, and the degree of frustration that I must be feeling by now, from all the stonewalling you guys have been giving me, that the recent voicemail death threat surely must have been from me. When are you folks going to get over your obsession? Let me make it perfectly clear for the record, I believe that vera Katz is enduring the just desserts of her efforts to deliver the people of this state and the city of Portland into the hands of the corporate elite and quelling dissent by whatever force is necessary. I would never think of shortening the ordeal she's experiencing day to day. I do believe that we suffer as we do for our own good reasons --

**Francesconi:** What is that, richard?

**Katz:** Let him go.

**Francesconi:** No, that's so inappropriate.

**Koenig:** We're talking about people dying in the streets because of the corruption that is happening by the police bureau, condoned by all you folks, and i've just been trying to bring a little light to this. Every week that you stonewall on this, every week is evidence of your lack of repentance. Ok? It's an indication of your willfulness. I'm hoping that you guys are going to come clean one of these weeks. And at this point, not only am I asking for a police bureau member who's sworn and who will uphold his mission statement to protect the rights of the public to meet with me and help me through this, but i'm asking that you refer harry auerbach to sit down in the law library with me, and if necessary -- if necessary -- we'll go through the session laws year by year by year to the present to see if the police bureau have the authority to pull people over and shoot them as motor vehicle operators when they're the members of the public that have the right to use the highway and streets of Portland. You got it, jim?

**Francesconi:** And, richard, that's --

**Leonard:** Maybe he does, but I don't.

**Francesconi:** Richard, that's a --

**Koenig:** You were there when the law was written, right?

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**Leonard:** I was also there when you made a death threat against senator kate brown.

**Koenig:** Excuse me. That's a hit on a platter. That's a christian illusion, and that's an indication of the kind of stuff that's going on. Do you know why she --

**Katz:** Richard --

**Koenig:** Ok, wait a second. I get to respond to this. This kind of sullyng is not going to go unrebutted.

**Katz:** Why don't you respond next week on this, please. Do me a favor.

**Koenig:** If I can respond to him with my regular agenda as my second three.

**Katz:** All right, thank you. 1099.

**Item 1099.**

**\*\*\*\*\*:** Call me.

**Charles E. Long:** Good morning. My name is charles e. Long. I live in northeast Portland. I've been for many, many years a baseball fan, and hoping for many years that Portland would field a major league team and have a major league stadium. Nike is a famous trademark, and the swish on the nike sportswear was fashioned by carolyn davidson, who was a member of our church. Nike is - - would be a good name for a major league stadium, and phil knight would -- I think should be able to fund a large -- a large portion of the finances for it. Portland's memorial coliseum is unoccupied now, and probably will either be demolished or used for some commercial use, and Portland needs a good memorial for our veterans and a memorial baseball stadium would be very good, called the nike stadium. I looked up what nike means. It's a greek term used for attack -- to attack, to fight, and it is also in greek mythology, nike is the goddess of victory. So it's quite an apt name for a baseball stadium. As I don't have time to say all the benefits to Portland, not only culturally, but psychologically, public relations-wise, and economically. So I think that Portland should push for a new stadium without any tax burden on our city. Thank you.

**Katz:** Thank you. Before we continue, I want to recognize about 19 university presidents and administrators from china that are here to study I think for the next several weeks the system of higher education in the united states. Good luck. It will probably take you several months, not several weeks, to figure all those connections out, but it is a worthy endeavor. We know how important education is to china and as well to the united states. So have a wonderful visit here. Visit all of the cultural and the recreational opportunities we have in here. Walk around the streets. Don't stay out too late. Don't get arrested. [laughter] but enjoy yourself. This is a wonderful city. It's in the year 2000 was named the most livable city in america.

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

**Katz:** You're welcome. Thank you. Ok, everybody, let's continue. Item number 1100.

**Item 1100.**

**Glenda Johnson:** Hi. My name is glenda johnson. I'm not prepared at this time. My -- ironically my big lents history of the house I wrote you about and my speech that I wrote about the police is in an old historic room, the acropolis, my homework got left there last night by a guy out of federal prison. So i'll bumble through this. It's kind of a federal kind of orientation. Anyway, last term I went to Portland state university at age 44. I'm from Portland. Last term I took a class about the history of Portland, and then I took a class from richard rosenthal entitled "misconduct in the Portland police bureau." the only thing I was going to say about that i.p.r. is what we learned, that although people don't like the cops, they call them all the time, that's my personal view, and I was not raised a racist, so when they say something about the black ministerial alliance calling attention to the shootings of black people, the thing is white people get shot, mexican people get shot, but to take that and make it a big issue, it looks as though the Portland police aren't having control of the city. What mr. Rosenthal taught is it's targeted as a problem population from a federal view. My speech was entitled "the bono speech." I may come back, because nobody wants to be run by the department of justice, I don't think. As far as the homeless people at st. Vincent depaul, i'm not



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going to talk about that, because that's erik stein's [sic], he's the homeless guy. I don't know a lot of homeless people, I don't know what you're going to do about them, and I'm going to retire, because I'm unprepared, and I brought this hat for you, mayor, because I wouldn't have your job for a million dollars in the world, and you're known as the best-dressed mayor. With that, I'll retire.

**Katz:** Thank you very much. That's very sweet. Thank you. All right, 1101.

**Item 1101.**

**Katz:** He's not here? All right. Let's jump to consent calendar. Any items to be removed from the consent calendar? Anybody want to remove an item from the consent calendar for a discussion and a vote? Hearing none, roll call on consent.

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

**Katz:** Mayor votes aye. [gavel pounded] 1102.

**Item 1102.**

**Katz:** Saltzman?

**Saltzman:** Thank you, madam mayor and members of the council. This is an opportunity that has been brought to us by the Multnomah county city of Portland, sustainable development commission. It's an opportunity for Portland to explore a new concept which may help us prevent dangerous mistakes in the way we deal with toxic substances. Whether it's lead paint in homes or the willamette river superfund listing, we've seen how toxic substances can turn into destructive and costly problems in the city of Portland and the community at large. Good business practices mean not waiting until regulations require us to react. In the long run, it's much cheaper to prevent pollution than to clean it up later. A lot of positive efforts are under way in Portland, but it's all been reacting to problems after they reveal themselves. We need to ask ourselves whether there are ways -- what we should do to prevent toxic pollution. How does Portland compare with other leading cities and organizations? Where do we have the opportunity to reduce healthcare costs and improve safety through toxics reduction? How can we heighten the awareness, the effectiveness of our existing toxic reduction efforts? How can we prepare our staff and the public to weigh alternatives and make informed choices that can consider cost and risk? And how can we support the growing number of businesses that are working to prevent pollution or to provide customers with less toxic products or services? These are some reasonable questions that I would like to see answered. My staff will work with the Portland Multnomah county sustainable development commission and appropriate city bureaus and county staff and report back to the city council and to the county commission. The toxic reduction strategy is part of Portland's effort to create prosperity through sustainable development. Portland is a city filled with emerging green businesses, from financial institutions to media companies, from manufacturers to restaurants. It's increasingly a place where sustainable companies choose to locate and grow with a built-in market for green consumers and abundance -- and abundant incentives for sustainable practices. We want to reduce harm from toxics, and in the process create the opportunity for the businesses that can provide those solutions. We have here today two members of the sustainable development commission, and they'll tell us more about this proposal. Kent, stephanie?

**Katz:** Come on up.

**Kent Snyder, Co-Chair, Sustainable Development Commission:** Thank you, commissioner. Good morning. I'm kent schnyder. In Portland. I'm one of the cochairs of the sustainable commission for the city and Multnomah county. I'm just going to speak -- take a minute, because stephanie has much more to add to all this, but several years ago the commission realized that we were the sustainable Portland commission, and we really needed to broaden our focus to include the whole areas of toxics in the areas of healthcare. And that was one of the drivers behind broadening and becoming a joint city/county commission, because of the focus of Multnomah county and the healthcare. And out of that came an area of looking at what can be done, both as a corporate entity, as a city and a county, to reduce exposures of our citizens to toxics, to do things as our own

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governmental operations to reduce our exposures of our employees to toxics, and to kind of move along with what businesses have been doing in becoming and adopting what's called the precautionary principle and to reduce exposures and improve livability. Out of that then came an effort and a workshop that was done that we sponsored a while back on how this is being done both in san francisco, seattle, and a number of areas around the country, as well as internationally. And stephanie is one of the members of the commission. She can talk about what has come out of all that.

**Stephanie Farquar:** Thank you, kent. Good morning. My name is stephanie farquar, and I live in Portland, Oregon. I'm a professor in the Portland state university college of urban and public affairs, and a member of the Portland/Multnomah county sustainable development commission. On behalf of the sustainable development commission I want to thank you for this opportunity to present this resolution to you and as a professor at Portland state university and a practitioner in the field of public health i'm very encouraged by the opportunity that this resolution presents to the city of Portland and to Multnomah county. I would like to share three main points today about the toxics reduction strategy resolution. First, the scientific and the public health community agree that toxic contaminants are pervasive, affecting our health, our economy, affect our environment. Second, Portland and other cities have acknowledged the significance of the problem and have begun to devise strategies to reduce exposure to toxic contaminants. In other words, the proposed resolution isn't a radical shift from current thinking, it just provides more teeth and more structure to what is already in place. And third, this resolution is the natural next step forward towards decreasing residents' exposure to toxics in Portland and Multnomah county by adopting a preventative, not a reactive, approach to exposure. As kent said, the resolution grew out of a collaborative effort that began back in 2003, and sort of culminated in a workshop of april 2004 where we brought together over 120 people from local government, environmental groups, business, academia and community to discuss how to prevent exposure to health-threatening toxic contaminants. The workshop was hosted by the sustainable commission and a subgroup was formed to present the joint -- form the joint resolution. We know toxic pollution accumulates in our body, contaminants that have accumulated over time, cancer, asthma, birth defects, learning disabilities, these are all connected to environmental exposure and on the rise. The health problems are widespread, affecting nearly one in every two americans, and also very expensive, costing us about \$325 billion yearly in healthcare costs, loss of productivity and for special education programs. So environment matters. Exposure influences health. Unfortunately, toxicological data only exists for about 70% of the 85,000 registered chemicals that we uses, and tens of thousands of chemicals aren't even registered, so it makes it difficult for us to know definitively which products threaten our health and environment. The precautionary principle, part of what we're proposing today, requires us to consider the direct and indirect costs of exposure and take anticipatory action to prevent harm. The precautionary principle is a decision-making tool that encourages us to stop asking how much harm is allowable, rather we ask how little harm is possible. What are the healthier alternatives to our current practices and products that we're using, and why are we not using them at the county and the city? We have great examples as kent mentioned from san francisco and seattle, cities that have adopted resolutions similar to this one. Locally we already know that we care about these issues. The state of Oregon adopted a sustainability act, and Multnomah county and the city of Portland include in their respective sustainability principles that we should prevent exposure to toxic contaminants and be proactive, preventative, and not simply corrective. Finally, identifying and using safer products and practices just makes good business sense. Over 80 local Portland businesses have saved \$13 million by adopting more sustainable practices. We propose today that the Portland city council resolve to support the formation of a work group to create a toxic reduction strategy for government operations. The sustainable development commission and the work group will conduct an inventory of toxic substances

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purchased and used at city operations and we propose to identify safer, healthier, and more cost effective alternatives. Ultimately your positive action on this resolution will contribute to a healthier and morrow bust community, environment, and economy and the sustainable development commission thanks you for your time and support.

**Katz:** Thank you.

**Saltzman:** Thank you.

**Snyder:** I want to add one thing. A companion resolution goes before the Multnomah county board of commissioners tomorrow morning.

**Katz:** Thank you. Questions? Thanks. Anybody want to testify?

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

**Katz:** Anybody want to testify? All right, roll call.

**Francesconi:** Thank you for all your efforts at keeping this at the forefront. As commissioner Saltzman said, the link between kind of environmental protection and our economic health is right there. The sustainability commission has been pushing that. We had a resolution here in parks, where we are recognized for salmon safe because of our use of pesticides -- or not -- lack of use in most places, and so it's part of the efforts that you're talking about. I didn't ask you about this, but it seems like a next step would be an environmental management plan for the whole city by which we measure the toxins that we put in the air, land and water, and have specific goals that we set and then reduce it over time, but it seems like this resolution is right in line with that direction. So thank you for all your efforts. Aye.

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

**Leonard:** Aye.

**Saltzman:** Thank you for your work. We look forward to working with you on this. Aye.

**Sten:** Well, thanks. I actually really think this is important. We won't change everything at this level, but this is only one of the industrialized countries that takes the position that chemicals are safe until proven otherwise. I think the position you're proposing is a smarter way to go. I do support it. Aye thanks.

**Katz:** Aye. [gavel pounded] all right, 1103.

**Item 1103.**

**Katz:** You recall a year ago we had adopted a paper policy for sustainable use of those paper products. This is the report on that and a work plan for this coming here.

**Susan Klobertanz, Director of Purchases:** Mayor and council, i'm director of purchases for the city of Portland. As the mayor indicated, we've done a lot of work in this area in the past. You've done a lot of work in this area in the past. Back in march of 2002, when the sustainable procurement strategy was adopted as binding city policy that set us on a direction to begin to work in purchasing to look at the products that we used. As the mayor indicated last june, we had the first annual review of that strategy, along with the adoption of the sustainable paper use policy. The report you have in front of you today provides a review of the work completed in the last year as well as a projected look for the work to be done in fiscal year 2004-2005. Attachment a to this report actually provides the update on the city's paper policy. But in the 2004 strategy report, we talk about the work that we did during the last year in the areas of paper, cleaning and coating products, automotive, building materials and office furniture. By way of highlights, a couple that i'd like to mention, first is the implementation of the city's paper policy. Let me come back to that in a few minutes. Secondly, the city began to use the b-20 biodiesel and city diesel engine vehicles in august of 2004. Although it has a 20-cent per gallon extra cost, we believe that that is offset by significant emission reductions. For example, a 20% reduction in sulphur dioxide and 11.5% reduction in carbon monoxide. Table one on page four of the report gives you a more details and the comparison between the biodiesel fuel versus the standard diesel. Another highlight is the development of a city employee internet resource now on the bureau of purchases website.

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Employees can find featured product, profiling examples of green specifications, product specific resources and case studies. We believe that in the future as that web information becomes morrow bust, that will be a major resource to city employees. And that also during the year we came to you with some code changes that brought the code into alignment with the different paper policies and other sustainable policies. For fiscal year 2004-2005 the report anticipates work in the areas of computer, office products, more work on the janitorial cleaning supplies, office furniture, building materials, automotive, and then it also indicates that the county will be working on medical supplies. Many of these areas, if you remember, go hand in hand with our strategic sourcing efforts. So we believe all of this is coming together at the right time. As further described in the report, the original 2002 strategy has been modified over the last two years. We initially had thought, bring everybody to the table, use work groups, a broad representation from as many bureaus as possible. Over the last two years, because of staff constraints and resource constraints, we've modified that to target the specific commodities and bring the key areas, the key bureaus, responsible for those areas together, and not have as many people involved as we had originally planned. We're also looking at integrating into the sustainable government effort led by the office of sustainable development that came out of the budget efficiency process. So we're continuing to look at ways to get to the end goal of more sustainable procurement with minimizing the resources required to get there. Next year I might also indicate that the council would expect to see this sort of information folded into the bureau of purchases annual report. Rather than do two separate reports, we would fold that in to the one bureau report and reflect the fact that sustainable purchasing is really now just integrated into how we do business. Let me turn to the sustainable paper use policy report. In 2003-2004 we focused on logistical support and gathering bureau information. If you remember, this was our baseline year. And then completion of a new contract for paper. The joint city/county bid for printer and copier papers resulted in prices for recycled content paper that were approximately 12% lowered than what p&d had been paying previously. We were very excited about that. As we gathered the baseline data, we found that the city consumed approximately 74.5, just under 75 million sheets of paper, or approximately 13 sheets per -- 13,000 sheets per employee. If you remember a couple years ago, I brought a hand truck full of paper in. I thought about doing that again, but that stack of 13,000 sheets would be taller -- five feet tall, and I didn't have the muscles to bring it in. But if you can imagine and just visualize, if you will, that's a lot of paper. For the most part regarding our paper policy, we did well in meeting our goals. 79% of the procured paper met the e.p.a. Recycled content standard, and that's well on our way to approaching the 100% goal. 12% of the procured paper exceeded the e.p.a. Standard. That exceeded our 10% policy goal. The one area that we need work on is the -- using papers that are processed chlorine free or totally chlorine free. Our records show we're about 12%. Our goal is 100%. So we have some more work to do in that area. The report goes on and includes a lot more data, paper consumption by bureaus included significant accomplishments by bureau, as well as bureau strategy for the next year. Our fiscal year 2004-2005 implementation efforts will focus on employee education, improving bureau level implementation, and a continued effort to improve our tracking process on how much paper we use and what sort of paper we use. In terms of final notes, all of these efforts, whether we're talking about the paper policy or sustainable procurement, have truly been and will continue to be a citywide effort. Purchasing is just reporting on the good work done by the bureaus. We seek your support as council for the city of Portland for continuing these efforts. And by doing so, we believe that the city can continue to move forward in reducing its environmental impacts and promoting a healthier community while still supporting our social and fiscal commitments. Before I open this for questions, I would be very remiss if I did not recognize stacey stack from my staff who is really the power behind all of this report, helping us get it done, and making sure that all of the information is technically correct. So she keeps my vocabulary

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correct and ensures we get to completed reports like this. So I want to thank stacey. With that, i'll end. If you have any questions.

**Katz:** Questions? Anybody sign up to testify?

**Saltzman:** I had one question.

**Katz:** Go ahead.

**Saltzman:** Are we using biodiesel wherever we diesel right now?

**Klobertanz:** I'll turn to stacey, because she has all the details.

**Katz:** Stacey, come on up.

**Stacey Stack, Bureau of Purchases:** My notes say we're using them in diesel engine vehicles, so wherever it's possible. Diesel engine vehicles that fuel the main fueling stations. So might not include --

**Katz:** State your name for the record.

**Stack:** I'm sorry. Stacey stack with the bureau of purchases. It might not include diesel-purchased equipment, generators, that sort of thing, but for vehicles that fuel at the main fueling stations.

**Saltzman:** Ok.

**Katz:** Thank you.

**Saltzman:** This whole work is great. The website that you just created, stacey, is a real step forward. We use 75 million sheets of paper a year. That's a lot.

**Katz:** Thanks to email.

**Saltzman:** Probably lower thanks to email.

**Katz:** Anybody else want to testify?

**Allan Lee:** Good morning. I'm allen lee, a member of the sustainable development commission. And I live in Portland. I wanted to provide some comments today on the sustainable procurement strategy report before you. Just a little bit of history. In 2001, after the green building initiative was adopted by the city, the sustainable development commission was kind of looking around for other areas where the city could have a significant impact on sustainability and identified the purchasing area as an area where there was a lot of leverage and the cities can have significant impact by changing purchasing policies to emphasize sustainability, characteristics of products. So we started developing an initiative, and we anticipated kind of following a similar model to what we do with the green building program and playing a more of a lead role in that process, providing motivation, guidance in developing the strategy, but in -- when we started working with city staff and with you all and others in the city and the county, city staff actually really jumped in, and the council adopted the policy -- purchasing policy in 2002, and initially I was somewhat concerned that the whole process might get lost in the bureaucratic shuffle, things, and in the end I was very, very pleased at the kind of leadership that sue and others, both from the city and county staff, indicated and were able to exert on the whole process. They really took ownership of what was going on, and I think were very creative and flexible and showed a lot of leadership in kind of developing this whole process. And I think in the end that was a very good way to go, because it built ownership on the part of the staff, both at the city and county level. It developed a lot of internal expertise and, you know, demonstrated real leadership and also acted to provide education to people who were involved. I think in the end, almost everybody who -- everybody basically is concerned about the effects of their actions and the products that they use on the environment as we heard earlier about the issues of toxics. I think this whole process allowed people who were very committed to that and wanted to do something about it a way to actually have some impact. I just wanted to highlight four things that I was very pleased to find in the procurement strategy. Sue already mentioned several of them, but I wanted to kind of go over them again because I think they're very important ones that the commission is very pleased to see in there. The first is the area of measurement. You can't control what you don't measure. They did an excellent job in developing the survey that was initiated, and provided a useful report used for tracking purposes,

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motivating people to identify what they're doing, and striving to do better, and potentially even creating competition across the bureaus and trying to come out better next year when the tracking is updated. Another key area is education information. O.s.d., the office of sustainable development was able to leverage an existing contract with Portland state community environmental services program to provide education when the resources really weren't available to do that. And as a result carried on a very effective education program. And also, as sue mentioned, the environmentally preferable products website was just up and running this month. I think that's a good tool. The third area is the issue of cost. I think the sustainable development commission has taken the position that there are opportunities in sustainability activities to reduce costs, initial costs as well as long-term costs, but they really have to look at the long-term and life cycle impacts of various products and actions. In fact, by combining city and county purchasing, as sue mentioned, they were able to reduce the cost of 30% postconsumer wastepaper purchases by 12%. So those are direct near-term savings to the city. Then in the long term with the use of biodiesel, 20% biodiesel, even though that's costing a little bit more per gallon, it's recognized that in the long run it will have a 20% reduction in organic compounds, translating into health impacts and benefits that are going to reduce the cost to the county and the city and to everybody who lives in the region. Then finally, the fourth area is the whole issue of coordination. This was the first effort that was done jointly after the sustainable development commission began representing both the county and city. And I think that was a major step forward. The process worked well. And i'm very pleased that it's accomplished what it has. It's also going to take advantage of and be involved with the food policy toxins and green energy areas. I urge you to support the report and support continued work in this area.

**Katz:** Thank you. Karla?

**Moore:** That's all.

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

**Francesconi:** Again, it's great work on the sustainable commission. You're complimenting sue and the staff is the way it should happen. Citizens raise it, commissioner pushes it, but then staff responds, and the staff develops the expertise to implement it with specific measurements. Looks like the bureau of emergency communication by themselves, with your help, saved 2 million sheets of paper were reduced. That's a good thing. Aye.

**Leonard:** Aye.

**Saltzman:** Yeah, this is a truly impressive report. Thanks, sue stacey, and sustainable development commission, for really showing us where we can save money and reduce pollution in the process. It's great. Aye.

**Sten:** It's a terrific job. Thanks to dan and the commission. I think you're doing very good work. Sometimes you wonder if you're on a commission if it's making a difference. I think that it is. Each year it's harder to keep doing the more detailed stuff, but you're really on track. It's impressive. Aye.

**Katz:** Let me say that we have a commissioner here who really cares about this, and reads the report, studies the numbers, and will follow up on it. I can't say that for all of us on a lot of issues, but on this one this man really is doing the lord's work on this issue. So commissioner Saltzman, thank you.

**Saltzman:** Thank you.

**Katz:** Aye. [gavel pounded] all right, 1104.

**Item 1104.**

**Katz:** Commissioner Francesconi.

**Francesconi:** Just briefly, so when congress let the assault weapons ban expire, Portland became a less safe place. Let's be clear. You don't use assault weapons to hunt or defend your home. And we need this ban reinstated. I've had the privilege, as commissioner leonard and perhaps mayor

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Katz, of working with Jenny Burdick on issues of background checks at gun shows, which was another reasonable thing the legislature did, with Jenny taking the lead on it. I've already talked to her about this. She encouraged us to proceed with this. She's going to take the lead in the legislature on this, and she regrets she can't be here today, but she's on vacation. In her place we have three people here to testify -- Chief Foxworth, Sheriff Bernie Giusto, and Jimmy Brown as a citizen who has worked on these issues for a very long time. Come forward, please.

**Katz:** I don't know who has highest rank, but since we're sitting in the city of Portland, Bernie?

**Derrick Foxworth, Chief of Police:** I'll defer to the elected official, Sheriff Giusto first.

**Bernie Giusto, Multnomah County Sheriff:** Thank you, chief. Mayor and city council, thank you very much for having me. Today's discussion I believe is both timely and important, but also we need to be conscience of the fact that it's extremely sensitive as it applies to the individual liberties of our citizens. It may surprise you that the decision to support the resolution today does not come easily for me. In fact, I may be one of the only law enforcement officials in this state to still sign transfers of federally approved firearms from one person to the other. Not because I necessarily agree with it, but because it's the law and it's allowed within the law, and I've never believed my personal opinion ought to preempt the law. However, this is a different issue. This is about influencing either existing law or the reinstatement of an existing law. The debate, as you know, centers around the second amendment, a right to bear arms. And it usually focuses on two words -- rights and needs. Whether we all have a right to bear arms, any arms, or whether no one has a need to purchase an assault weapon, only deals with part of what this resolution anticipates. And for me it is not only a debate about those two issues, but it is a debate about weapons or weapons in the hands of the wrong people. Instead for me it is a balance of those individual liberties I mentioned with the need to protect our citizens and to create a sense or an actual -- an actual sense of social order in our communities. It's very clear that we need to protect our citizens in the best way possible, and more importantly our police officers who ask to face these weapons on the street every day. As a society, we often choose to -- we often decide -- excuse me -- to limit our personal liberties in order to maintain that social order I talked about and those individual liberties we all cherish. More assault weapons mean more opportunities for them to fall into the wrong hands and the kind of people that we often fear -- fear we'll have to face. It's true that guns do not kill people, but people kill people. However, these guns kill more people and injure more people with more certainty, without any question. So it's with that background that I strongly support your asking the Oregon legislature to outright -- to ban those -- these weapons in an outright fashion or allow cities and counties to make the decision to do so in order to better protect our citizens. The matter of preemption is an important piece of the discussion. It allows communities to deal with both those individual liberties and the safety of their citizens in the balance they believe best serves their citizens. Thank you.

**Foxworth:** Good morning, mayor, councilmembers. My name is Derrick Foxworth. I'm chief of police for the Portland police bureau. I'm here to address today's proposed resolution, asking the Oregon state legislature to ban assault weapons in Oregon. Earlier this year as a member of the major city chiefs association and the international chiefs of police I joined with chiefs and cities across our country to support renewing the federal assault weapons ban. The federal ban passed in 1994 required domestic gun manufacturers to stop production of semiautomatic assault weapons and ammunition magazines holding more than 10 rounds, except for military or police use. Imports of assault weapons were also halted. Since the law was enacted, I believe the ban has proven effective in reducing the number of crimes involving assault weapons. Public opinion polls continue to demonstrate that the majority of people support this kind of ban. The international association of chiefs of police and the major city chiefs association have been strong supporters of this ban. The membership approved a resolution calling for the federal ban's re-authorization at its 2003 conference. As law enforcement executives, we understand that semiautomatic assault

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weapons pose a grave risk to our officers and our communities that we're sworn to protect. Opponents of the assault weapons ban argue that it only outlaws certain weapons because of their cosmetic features and not because they're inherently more dangerous than other weapons. That is simply not true. While most rifles are designed to be fired from the shoulder and depend upon the accuracy of a precisely aimed projectile, semiautomatic weapons are designed to maximize lethal effects through a rapid rate of fire. Assault weapons are designed to be spray-fired from the hip, and a shooter can maintain control of the weapon even while firing many rapid rounds in succession. The cosmetic features that opponents of the ban point to are actually military features such as silencers, flash suppressors, pistol grips, and bayonets. These military-style editions are designed specifically to increase the lethality of these weapons and to make them more concealable. Many come equipped with large ammunition magazines allowing 50 or more bullets to be fired without reloading. I believe weapons of this nature serve no legitimate sporting or hunting purposes in our communities. As we look to reduce crime and the fear of crime, and improving neighborhood livability in Portland, I cannot see how assault weapons will have a positive effect on our communities or the members of the Portland police bureau who might encounter these weapons. Portland police officers face risks every day when possibly interacting with people who have all types of weapons. No matter what ban is in place, officers will continue to protect and serve the citizens of Portland. But legislation such as this could help limit these types of assault weapons and the possibility of them falling into the hands of violent criminals or those with mental health issues. It could also reduce the chance that officers might face these kinds of weapons in a critical incident, and I support this resolution. Thank you.

**Katz:** Thank you.

**Jimmy Brown, Director, Office of Neighborhood Involvement:** It's always important to let those in uniform go first.

**Katz:** Especially if they have a gun on their side.

**Brown:** I didn't go there.

**Katz:** Go ahead, jimmy.

**Brown:** I clearly am in support of the statements that both sheriff and chief have made. My name is jimmy brown. I am the director of the office of neighborhood involvement, but I come here today as a member of join together, inc., which is a national organization focusing on substance abuse and gun violence prevention. I've been a member of the join together organization now since 1991, and have spoke nationally and locally on the issues around drugs, around substance abuse in general, and of course around the issue of violence and specifically gun violence. This particular issue is important, not only to me as the director of the office of neighborhood involvement, but is more important to me as a member of the metropolitan community. Assault weapons as a semiautomatic firearm are designed specifically for rapid and accurate spray firing. They're not designed for sport. They're not designed to shoot wildlife. The only animal they focus on is man. In the hands of military-trained operatives, they are effective in producing mass casualties. In the hands of the untrained, such as young people, those with mental health issues, and in the theater of our streets and local communities, these weapons become a danger to members of law enforcement and the general public. Assault weapons have been the cause of death in many high-profile killings. And according to recently analyzed f.b.i. data, 20% of police officers killed in the line of duty have been as a result of assault weapons. We know that when police officers go into the homes and into buildings that inhabit, that criminals inhabit, they are constantly pulling out assault weapons, not just handguns. As these weapons are not sport-related, unless one's sport is that of killing human beings, I support a statewide ban on assault weapons, in the city of Portland and state of Oregon. Since the federal ban was passed, overall gun deaths have decreased by nearly 25% and child and teen deaths from firearms have dropped 50%. 63% of gun owners favor the ban and an overwhelming majority of registered voters also support it. A report titled "unconventional



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wisdom" shows that strong majorities of americans support banning military-style weapons such as uzis and ak-47's, regardless of geographic area, gun ownership, union membership, and even n.r.a. support. These findings are in line with previous national pollings conducted and 19 -- or excuse me -- 2004 april study found that 64% of gun-owning households and half of n.r.a. member households support banning assault weapons. The question we face today, then, is, do we have the public will to acknowledge that these weapons are simply human killing machines? And these weapons have no place in the public arena. Today's resolution is nothing short of a discussion on public safety. The safety of our children, the safety of our neighbors, the safety of our law enforcement, parole and probation officers, and other members of the community. Thank you.

**Katz:** Thank you. Anybody else want to testify?

**Moore:** We have richard l. Koenig.

**Katz:** Thank you, gentlemen.

**Francesconi:** Thanks for coming, everybody.

**Koenig:** Good morning, Portland. I'm glad there's some people here who have a cultural imperative going in the other direction. Mr. Hitler, as part of his public safety program, banned guns in germany. A lot of people ended up unable to defend themselves and millions died. Assault weapons are not about hunting. They're not about sports. They are about killing bad guys. That's why we have the second amendment. That is not the -- the second amendment has never been about hunting or sport. It was for one reason, and that was to make sure that corrupt governments could be pushed back into the sea, back to britain. Let me talk about the law here. If we're going to start repealing things, we need to repeal the law at o.r.s., Oregon revised statutes, chapter 392, which says that every male, every male in this state between the ages of 18 and 45, is a member of the unorganized militia of Oregon. They're required to turn out at the call of the governor to do their duty, prepared with a military-style weapon. If they're not, they can be prosecuted by the district attorney. Ok? We need to train our young people in the proper use of these kinds of tools. This is the guardian of a free state. People -- just because the majority of people are ignorant, just because they're shirking their duty, just because they're afraid, doesn't make a ban on military-style weapons right. The majority of people don't make law in this country. We have a republican form of government. Hopefully those people in seats of power are a little bit above the common intelligence. That's why we have this system of government. This is not a country of mob rule. I agree, the wrong people shouldn't have weapons, but who are the wrong people? They're people who are frustrated. There are people who are oppressed. There are people who have no other way out. The problem is not the assault weapons they steal to vent their frustration, it's the frustration and the source of their frustration that's the problem. We need to do what is necessary to bring about meaningful reform instead of letting cops go around shooting people, members of the public, who have the right to use the highway on the pretext that their motor vehicle operator is subject to regulation. That's the kind of corruption. That is precisely the kind of corruption and regulation and oppression of the people that the second amendment was meant to take care of.

**Katz:** Thank you. Thank you. Anybody else?

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

**Katz:** All right. Roll call.

**Francesconi:** It's very significant that 2/3 of the gun owners and 2/3 of the hunters support this, because the hunters know that this is designed to kill people, and they want to be on the right -- they are on the right side of this issue. Our number one duty is public save. We have to protect our citizens. But we need the tools to do this. And we have to protect our police officers who are always -- who are out there fighting for us. It's just amazing to me that in a civilized country, in the year 2004, that we're even having this debate about banning assault weapons that are designed only to kill people. It is just amazing to me. Now thankfully we have the leadership of people like jimmy who has taken the lead on this. I'm confident that the legislature, without even referring this

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to the people, will ban this statewide. If that doesn't happen, that they will stop preempting us from the ability to take care of our own citizens. I'm very confident that will happen. So we can lead the way once again in being a civilized country. Aye.

**Leonard:** This is a very important resolution. I'm reminded that the first amendment, which provides our right to express ourselves freely has been ruled by the supreme court to not include the right to yell fire in a crowded theater. So too does the second amendment give the right to bear arms, but there are limitations, reasonable limitations, to that as well. This resolution I think is a reasonable limitation to the right to bear arms. These weapons are used for no reason other than to cause harm to people, in my opinion, who are upholding the law. They're used against officers. They're used against innocents. And there's no place for them in our city. So I appreciate commissioner Francesconi bringing this. Aye.

**Saltzman:** Well, I too appreciate commissioner Francesconi bringing this to us. I wish I shared his optimism the legislature would enact an assault weapons ban. I fear that we'll see the same cowardess demonstrated by congress and the president in the last two weeks to really tackle a vocal minority of gun owners who somehow construe their virility, their freedoms and everything associated with the ability to own weapons of mass destruction, and that's what these really are, and as commissioner Leonard said they're primarily directed at law enforcement officers. Every congress member, every legislature, has a police chief or a sheriff in their districts, and yet they've collectively stepped back from the leading public safety officers in all their jurisdictions and done absolutely nothing. This is not a republican or democratic issue. It is collective cowardess of both parties of the national rifle association, and it's tragic. Like I said, I expect the same outcome from the legislature. I wish I could be more optimistic, but this is a good signal and we need to send out signal. Aye.

**Sten:** I think this is a good signal. I appreciate commissioner Francesconi bringing it. I just want to reiterate which should be in the title, I think implied in this, is that we recently had a federal law, and although I'm a big supporter, as everyone knows, of doing things locally as a first step, it's a huge step backwards. I hope the focus needs to remain on the federal lobbying to get this back in place, because if we get a state ban and Washington doesn't, Portland's only marginally safer. We should go for a state ban as a fallback, but the real pressure needs to go back on congress. We can't allow this to go through, suddenly put our focus on state legislature and let congress off the hook. I don't think that's being implied here, I'm not saying it is, but I think it would be a mistake to think that the state legislature -- congress needs to do its job. Aye.

**Katz:** You'd be a little surprised about what I'm going to share with you. In the 1980's, the late 1980's, when I became speaker, we hardly had any legislation on weapons or checking background checks or doing anything that would protect the public. We took a position in the speaker's office at that time with the majority leader and republican and democratic legislators that sitting down with the n.r.a., as opposed to being on the attack against the n.r.a. probably would provide better results. Now that wasn't easy, because we all had very strong feelings about the national rifle association, but we also knew, after we polled, that most of the hunters and most of the n.r.a. members were supportive of background checks and waiting periods, and we were able during the following six months to get a 15-day waiting period, thumbprint, and other major aspects of Oregon law today. In addition to instantaneous checks when the technology was available. It wasn't easy, but we were able to keep the conversation on a very rational level, give-and-take, and identify the most important elements of Oregon law that we needed to pass. I think that if this wasn't used for political purposes, you could work with the national rifle association on extending the ban on assault weapons. This is not, from my perspective, an issue that they would die for. They have other issues that are more important. This was one that was hanging out there, purely for political purposes, and shame, shame on the president and shame, shame on congress. Aye. [gavel pounded] ok. Regular agenda. 1120.

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**Item 1120 and 1123.**

**Katz:** And 1123. This is a problem that hasn't gone away. It's like a bad penny. But it's going to go away. And I want to thank everybody involved in trying to find some kind of a solution, because delaying it even longer than, first of all, the timing is -- is very poor for the delay, and we need to deal with this. This is another public safety problem. Commissioner Sten.

**Sten:** Thanks, mayor Katz. I'll be brief. I briefed the council on this both during the budget process and recent update, and deputy chief klum is here to walk us through. We need to do dredging so the fire boat can get out. This is our only line of defense if things happen on the river, industrial area, or somebody jumping from a bridge, all sorts of things. We need this boat to get out. Because of changes in the flow of the river, some of the terminals have been built, other things, this area didn't used to dredge up, fills up and needs to be dredged is the right way to say it, and we need to do the dredging in a way that's environmentally sound. That's led to several years of work, and chief klum has some expertise he never thought he would have about endangered species act, superfund, toxic sediment and capping, all sorts of things. Basically we've come up with a way to do it, we believe. And I underline believe, it should be about a 10-year fix, which is not permanent, not bad, and there really is no better way to do it. I had alerted the council during the budget process this was going to come forward for the audience, and was not able to budget an amount, because we didn't have enough technical knowledge. We thought when we brought it back to council a couple weeks ago the cost would be right around \$460,000, which had everybody choking a little bit to be blunt, and it's still not inexpensive, but through work with the contractors, the chief was able to get the number down to about 360,000. So the proposal is, which is significantly better, that 300 come from the contingency fund, and the fire bureau eat the rest, which I think is a good compromise. If we do this today, we will get the dredging done. You can get the work done during very short months, because of the endangered species. Part of the rush is to do this in the right way before we're out of another stretch of time.

**John Klum, Portland Fire and Rescue:** Good morning, mayor, councilmembers. Thank you for an opportunity to give you an update on the funding. We anticipated o.m.f. being here to introduce the ordinance to you, but i'd like to give you a little bit of an update on the dredging costs. Things came to light since the august 19 briefing. What we are requesting is \$300,000 from the general fund contingency to offset the cost of \$364,741, which came in as the lowest bid for the dredging project. The initial estimate of \$450,000, that we took to bureau of purchasing for our best guess estimate on the dredging was in line with the other two bids that came in. We had a middle bid of \$445,000 and a high bid of \$634,000. We are comfortable with the -- with the lower responsive bid, because they've been involved since 2000, a local company, they're the most well-versed upon all the aspects of the dredging project. So we're very pleased that it came in at the \$364,741 one. Portland fire and rescue will contribute \$64,741. From the general fund contingency. Where that money is coming from is from the logistics section budget for replacement of personal protective equipment, basically the firefighter turnout ensemble. We're currently in our seven-year replacement plan. We felt that it's important that we maintain that seven-year replacement plan because of the change in technology with fabrics and the survivability ratings of the particular protective equipment. Just like anything in the technical industry, it changes from year to year and actually increases the firefighter safety aspect on that. Of that \$64,721, it will mean deferring replacement of 57 sets of that firefighter protective equipment. And our plan to close that gap is to continue monitoring our budget efficiently, and try to capture any savings during the rest of this fiscal year and the following two fiscal years to try to catch up on that replacement program to where we can get on track with that seven-year replacement. The office of management and finance is in the financial planning section supports this plan as far as the cooperative partnership to bridge that funding gap. And we recommend that council approve \$300,000 coming from the general fund contingency. The budget will not than be expended until we actually secure the permits. We are

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still on track with the permitting process. Two other permits are anticipated the end of september with the third permit for dredge management one, which encompass the overdredging capping shortly after the open public comment period, which expires october 3. This current open water dredge period expires october 31, but noaa fisheries is also supportive of extending that to mid-november if the need be. And Portland fire and rescue will report back to council of any significant changes, then, as far as of the permitting or any other foreseen things. Thank you.

**Katz:** Ok, thank you. Anybody else want to testify? Questions by council? If not, let's take the 1123 report first followed by the appropriation. I'll take a motion to accept 1123.

**Leonard:** So move.

**Katz:** All right, any objections?

**Francesconi:** Second.

**Katz:** All right. Roll call.

**Francesconi:** Very good work in solving a longstanding public safety issue. Aye.

**Leonard:** Aye.

**Saltzman:** Good work. Appreciate you coming up with a good funding plan and getting a low bid, lower bid. Aye.

**Sten:** Aye.

**Katz:** Mayor votes aye. [gavel pounded] all right, 1120.

**Item 1120.**

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

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

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

**Katz:** All right, 1121. This should probably have been on consent. Roll call.

**Item 1121.**

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

**Katz:** Mayor votes aye. 1122.

**Item 1122.**

**\*\*\*\*\*:** Good morning, mayor Katz.

**Katz:** Morning.

**Carl Simpson, Director, Bureau of Emergency Communication:** Council. My name is carl simpson, the director of boec. We're here to talk to you about a project that, from our perspective, is very exciting. It's an incredible project, one that notably improves public safety and interoperability where it really counts. I'm talking about at the line level, frontline of public safety. One of the biggest communication barriers suffered in our industry across the country, not just here in Oregon, is a proliferation of disparate cad systems. They can't talk to one another. Like most communication centers across the country, communications between boec and the port of Portland happen on the telephone line. That changes this month. Our goal for the past 18 months has been to eliminate the public safety communication barrier between the two centers by installing a boec c.a.d. system at the port so the dispatchers and responders are using the same system. Police officers at the port and police officers in the city are using the same system. Firefighters in both organizations are using the same system. In addition to improving communications, we expect -- we anticipate the following benefits. Improved interoperable between boec and doug's shop. Improved interoperability between the port first responders and city and county first responders. The plan provides for a fully redundant hot swap backup system server for our system, and probably the most secure location in the city, out at the airport. This puts an offsite server in a hardened location for us. We expect that there will be increased efficiency for both communication centers, an increased interdependency on each other. We expect the relationship will continue to improve. We'll work together. And i'm glad to say that all of the development costs, the training costs, the installation and hardware costs have been paid for by the port. There's been no out of cost

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-- out-of-pocket cost to the city. Additionally, as we go on, the port will help boec control costs by paying a portion of our ongoing maintenance and support, so the share in the benefit of the system, add to the interoperability, they add to the communication, and are carrying their share of the costs.

We're a little bit -- we have the cart a little bit ahead of the horse on this one. The system's up, it's running, we've trained on it, wire using it, and it's running fine. They went live yesterday with a portion of the system. Everything's proceeding as we expected. I think the success of the project is twofold. Doug and his team worked with members from the boec and the city to develop a strong plan, attainable milestones and measurable outcomes. I think the teamwork speaks to itself. It's across a functional group composed of not only dispatchers and firefighters, but info technology people, administrative people, and great support from commissioner randy leonard's office as well. The teams worked to make this happen. It's been incredible watching our dispatchers work with their dispatchers, frontline people, problem-solving to make this happen. Again, I can't stress the real benefit from this will be the interdependency that we have with the port dispatch center and the city dispatch center. I'd like to thank doug for doing the heavy lifting on this. I was at a commission for a little while this year, and he kept the ball rolling for us. He's kept this project moving. I'd also like to thank stephanie solomon lopez. She's one of our dispatchers. She developed a rock-solid training plan, worked hard to develop the training content. She did a tremendous amount of problem-solving. And the good thing about that was she reduced the anxiety for people going to a new system. That's always difficult. I'd like to turn it over to doug and have him share his comments.

**Doug Roberts, Port of Portland:** Thank you, carl. Doug roberts, port of Portland. On behalf of the port I want to thank commissioner leonard for his help with this, and especially for carl for his support, and all of the boec staff members who have been instrumental in making this project come to fruition. We've already seen a lot of positives in the whole development phase we've gone over in terms of building better relationships between the two communication centers, a better understanding about how the airport communication center operates and boec, and we've just seen benefits on that. We're already seeing benefits from the responder end. You remember last week we had a little incident out at the airport where someone left a bag outside the perimeter fence. Well, we were able to use a computer-aided dispatch system that we were training on at that time to actually communicate with Portland police units and it improved communication quite a bit between port of Portland police and Portland police in that incident. And so our police are very excited about this, and are looking forward to getting more and more into this type of technology.

**Katz:** Thank you. Questions?

**Francesconi:** How are we doing in terms of cargo security at the port? Will this help in any way regarding that?

**Roberts:** Well, cargo security, is not in my area, so i'm not sure I can comment on that that much. You know, transportation security administration works with the port on the security types of issues, but they have the lead on those.

**Francesconi:** Thanks.

**Saltzman:** So the port will be using the boec c.a.d. System, is that correct? All right. And then we'll have a backup location for our dispatch if we need it?

**Simpson:** Actually it's a -- the one -- the system will be replicated and a server offsite. There's no server for the capacity of people we need to go over to the port, but in terms of system redundancy, this gives us a hot swap capability and the machine, while they're located at boec right now, this will move some of the backup redundancy offsite in a hardened location where they're taking care of it every day.

**Saltzman:** When you say a hot swap, what does that mean?

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**Simpson:** Hot swap means in the moment we had a system failure at boec, it would automatically, without human intervention, switch over to that backup system at the port. So the operators and responders would have no knowledge that the system was even down.

**Saltzman:** Ok.

**Katz:** Further questions? Roll call.

**Francesconi:** This is doing the detail work to make us safer, and it's terrific that you're cooperating like this. It's terrific work. Aye.

**Leonard:** Well, unfortunately i've never had the opportunity to work this close with the police and the dispatchers as I have fire out there, but if you hired dispatchers and police of the caliber you do fire you have top-notch people. This has been a major issue for a long time, and those emergency responders who work in and around p.d.x. communicate with the port firefighters, and i'm assuming just as well with the police, and for those residents that live in and around that area this really is invaluable. Port firefighters work hand in hand with Portland firefighters out there on the water, as you know, and they're just fantastic. There is no higher caliber people working in public safety, in my experience, than those folks that are assigned to the port fire, so that they're more integrated with our system is phenomenal. My hats off to you, carl. I'm very proud and pleased of this work. Aye.

**Saltzman:** Yeah, this is very good work. Thank you. Aye.

**Sten:** Very good. Thanks. Aye.

**Katz:** Thank you, gentlemen. Aye. [gavel pounded] all right, everybody, we stand adjourned until 2:00.

At 10:49 a.m., Council recessed.

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SEPTEMBER 22, 2004 2:00 PM

**Items 1124, 1125 and 1126.**

**Katz:** Good afternoon, everybody. The council will come to order. Karla, please call the order.  
[roll call taken]

**Katz:** We will sit and wait for a quorum. We got a quorum. All right. Let's take items 1124, 1125, 1126. We will take them as a package. And they will move forward for another review in two weeks. We'll go over that at the very end.

**Moore:** Ok. I'll read all three.

**Katz:** Ok. I'll start and then turn it over to commissioner Leonard since the first items are his. Then I'll turn it over to Gil for general overview. Interestingly enough, a couple of weeks ago -- maybe it was a month ago, commissioner Leonard and I had a conversation about genealogy, and that it's become a favorite pastime for people to go into the computer to find out the history of their family. And knowing that history tells us a lot about who we are and what we -- I'm talking about you. [laughter] knowing that history -- I was talking about genealogy. I'll start, then throw it over to you.

**Leonard:** Oh, ok.

**Katz:** Knowing about our family history tells us a little bit about who we were and what our future looks like. It also, knowing our history, inspires us to do even better than our family of old. And to pass the best to future generations. Cities are like families. A city, too, has genealogy that is expressed in the city's buildings. These buildings are our city's family tree. They define our city's character. They provide a sense of tradition, certainty, and security. Preserving these buildings is keeping the city alive. As we look around the country, we see all over cities seeking a competitive edge, asking themselves how can we differentiate ourselves? How do we embrace what is very special about who we are? It's about embracing the love of history, embracing architectural charm. It's about embracing our heritage. As somebody, more than one person has said, once gone, forever gone. Somebody the other day walk along 23rd, asked what was on that corner over here? It was the Esquire theater, full of history. I think everybody -- almost everybody remembers Henry Thiele's on the other corner, where generation met, and stories were told in that wonderful, wonderful art deco -- correct me if I'm wrong in my design history, but I think it was an art deco building. We need to take pride again in the history of old Portland. [technical difficulty - break in captioning]

**Leonard:** So I'm cognizant of both sides of this discussion, but it is something that I think I want to hear more about, because I do not want to adopt a standard. That albeit we have the best intentions results in a catastrophic collapse of a structure where citizens are injured or killed without understanding what we're wading into it as we do it. So I will be asking that we at least discuss the idea of having the monetary upgrade trigger kick in at \$35 per square foot for a single-story building, \$25 for a building two stories or greater. Second that the -- I'll just read this for the council -- this would be the proposed amendment, the council direct the bureau of development services to retain the existing change of occupancy trigger, which currently states that an occupancy change that involves less than 15% of the net floor in an occupant load increase of less than 100 persons does not trigger seismic update, that versus the 150 number that I believe is in the report. And third, the council directs the bureau of development services to include seismic upgrade requirements for plain or lightly reinforced buildings. These requirements shall be similar to seismic upgrade reinforcements for masonry buildings. That one you have to help me with that one. Then a fourth amendment proposed by commissioner Saltzman, which I think is going to be fine.

**Katz:** Thank you. As I said, this -- we've had this conversation before with the -- the council accepted the notion of demolition denial about a year ago. They debated this. I have to tell you that I'm not sure anybody on the council, including me, really understood all of the nuances and it was difficult to come to closure because there are pluses and minuses on both sides.

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**Francesconi:** Can I ask a process question? Have these amendments been shared? We've had seismic task forces working on this for a while. To be honest, folks, for me to sit up here and make a decision on these amendments with my engineering background isn't possible.

**Leonard:** This amendment was actually drafted today or late yesterday. I just saw them the first time this morning. They result -- they came -- and we have here -- we're not engineers, but we have engineers here that will explain their rationale for proposing these amendments that are structural engineers from b.d.s. We have other structural engineers from b.d.s. on the task force that will explain their rationale. I could have had that meeting, as I did, and came to you with what the result of that was. I felt that if the discussion was good enough, important enough, we all ought to hear it.

**Francesconi:** Ok. But now we have one bureau coming in, I take it, with some potential recommendations. Planning has been working on this a while, trying to get to a level of incentives. Are we on the same page here? I mean, has planning seen --

**Katz:** Come on up.

**Leonard:** No. I don't think you'll find that these reflect anybody's sent minutes other than the concerns i've had talking to this group of engineers. These are discussion items I brought forward based on the meetings that I had that I thought the upshot was important enough that we all ought to hear both sides.

**Francesconi:** Given the issues, i'll be quiet after this, given the issues of public safety to our citizens, raising these concerns are very, very important. The problem is that we've had a balance trying to come up with incentives. I don't know if everybody's had a chance to see where we are in terms of that.

**Leonard:** Which is why I wanted to say where we're at, talk about these now so people knew that as we proceeded.

**Katz:** Let me say something about that. Really the bureau of planning and b.d.s. had two different tasks. They interrelate because the seismic code and changing the seismic code to the recommendation of the task force provides a little additional incentives. And so you are going to have to balance, after you hear the system, you're going to hear the task force chair, you're going to hear the staff from b.d.s. It will be a better conversation than we had about a year ago. And we're going to have to make a decision. And so that's the charge, in addition to listening to everything else. So let's start. Gil, why don't you come up. Paint the picture, as you always do, and then we'll take b.d.s., and then david, who has a charming accent, besides a lot of expertise, and we'll hear the rehabilitation task force report and building amendments and open it up to testimony. And then at 3:00, or whenever, we'll start with the other side.

**Leonard:** Mayor, could we have maybe next the representative from b.d.s. come up and explain the rationale behind these amendments after this presentation?

**Katz:** Yes, absolutely. All right.

**Gil Kelley, Director, Planning Bureau:** Ok. Good afternoon, mayor and council. Gil Kelley, director of planning. I'm here really at the beginning of the session to help sort of frame a number of the issues that you'll be hearing this afternoon and to elaborate on the mayor's discussion about why we're doing this in the first place, and to do that with the benefit of some images we have prepared for you. I have a couple of introductory remarks, then I want to talk in more detail about the structure of the remaining presentations and testimony this afternoon. Really we're here today to talk, as the mayor indicated, about the city's historic preservation program and a set of improvements to that program. And those are multifaceted, following the council's direction in 2003 we are returning to you with a reinstatement but really a recrafted demolition review provision in the zoning ordinance, together with a package of incentives that are both within the building code, as commissioner Leonard remarked, that are within the zoning code in terms of flexibility and allowances that aren't there now for this group of buildings, and we'll be hearing a little bit later



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from the director of p.d.c. Who will describe financial incentives that we have as part of the package. And these go beyond the tax incentives that are already in place and available, and we shouldn't lose sight that that body of incentive is important and is there. I wanted to just say, introductorily, that the demolition review process that we're talking about today, and that the incentive program complements, really puts Portland on a par with comparable cities in the country. We're not breaking new ground here. I understand the concerns that you'll hear during testimony, and some of which have already been reflected in written letters, but I essentially think that what that serves as a trigger for a structured and contained discussion about whether a structure, which is located on -- which is on the -- listed on the national register or contributing structure should be demolished. It doesn't mandate that it not be demolished, it simply says let's have a contained and structured debate about whether that should happen. I say structured because it provides notification and a process and criteria for making that decision. Those are really very important and the centerpiece of what you'll hear later from planning staff. And I say contained, because it really is a process that concludes within 120 days, and is at the council. You are the decision-making body. Putting this in perspective, this applies to about 1% of the building stock of the city. And while that number may grow in absolute terms, that number of buildings as new buildings are listed on the national register, it probably will not grow as a percentage of the city's total building stock, since we will continue to grow our inventory of all buildings. Even though it's a very small number, it's an important number. It's important for the reasons the mayor articulated. It really goes to defining the city's character and reminding us of our heritage. And that's the reason we're having the discussion today. Today we're going to hear testimony on the package, both the incentives and the demolition review provision. We have tentatively set October 6 as the next session for the council's discussion, and depending on what advice and direction you -- advice and direction you give us at the conclusion of today's session we will consider the amendment requests that you may hear today for your discussion on the 6th. By way of anticipating some of the testimony you're going to hear, I just wanted to let you know a couple of things. We have seen reflected in some of the letters that have come in the last couple of days the notion that good developers already know what this is about and make efforts to preserve historic buildings where that's feasible. And really what's important in building and conserving the city's building stock is a public/private partnership. And we agree with that. This is not meant to be punitive toward that class of building owners, but it's important that this sets a very predictable trigger and threshold for having a discussion around those valuable resources before we're gone, before they disappear. And you'll see a number of instances where we wish we had something like this, to at least have had a discussion about it. And it applies to all building owners to this class of building, not just so coming forward saying we're responsible and we're good. Secondly you may hear that the planning commission should have been consulted on this last series of amendments. I'll remind you that the council directed us to keep it here at the council. We've been here now since 2002, came back to you in 2003. You really wanted to reserve this as your judgment, having heard previously from the planning commission on these code amendments. I would echo what the mayor said, which is that we have tried to work with as many stakeholders as possible over the last two years. We're happy to have more discussions between now and your next meeting on particular suggestions and points, but there is quite a record of outreach and consultation. There are also a group of suggestions we've heard in some of the letters that we ought to consider incentives and programs beyond what are contained here. You'll see a list of those in the presentation a little bit later. There are some things we can do in this package that's in front of you. There are other things that frankly we'd like to evaluate, including things like updating the citywide inventory, creating an historic preservation office in the planning bureau, those kinds of things which have longer range and budget implications, we'd be happy to evaluate and come back to you about. So let me just give you a brief outline of what you'll hear today. Again, I'll briefly describe why we're doing this with the benefit

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of some images and aids and some numbers. We'll then turn it over to david from b.d.s. Who will describe the building code portion of this and the recommendations of the seismic task force, be it building rehabilitation task force. We'll then ask for testimony on the building code amendments. Following that we'd like to go into a second presentation which will be nicholas starr on my right who will describe both the demolition review provision and the zoning incentives. He'll be followed by don mazziotti. With that, let me turn to a brief opening powerpoint that we have here for both you and the audience. Again, we're here to extend demolition review to the national register listed properties and contributing properties, and to embellish our package of incentives, going beyond the current tax incentives in place. We have worked together as a set of three bureaus or agencies on this for the last year at the direction of the mayor and commissioner leonard. We have worked with the development commission and the bureau of development services to make sure the incentives and rules were in line and that we sort of uncovered every possible idea that seemed feasible to put forward at this point. Again, we have done outreach and consultation with the following groups. We've established a mayor's advisory committee which was a mix of different interests. The rehabilitation code task force you'll hear about in just a moment. We consulted with the historic landmarks commission, held two open houses, came back with a status report to you in 2003 and got additional direction. Had subsequent meetings with stakeholders during the last year, and received a number of comments, particularly within the last month or so and on the basis of those comments have made revisions, particularly to the criteria in the demolition review provision. Again, to focus on what this is about, it's demolition review for national register properties. That is a subset of all historic properties in the city. But you've directed us to focus on this narrower set of buildings and districts. We looked at a sort of package of incentives that b.d.s. prepared in terms of having a guide to how to implement codes when it comes to rehabbing and preserving historic structures. You will hear in detail about seismic upgrade thresholds and design standards. You'll hear from nicholas a little bit later today about the zoning incentives, where we've allowed a greater flexibility use and standard-wise for reuse and preservation of historic structures. And you'll hear from don about financial incentives made available through p.d.c. Again, the question why do we want demolition review with denial authority? Again, this is standard practice across most of the country, including 274 cities that we surveyed, and essentially it guarantees a meaningful public process and a relatively quick one for this class of buildings in the city. There's some images here that just remind us of some of the structures we have lost and wish we had at least had a trigger for the debate in place. The first image you saw, we can go back one, is the Portland high school established in 1883. Really kind of a world class structure we wish was still here.

**Saltzman:** Where was it?

**Nicolas Starin, Bureau of Planning :** Some place in southwest, pretty close to downtown.

**Kelley:** It looks to me like it was in the vicinity of Portland state or the south park blocks. Giles lake early on. An early residence there, that was actually demolished, might have been preserved.

**Starin:** It's been recently rehabilitated.

**Kelley:** Excuse me. This one has been moved offsite. Correct. Cityscape in Portland, along front avenue. The first picture from -- it looks like the 1890's, but it's actually in 1940, and the image on the right is 30 years later approximately. The evolution of the city has been an interesting one in many ways we're trying to recapture with our streetcar and with our zoning to bring back the notion of main streets and commercial neighborhood nodes. Again, building downtown that was demolished in the 1940's. Portland academy demolished in 1965. The original st. Mary's academy structure, which is now a surface parking lot. Actually we had stockyards and the stockyard exchange building until very recently. This was actually demolished in 1999 near the expo center. Really a remarkable example of an urban agricultural building. The aero club or knights of columbus building, which was again demolished fairly recently. This kind of goes to the point,

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could a pause in the process and a consideration before council lead to creative solutions for reusing that building and even adding on to it, possibly for a hotel. The ordinance you have in front of you also clearly allows an order to make the case and a compelling case in front of you that it's not economically feasible, in which case you would grant the denial. Another recent case, the shriners hospital near 82nd and sandy, demolished for housing on the site. Simon benson house is one of those examples of the structure that was rescued and relocated. The ambassador apartments remain downtown, or on the national register. These images of buildings that are familiar to you, of course.

They're really landmark structures that most of us would recognize as being integral to the fabric of Portland, or also on the national register. We'd certainly want a debate about whether any of those should be demolished. Again, another building that's been reused, creatively readapted, the kennedy school, u.s. Bank building still serves as a bank. We'd want to make sure that there's a process by which consideration would be given for denials here. Another historic landmark, again, an ambitious and expensive rehabilitation project, but one that will probably serve the community extremely well in terms of having a modern museum within an historic shell on the south park blocks. The sellwood car barn is another example of a very recent demolition. The car barns themselves were demolished very recently by the owner reed college. There was an effort, however, made to save the office and clubhouse structure, and it's been reused as office space. So again, the package you have in front of you today is meant to sort of both require and incent, at least an honest look at can these structures be reused in some way. St. Ignatius church on interstate avenue. Again, the district in old town is really a collection of buildings here, including the new market theater that has a number of contributing structures to it. And so in some cases it's not one individual building, but the collection and the sense of the place or the district that is the reason for the designation. And it doesn't only occur downtown. As we've shown you from other images here, they range from apartment buildings to single-family homes, from commercial and industrial projects. This is a wonderful reuse of the blitz weinhard brewery project, again in the hands of a very capable developer. Here is an image where actually we have put substantial public funds into reuse and rehabilitation of the armory for a theater. Here's an image that will be before us one way or another shortly, the issue. This is carriage house on southwest Broadway. Again, really the question here is do you want a structured debate about whether or not that historic structure should be demolished. So again, we have the package in front of you today. We're going to move very quickly now into the building code portion of it and hear about -- particularly about the seismic design standards and the flex guide. And this is the list I was speaking of a few moments ago, that we've heard from the -- some of the testimony we've received in writing so far of the these are other good suggestions about what to look at in terms of filling out a morrow bust preservation program with the city of Portland. We'd like to look at these. We don't know how many of these can be addressed in the current package in front of you, but we think they merit consideration as we move forward to implement programs beyond the sort of phase two program we have in front of you now.

**Katz:** Ok. Thanks, gil. Why don't we make room for -- david is here. Then we want to make room for the b.d.s. Staff person. Eric, why don't you come up. I'm sorry, you have more people from the task force. Ok. Eric, i'll bring you right up after this. How many from the task force? Four. And may I recommend that after you go over some of the issues you discuss as a task force, you hone in on the issues that commissioner leonard identified.

**David O'Longaigh, Bureau of Development Services:** Good afternoon. My name is david O'Longaigh, a structural engineer with the bureau of development services. With me is don, and david. I'm here today to present two items. First of all is the report from the rehabilitation code task force and the second is a rehabilitation for revisions to the seismic chapter of the city code. I would like to clarify, however, that the amendments that were proposed by commissioner leonard

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represent the opinions of private individual engineers, who are in the bureau, do not represent the bureau's opinion. The bureau supports the findings of the seismic task force.

**Francesconi:** I'm sorry, I can't resist.

**O'Longaigh:** Sure.

**Francesconi:** So we have planning with the recommendation. We have the bureau of development services. Then we have engineers within the bureau with a separate recommendation?

**O'Longaigh:** Correct. Those engineers represent themselves.

**Leonard:** To be clear, they are concerns brought to me. They are amendments I drafted based on conversations I had that I believe are important for the entire council to have.

**Francesconi:** Ok.

**O'Longaigh:** I distributed a copy of the powerpoint presentation, which I hope you will have and might be useful. I would also like to at this time to thank the 13 members of the rehabilitation code task force that met tirelessly over 16 months to create and refine the report presented to you today. The individuals' names are in the report. I'm sure you'll recognize many of them. With that I'd like to begin my presentation. Some ground. Portland's first seismic task force was appointed in August of 1993. Its purpose was to examine Portland's existing buildings with respect to their susceptibility to damage from earthquakes. The results of the first task force was to come up with seismic triggers that would initiate in certain situations seismic upgrades of buildings. We'll revisit those triggers in due course. In 2002, almost 10 years later, eight years later, the bureau of planning, the historic resources code amendment project, in their report to council, called for revisions to these thresholds that trigger seismic upgrades to historic buildings. They had difficulty reconciling seismic issues with vitality and livability within the city. Because of that, Portland city council called for a new rehabilitation code task force in February 2003 and they were assigned three tasks. First of all, to develop a code guide for existing or historic buildings. It was felt that it was difficult for the owners and architects remodeling and renovating historic buildings to reconcile the difficulties of remodeling a historic building with the current code, which is intended for brand-new buildings. So the code guide was intended to ease that path. Second was consider adopting a smart building code for Portland, and smart is a buzzword, marketing tool, to describe a type of building code. And three, review and update the seismic regulations in chapter 24.85. All tasks were accomplished by the task force and I'm here to report on those. Assignment number one, develop a code guide for existing or historic buildings. The bureau of development services did this. It's called the flex guide. Flex comes from fire and life safety for existing buildings. So what is the flex guide? Examples of things covered by the flex guide are the use of fire sprinklers in historic buildings. Fire resistant construction, important for historic buildings, a lot of which are made of masonry and wood. Corridor construction, windows in corridors, exiting systems. Very important. And accessibility and energy conservation. Flex guide covers all these issues, and others, and also includes some additional alternatives for designated historic buildings, but the flex guide does not cover structural or seismic issues, only life -- fire and life safety issues. The structural and seismic issues are covered by 24.85, the seismic ordinance, which we will be also get to. The flex guide was published in January 2004, available on the city's website. Presentations were given to local architectural firms by bureau staff. And given to the general public. As I understand, it's been warmly received by the design community, architectural design and remodeling historic buildings. The second assignment, consider a smart code for Portland. So what is a smart code? It's a code that was written to encourage the renovation and the reuse of existing buildings. Sample smart codes include the first one, which was the New Jersey code. Maryland adopted a smart code of their own. The latest one is the International Existing Building Code. What the task force does not at this time recommend that Portland adopt a smart code. The reason being is because task force considered the flex guide that the bureau developed in conjunction with the seismic regulations to be the equivalent of a smart code. And in fact, even smarter because there's two guides were

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written based on the experience of Portland alone, not based on the experience of architecture in new jersey or new york or maryland. So the task force considered the flex guide to be smarter than the smart code. Assignment number three, adjust as required the seismic chapter 24.85 regulations. Investigate the existing triggers and update and clarify the existing language. The first trigger, the one that caused the most discussion amongst the group, was the trigger concerning unreinforced masonry buildings of the as it stands, the existing trigger, if an applicant applies for a permit, for an existing unreinforced masonry building, and the value of the permit exceeds \$15 a square foot for the building, then applicant is required to do an seismic upgrade on the building. The level of upgrade is a fema level, below code level, but is still intended to give adequate degree of life safety for the occupants, but not as expensive as a code level. But the \$15 a square foot number when first written 10 years ago was not linked to inflation, and really today \$15 a square foot does not buy much in terms of remodeling. The task force looked at this issue at great depth and did extensive research, market search, dividing project into two types, smaller renovation projects and larger renovation projects. They decided that smaller renovation projects should not trigger an update grade. Intended to upkeep and minor tenant improvements. Larger renovation projects, full-blown upgrade, should include a full-blown seismic upgrade, because they prolong the life of a building, give it a new lease of life. And they decided that they would draw a line in the sand between what represents a dollar number for minor and major. And the line was drawn at \$30 a square foot for multistory unreinforced masonry buildings and \$30 a square foot for multistory unreinforced masonry buildings. This is a cover of asce31. The previous upgrade standard is now a dinosaur. It has been replaced by asce through the evolutionary code writing process. It's written and published by the american society of civil engineers. It is basically the state-of-the-art when it comes to renovating and analyzing existing and historic buildings. It specifically addresses existing and historic buildings, not new buildings. The state building code is geared toward new construction. This is geared toward existing buildings. So the task force has recommended that we adopt asce 31 in lieu of fema 178, the previous designed document. The task force did a number of research projects, specifically around this unreinforced masonry issues, and they looked at the latest research on Portland seismicity. They reviewed all the triggers from major jurisdictions, los angeles, san francisco, seattle, tacoma, and salt lake city, and compared Portland to those cities and the triggers. They revisited the 1996 seismic assessment study for Portland. Unreinforced masonry buildings are still Portland's number one hazard. They studied how many of those buildings Portland has and how many have been upgraded. Approximately 10% of Portland's commercial buildings are unreinforced masonry and maybe 20% have been upgraded. So we have 2,000 unreinforced masonry buildings. They were trying to balance the life safety concerns of having upgrades carried out versus still providing economic vitality to the city, reconciling the two issues. One thing the task force considered in depth was mandating that unreinforced masonry buildings be upgraded, just like in san francisco and l.a. Like in l.a., a lot of buildings become abandoned and neglected and contribute to urban decay, because the owners cannot afford to do the upgrade, and the cities end up demolishing buildings. The task force decided not to go that route, but to stick with the dollar trigger. The second trigger is the change of occupancy trigger. This is one that is actually in the code, but the code leaves it open to the local jurisdiction as to how they want to enforce it. And this is how Portland enforces it. Building occupancy is divided into different classes and ranked in terms of relative hazards. For example, the lowest level, level one, is a single family dwelling, which could include between two and six average people. The highest level would be level five, a church or concert hall, which could hold thousands of people, and everything in between. A restaurant or store is in the middle, ranking number three. If an existing building undergoes a change of occupancy, taking it from a lower level to a higher level, then that building is required to do a seismic upgrade right now. A code compliance seismic upgrade. An example would be the eco trust building. That was a storage building, or warehouse. Level two. It went to level three,

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mixed commercial use, office/restaurant. So it underwent a seismic upgrade. The task force has now modified this and made it easier and more economical for owners to do upgrades. Instead of only enforcing code level upgrades, the code level upgrade was stuck for higher hazard category buildings. Those call into classifications four and five. Assembly use, apartment building, the ones that would be required to have the code upgrade. Lower hazard categories, one, two and three, office buildings, storage buildings, commercial buildings for retail, would be required to have this new asce 31, fema-style upgrade, which is a cheaper upgrade, but still affords substantial and adequate degree of life safety. It is believed that if the upgrade is cheaper to achieve, then perhaps more of them will be achieved, because the project will be more successful financially. There are two exceptions to this change of occupancy, which the task force struggled over and came up with what they felt was a great solution. Currently, if a change of occupancy is less than 15%, if you have a warehouse and you only take one corner of it and turn it into a store or office space, and that corner is less than 15% of the footprint, or don't add more than 100 people, you do not need to do the seismic upgrade. The small exception to allow some vitality in the same building, but this trigger has been criticized, this exception, as not being lenient enough. It stifles the building owners and leaves buildings less flexible. So the task force struggled with this issue, and using their best judgment and experience, and all the members of the task force had great experience on existing buildings, either designing them or developing them or building them, or owning them, they recommended that the trigger be changed from 15% to 33%, 1/3 of the area. From 100 people to 150 people. The 150 people coincides with the same number of people in the flex guide for life safety trigger. So that provided uniformity between the two codes, one for life safety, one for seismic, they match, and that's a good thing. The 33% was based on the best judgment of the committee given their experience. And everybody on the committee was in agreement on the 33%.

**Francesconi:** Can I ask a question on this point?

**O'Longaigh:** Yes.

**Francesconi:** Is there a national standard or state standard?

**O'Longaigh:** There is no national standard or state standard on this issue. The task force, the first time around, used their judgment to come up with the 15% and the 100 people. They said let's try this. Second time around they modified the first opinion. And at least four members of the second task force were on the first task force. So there was continuity of opinion.

**Francesconi:** Let me ask you a dumb question. So the state doesn't --

**O'Longaigh:** The state does not involve themselves in existing buildings at all, in the remodeling or seismic upgrades of existing buildings. It's outside the building code.

**Francesconi:** So we can have whatever standard we want?

**O'Longaigh:** Yes.

**Francesconi:** Or we could have no standard?

**O'Longaigh:** True.

**Francesconi:** Ok, i'm not suggesting that.

**O'Longaigh:** I understand.

**Francesconi:** I didn't understand we had that much --

**O'Longaigh:** The building code does not involve itself with existing buildings, only new buildings. They don't want to get into the discussion at this time about upgrading existing buildings.

**Leonard:** Which gets to one of the amendments that I proposed so we understand the rationale behind why we're making some of these buildings not conform to current standards. The implication being we're allowing 50% more people in them and basically doubling the amount of the size of the renovation of building before the seismic upgrades kick in. And I just want to make

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sure when we do that, we understand why we're doing it, because the implications can be very serious.

**Francesconi:** Well, I think I -- I appreciate it, and I appreciate your purpose, which is safety. How about other cities? You mentioned 276 cities.

**O'Longaigh:** Throughout Oregon, there is no consistent interpretation or application of the change of occupancy trigger. When I asked the state building code division, who was on the task force, about this, local jurisdictions make up their mind based on each individual building, but he maintains, it's his opinion, that most of the time upgrades are not required, unless that building happens to be an unreinforced masonry building, perhaps. But if it's not, and only perhaps if it's not unreinforced masonry building, there is no --

**Francesconi:** There's no seismic upgrade requirement?

**O'Longaigh:** Correct, by local jurisdictions around this state.

**Saltzman:** So it's case-by-case?

**O'Longaigh:** Yes.

**Francesconi:** So what about nationally? I doubt this is the only problem for Portland.

**O'Longaigh:** Nationally, along the west coast, I think universally all jurisdictions out of Oregon adopt and have a change of occupancy trigger. Some are more aggressive than others. Not all of California has the same aggression. Some cities are relaxed. Some are more aggressive. Probably depending on local politics and where the fault lies. Some California cities don't have an aggressive seismic policy and others do. L.A. And San Francisco have very aggressive policies. San Diego has less aggressive policies.

**Leonard:** Is my recollection correct, that when we discussed this, you told me that even with these changes Portland's is of the lesser requirements?

**O'Longaigh:** We're lesser than San Francisco and L.A.

**Leonard:** Even with the changes?

**O'Longaigh:** Even with the changes, absolutely, but we're greater than Salt Lake City. We're on a par with, say, Tacoma.

**Francesconi:** Yeah, but how about in those cities that have demolition denial? Do they use this as an incentive, seismic upgrade?

**O'Longaigh:** In cities like San Francisco and L.A., they live in a seismic city every day, and the building codes have evolved to reflect this, because they suffer from earthquakes constantly. Association he they have a much more aggressive and politically motivated seismic program, where they mandate programs and bully owners into upgrading their buildings or the building gets demolished.

**Francesconi:** At some point are we going to see what the 276 cities use for incentives?

**O'Longaigh:** Most of those cities would be outside the seismic region along the west coast. That's not to say New York doesn't have some level, but it's not on their radar at all. It's really a west coast phenomenon. It's reached Salt Lake City now, but they have absolutely no triggers. Nobody in Salt Lake City, I spoke to the building engineer, is interested in upgrading historic buildings for seismicity.

**Francesconi:** I got it.

**O'Longaigh:** The second change of occupancy trigger, and the task force is excited about this one, oddly enough, is live/work space. Artist's lofts are classified similar to an apartment building, the higher level classification, which would mean they would normally need a code compliant seismic upgrade, but the task force looked and studied artist's lofts buildings have substantially less density of occupation, almost half, at least half the density, as an apartment building. And they're very similar to commercial buildings, too, like an office building or an art gallery. They recognize that enforcing code compliant upgrades in these buildings may be excessive and would be counterproductive, so they decided that they would propose that they use ASCE 31 for artist's lofts,

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which would be a cheap upgrade. Live/work spaces often act as a catalyst to urban renewal as happened in the pearl district. It's a win win situation. Make the upgrade cheaper, more will happen, the city will be safer. Seismic trigger number three. The study trigger. If you own a building, and you apply for a permit, and the permit exceeds \$100,000, and that building predates 1974, then you're required to study your building and see how it would perform in an earthquake. It's called a fema study. And it uses fema 178 as the report standard. That dollar number has been revised, proposed to be revised, to \$175,000. And the report guide is proposed to be asce 31, which is the study that replaces fema 178 as the state-of-the-art analytical document.

**Saltzman:** Is in the matter where I was discussing you with the fourth amendment that commissioner Leonard has put forward?

**O'Longaigh:** Right.

**Saltzman:** To make sure that stormwater improvements are included in that trigger?

**O'Longaigh:** I should talk about that. All these numbers we talked about, \$100,000, \$150,000, those numbers do not include certain permit values. They do not include a.d.a. Accessibility upgrades, the seismic upgrades itself. They do not include elevator upgrades mandated by the state. They do not include stormwater improvements upgrades. It's only for the building upgrade itself. New windows. New walls. Partition walls. Building costs upgrades.

**Leonard:** Although, David, as I understand it, we haven't been as clear on that in the past as we should have been.

**O'Longaigh:** That's correct. The bureau hasn't been as clear and developers have not have understood that in the past as well they should have. It was actually in the statutes, but one of those issues that nobody took full advantage of. This time around the committee wanted to make sure that owners and developers could take full advantage of that and get rid of all the ambiguity. There's new language in there that itemizes that clearly.

**Leonard:** And commissioner Saltzman's amendment I think speaks to that same issue.

**O'Longaigh:** Yes. We had site improvements. And I believe site improvements would include stormwater improvements. We've had clarification from b.e.s. On that.

**Saltzman:** Ok.

**O'Longaigh:** There's two new areas that the task force grappled, struggled with -- not struggled with, but proposed. Fire damage. The laws -- the section that covered fire damage to a building. That was expanded to include the broad classification of catastrophic damage, which not only includes fire, but includes explosions and vehicle collision. What happens to the building in event of catastrophic damage? They decided if the level of catastrophic damage is less than 50%, you just update grade the broken parts of the structural system. If it's greater than 50%, then you upgrade the entire lateral system for seismic. At the same time while you're mixing the building. Just seemed common sense. The building's trashed, why not fix seismic at the same time? If there's only structural damage, it's not smoke damage. Smoke damage does not count. Only structural damage. It would require a survey, mutual consent between the owner and bureau as to what constitutes 50%. Sometimes it's obvious. Sometimes it's not. What happens following an earthquake? There is no statute right now that advises people what to do following an earthquake with their building. Task force studied this, and decided on the following proposal. Divide buildings into two types. Pre-1974 buildings, older vintage buildings, and more modern buildings and treat them separately. The older buildings, pre-1974, use asce 31, which is the cheaper style upgrade, the fema-style upgrade to fix those buildings. Again, less than 50%, fix the broken parts. Greater than 50%, fix the whole building. The more modern buildings, that postdate 1974, use the original design code, or fema or asce 31, whichever gives greater safety. That's 50%, only fix the broken elements to the original design code the building was designed to, or asce 31. Greater than 50%, upgrade the whole building. Seemed again to be common sense. Your building's trashed, more than 50%, why not upgrade it at the same time? Throughout this process the task force received substantial public



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input. We held two public meetings. May 2004 and July 2004. Everybody on the bureau's neighborhood, industry, and interested parties list was invited. And all public comments that was received was considered line by line by the task force. Everybody who gave an opinion was considered. They also consulted with individual stakeholder groups. The architects institute, historic resources committee. We met with them a number of times. Central east side industrial council, we met with those folks once. Oregon seismic safety advisory commission, an advisory board appointed by the governor for the state of Oregon. We met with those people, and they were very pleased with the proposed ordinance. City of Portland historic landmarks commission, we met with those folks three times. And they are very pleased. The structural engineers association of Oregon, their vintage building committee people, we met with those people maybe four times. They were included right from day one through the process. They actually gave proposals which the task force went through line by line, and incorporated a great many of them into the final ordinance. Those people have not any objection to the proposal. They haven't said any objections to the proposal.

**Katz:** How many times did the task force meet?

**O'Longaigh:** With that group?

**Katz:** No. Just the task force itself.

**O'Longaigh:** Met twice a month for 16 months. We became like a little family. [laughter] yes, we did.

**Katz:** So when we hear the comments, we weren't involved and somebody was on the task force, they probably never showed up or showed up rarely. You don't need to answer that.

**O'Longaigh:** Understood. Well, we met so often, a lot of the interested parties from the outside, would occasionally show up or not show up at all. Because we met a lot.

**Katz:** You worked.

**O'Longaigh:** It was a substantial commitment to meet twice a month.

**Francesconi:** Other than this issue of seismic, which apparently there was not consensus on, was there consensus on the other recommendations?

**O'Longaigh:** When you say consensus, what do you mean?

**Francesconi:** The group.

**O'Longaigh:** Pardon?

**Francesconi:** Was there a majority/minority report?

**O'Longaigh:** It followed the rules of democracy. We went through the items one by one. Studied each item. Like for instance the postearthquake thing. Spent two sessions, three sessions working on that item. They might revisit three sessions later to fine-tune what they did. Not 100% of everybody agreed on every single issue, but there was broad consensus, I believe, amongst the group that the final product represents the aspirations of the task force, that individuals may not like every single line in it, they may have -- oh, I wish that was better, but the whole document, they're all in agreement that this whole document is a fine document for balancing life safety concerns and economic vitality. And the task force members will address that here. That concludes my presentation.

**Katz:** Why don't we put the lights on and hear from --

**O'Longaigh:** Thank you.

**Leonard:** Could I ask a question before we move from David?

**O'Longaigh:** Yes.

**Leonard:** So we can focus in on what some of the concerns might be, the current trigger is \$15 a square foot above which the seismic upgrades kick in.

**O'Longaigh:** For unreinforced masonry buildings.

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**Leonard:** We're changing that in the proposal to 40 and 30. As I recall in our meeting when we talked about, given that this \$15 is 10 years old, what would it have been had we just applied inflation to it? That figure was about \$23 or \$24?

**O'Longaigh:** Correct.

**Leonard:** So why didn't you just use that figure versus jumping all the way up to \$30 and \$40?

**O'Longaigh:** Although inflation does reflect the 24 number, there were other factors, such as the number was too low to begin with. Everybody argued that \$15 a square foot was the first attempt, and the same members who on the first and then with the second bought into the fact that maybe \$15 was too low to begin with, and \$30, based on the market research we did, on the cost of remodeling, dividing the two categories, minor and major, \$30 was the number that stuck out, dividing minor from major.

**Leonard:** And I understand why some would argue that it was too low to begin with because it affects their cost.

**O'Longaigh:** Yes.

**Leonard:** I'm curious, did we look at actual development to see if it did in fact impact any buildings from being utilized? Are there any buildings that are currently vacant because it was too low and they did not economically want to invest the money that it was required to invest to allow the building to be used?

**O'Longaigh:** At all times we were constantly reminded of the cost of construction by those members of the task force who were involved in that field and who regularly have to pencil out construction projects.

**Leonard:** So we're real focused here, I appreciate that, but i'm trying to find the point at which we can push the number up as high as we can, allow the renovation to occur, but also assure that people that are using the building are safe from collapse.

**O'Longaigh:** Yes. This number, this \$30 a square foot, was a number that allows people to constantly upgrade their building regarding new windows or moving a new tenant in, where the old tenant moved out, where previously they couldn't do without doing an upgrade. Didn't seem to be reasonable that --

**Leonard:** I understand that, but the point is can we point to particular projects, where this building did not -- is not being utilized, or another example would be, which I had earlier with a friend of mine, is buildings are occupied anyway, we just won't do the plumbing upgrade and the electrical upgrade, so there may be fire danger that is greater than it what would it be if we're allowed to do the upgrade.

**O'Longaigh:** There are a number of buildings in downtown Portland, multistory, unreinforced masonry, they have the upper levels abandoned, they're only using the lower level because of this \$15 a square feet.

**Leonard:** What will the \$30 do, or in those cases \$25? What will those cause to have happen which isn't happening?

**O'Longaigh:** It will cause those buildings to be used more than they are now, will cause those buildings not to be neglected and deteriorated to the point where they have to become a hazard, a life safety hazard in themselves because they're poorly maintained. This \$30 a square foot, not only reflects to minor tenants, but also maintaining your building, to keep its current integrity so it doesn't deteriorate and become a hazard within itself. So the \$15 was counterproductive, because it was trying to protect buildings, but at the same time allowing them to deteriorate.

Counterproductive.

**Leonard:** I understand.

**O'Longaigh:** The \$30 affords upkeep.

**Katz:** David, let's move on.

**Francesconi:** You're very good.

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**Katz:** He's very good.

**Leonard:** This is a good discussion.

**Katz:** He previewed some of this for me, and I was very impressed. Not that I had the answer, but -  
-

**Leonard:** We're also going to hear, just as good a discussion, on the other way.

**Katz:** I need to know how many people are going to be testifying.

\*\*\*\*\*: There's the three of us, plus --

**Katz:** Ok. There are people --

\*\*\*\*\*: Clarify what you're asking.

**Katz:** On this, on the seismic. And the demolition review. Ok. Are there people here from out of town? From Washington? San Francisco.

**Leonard:** California, you don't get to testify.

**Katz:** We may allow them to testify first, because I don't think they're going to come back.

[laughter] after we get through with all of this. Go ahead, sir.

**Donald Eggleston, President Sera Architects, Chair, Rehabilitation Task Force:** Thank you. I'm Donald Eggleston, the chair of the rehabilitation task force that David has presented the information to you on. And I was also the chair of the original task force on seismic upgrade for renovating the existing buildings that started 10 years ago. We met for three years. 10 years ago we met, as David said, 16 months on this go round. Before I proceed, I would like to thank Ray, David, and Lori, and Commissioner Leonard, for their strong support they've given the committee as we've gone through this. As David said, there's quite a mix of committee members on the task force.

Their names are listed in the report you have. But I think what's important to recognize, that this was a broad range of people, a broad group of people from the building owners and managers association to developers, to Portland State University, Portland Public Schools, outside structural engineers, not part of B.D.S., the people in the business every day, which you'll hear from today. Quite a range and diversity. We looked at existing buildings in the city. We did not differentiate between historic buildings or non-historic buildings. We a lot at the existing building stock in this city and how it affects the citizens of this city of Portland. We also took very carefully to heart the fact that we would not do anything that would put people in jeopardy. We felt it very important not to go below the life safety standards that you can read about and go through the background on that are in these documents that David referred to from the FEMA 178 to the ASCE 31. Our feeling was it's very important that people in a renovated people feel that the building not collapse on them, that they can get out of the building and they're not hurt by debris falling off the -- all on to them once they're out of the building. That's the definition of the life safety standard that we all used. So and as David said, being a practicing architect, most of the cities in the state of Oregon look to what the city of Portland does for the seismic code, because you have the largest inventory of existing buildings. As David said, unreinforced masonry buildings are only 10% of the building stock that you have in the city. We were trying to strike a building of developing -- allowing developing of these buildings, encouraging development of the buildings, a building that's going to house people, even though it may be brought up to life safety standards, still better than not having the building developed or empty.

**Francesconi:** If I could summarize that, you'd put your architectural stamp on one of these buildings after rehabilitated with saying their safe?

**Eggleston:** Yes. Not only that, we're moving our offices into a new building where we've paid the money to have our building upgraded.

**Leonard:** Which floor will you be on?

**Eggleston:** First floor in a three-story building. But I think it's important to realize that of the task force, as David said, four of the people served on the original task force, so we had very good continuity, not only from the first task force looking at the seismic reinforcement from the existing

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buildings, but people that took a look at what they could do at the state level on this issue. So we had a good, broad range of consensus. As david said, when these issues were brought up, we would put them to a vote, much like you do here. We did it when we had a quorum. If we didn't are a quorum, we'd delay that discussion, go back to that discussion when we had a full group, we would go through the discussion, ask for motions, ask for seconds, and literally take a vote. And as david said, some thing just barely passed, other things were a complete consensus. So I think the document you have represents a fair and balanced approach to preserving the existing buildings, using the seismic upgrade that we've put forth.

**Katz:** Thank you.

**Eggleston:** With that, i'll turn it over to david bugney who is a practicing structural engineer, so he deals with these issues every day.

**David Bugny (spelling?):** Thank you. My name is dave bugny. As don mentioned, i'm currently a member of the rehabilitation code task force and a structural engineer. I have my own practice. Was past than of the structural engineers association of Oregon and past lecturer of structural dynamics and acres engineer at Portland state. Also a member of the state seismic task force that convened from 1995 to 1997 where we dealt with these issues on a statewide basis. And I think the comments below reflect those of my own, as well as mr. Grant davis, who is also a structural engineer, couldn't be here this afternoon, but he's also vice-chair of this task force and also a member of the interim task force that drafted the guidelines in 1995. And I think that, you know, given some of the concerns that have been mentioned, you know, to be quite honest, I did share some of those concerns myself, but I think that when you look at the overall, the big picture, of all the things that -- all the variables that go into this public policy decision-making, that when you look at all that, I think that the recommendations that we came up with were good. You asked, don, about whether he would put his stamp on that building, you know, the structural engineer has to put their stamp on that building as well. They're the ones designing the upgrades, and he would do that. Otherwise I wouldn't have voted for these recommendations. And I also believe that, you know, again, despite some of these concerns, that I want to emphasize this point. Portland is a model for seismic rehabilitation in the united states. I did my own research back in the -- when I was involved on the state task force. And then I also updated myself when I was appointed to this task force. And considering our seismic zone, we're not san francisco or los angeles, we're Portland, same seismic zone as seattle. We're less seismic zone than salt lake city, and you heard from david that they don't even have any seismic rehabilitation requirements. So when you look at the big picture of the, you know, the western united states, I still think we're a city to look at as far as what we can do to try to make these buildings safer. And I think, also believe, that the requirements that we are putting forth to you are -- they've made things clear for myself, as well as folks in the building division. And I look forward to working with them more than I did the previous set of recommendations. And I believe the building owners will also look forward to them, and also believe this will give us, as dave mentioned, a larger number of buildings that are seismically rehabilitated. That's all I wanted to say.

**Leonard:** Thanks. I don't know if you remember this, but I was also a member of that state seismic task force. I read a lot of materials and attend aid couple with senator courtney, also a member. And part of my concern actually arises from those materials and things I learned at that time with respect to the vulnerability of Oregon in particular and specifically western Oregon to a seismic event, and I recall hearing that it isn't a matter of if, it's a matter of when we get hit by an earthquake that will be a devastating magnitude, that we haven't experienced in some, as I remember, 300-plus years in this region. I don't know what utah's vulnerability is in terms of fault lines, but I do remember distinctly looking at a particular fault line, called the west hills fault line, that runs along the west hills and comes through Portland state and goes right very near where we're sitting here, crosses the willamette river to southeast Portland. And so these are not theoretical

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issues, and I appreciate the gravity of what you're doing -- of what you recommended, because I think -- I think if not today, and if not in the next year, at some point the importance of the decisions we're making will be translated into buildings that stand versus ones that don't after an event.

**Bugny:** I think one thing, the reason why I mentioned salt lake city, is that as opposed to communities around san francisco or los angeles that have been seismically active on a periodic basis forever, salt lake city and Portland are very similar in their seismic zones have been ratcheted up in the relatively recent history, the past 10, 15 years. So they have a set of buildings, like us, that have not undergone strong ground motion, so they haven't weeded out the unfortunate buildings, and they've also have not designed a lot of their older buildings to levels that for example san francisco and los angeles have say since 1933. So I consider the fact that we haven't had a demonstrable history of seismic activities. That is you can't look at a building or area in Portland and say, yeah, you've had recent earthquakes, same thing with salt lake city, but yet we took the proactive step, as well as the state of Oregon wanting to do the same thing, to try to deal with the fact that, you say, from a seismological standpoint, there's a strong chance something will happen. So I think that given, like I say, the full body of all the variables we have to deal with in this equation, that i'm comfortable with the recommendations that have been put forward.

**Katz:** Let me try -- I rate to surprise people. It is now 3:19. I have a couple of members who have engagements. The testimony's going to go on for a long time. So I want you to think about and then council may, when we get to that point, we finish this testimony on seismic code, and we open up with the testimony -- with staff background on demolition review, and then we invite our two out-of-town guests. Let's see what time that is. We probably have to carry this, the testimony, over to the next week.

**Kelley:** The 6th.

**Katz:** So this will carry over probably another two weeks. If that's --

**Francesconi:** Thank you. That helps me.

**Katz:** I know people are busy now, and this conversation has been very good. Usually we don't go into that kind of depth, but I think the issue is very important. Is that all right with all of you?

**Saltzman:** Yeah.

**Katz:** Ok. Go ahead, art. They're happy.

**\*\*\*\*\*:** Thank you. My name is art demuro --

**Katz:** Wait. Those on our side need to be back. [laughter]

**Saltzman:** Our side?

**Katz:** In two weeks.

**Saltzman:** You mean over here?

**Katz:** No, no. Over there. Some of you won't be missed. All right, art, go ahead.

**Art Demuro:** Art demuro, venerable group, northwest fifth. I was a committee member on the rehabilitation task force with two responsibilities. Number one, to represent the interests of the private development community by seeking changes that facilitate the development process, and two as one of two people who sat on both this task force and the advisory committee, I sought to ensure that code changes contributed to the hrac incentive package. My job was to provide the group feedback as to the real life impacts of current seismic codes and proposed changes. I told stories of how our firm attempted to purchase for redevelopment an 80,000-square-foot national register eligible industrial building in the central east side, the ford building at southeast 11th and division, a wonderful building, but could not make it pencilled due to seismic code triggers, or a small historic theater in st. Johns on lombard that we wanted to convert from a long, vacant storefront into a restaurant and work lofts, but the seismic triggers would have forced an upgrade whose costs couldn't be absorbed with a fair investment return because the current market rates in downtown st. Johns are not high enough. We could afford to do full seismic upgrades at northwest 12th and glisan. Seismic upgrade triggers, like \$15 a square foot for improvements, occupancies

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increase, and changes of views in excess of 15%, simply put have been deal killers in countless projects for us. I cannot spend \$10 to \$30 a square foot for a seismic upgrade and generate a financable return outside of either a high-end market or without subsidy. Let me be blunt. Current triggers or token changes will continue the appearance of promoting public safety when in fact they are impenetrable barriers to substantial improvement to hundreds of buildings. The impact of the status quo could be the continued unimprovement and decay of these relics. Where is the virtue and benefit in retaining regulations that in the majority of instances can't be financially met? So what is the impact of the proposed code changes? We recently purchased an industrial building at northeast 11th and flanders called the northwest fence building, a 20,000-square-foot beautiful bricker with a 13,000-square-foot parking lot. It's housed a bakery equipment company for decades. The building has been deteriorating without additional capital investment and hosted no more than half a dozen employees. The seismic code changes in combination with proposed zoning amendments would allow us to invest over a million dollars in windows, tuck pointing, a.d.a. Accessibility, new building systems and landscaping to create 11 new affordable spaces for loft offices and mercantile uses. With the potential employment of over 150, there by yielding vitality, investment, and public revenue. Another real life example is the jones cash store at first and southeast morrison, which we are buying, located in the central east side district. The impact of the seismic code change in this project is slightly different. Our proposed redevelopment there requires the replacement of clay tile window infills with new windows. This building used to be a cold storage building, similar to the wieden & kennedy building. The windows had been removed and replaced with clay tile. To remove those, that clay tile, replaced with windows, increases the lateral forces, which triggers a seismic upgrade, but instead an expensive upgrade, costing nearly half, would be allowed. Thus the project would be able to go forward. This project is a perfect example of how the code changes fulfill that balance of enabling redevelopment, yet do not forsake public safety responsibilities.

Thank you.

**Katz:** All right. Let's open it up very briefly to questions. Ok. I was teasing, I do want you to come back, but I want you to sit and listen to the staff report, and our two guests from out of Oregon, because if you do come back we're not going to do the reports all over again. We're just going to go into testimony. Let's open it up to public testimony. Oh, eric, sorry. Eric, come on up. Eric, don't look so serious. I know you're an engineer, but -- it's ok to disagree.

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

**Leonard:** I'm glad he is here, because he's raised some issues with me that kind of hit a chord with me. He's probably sorry he did now, because I -- I paid a lot of attention to the things he and his colleagues said, and I thought they were of grave import for the council to consider. So, eric, thank you.

**Katz:** Ok, eric, go ahead.

**Eric Thomas:** Hi. My name is eric thomas. I've been a practicing engineer in Portland, and i've used title 24.85 on both sides of the fence, meaning both as a consulting engineer in private practice and also as a code enforcement official. The majority of the changes that have been presented are much needed updates and clarifications. I cannot argue with that. Credit is due to the task force, the city staff, structural engineers of Oregon and others for the countless hours that they spent doing the work that they did for the betterment of the city of Portland. However, someone who understands how buildings will perform in earthquakes and the potential loss of life that can result, I have two concerns. The first concern is that the relaxed seismic upgrade triggers will reduce the number of buildings required to be strengthened. As a result, more unsuspecting building occupants will be at an increased seismic risk and therefore more lives potentially could be lost if we have an earthquake of the size and magnitude and duration as provided -- as predicted by current research. In a time when earthquake codes have been increasing, it doesn't make sense in my opinion to lower the bar in Portland, especially since Portland presently lags behind other northwest

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cities, as indicated in the task force report. My second concern was the task force chose not to include plain or lightly reinforced concrete buildings in with the definition for unreinforced masonry buildings, despite advice from the independent expert that the city hired to do an earthquake risk assessment for the task force, where he said that his recommendations for u.r.m. Also pertain to unreinforced concrete or plain concrete buildings. Past earthquakes have shown that these types of buildings will perform poorly, like unreinforced masonry, and there are many of these types of buildings in Portland. As a -- one thing I want to clarify, as stated, i'm not representing the opinion of b.d.s., i'm representing the majority opinion of the licensed structural engineers within the bureau. And I would encourage you to consider our concerns. Thank you.

**Leonard:** And I would just say we've had a real good discussion about the first two amendments I proposed. This last point that eric make on the seismic requirements for plain or lightly reinforced concrete buildings between now and our next hearing, I am going to hear more about the rationale with respect to the task force's recommendation as to why those weren't included. While I think excellent arguments have been made with respect to the first two amendments I proposed, quite frankly, I haven't quite gotten there on this third issue that eric has raised.

**Katz:** Do you want that to come back here, or do you want to do that on your own?

**Leonard:** I'll leave that up to you, Mayor. I don't know if everyone else shares my concern. If we have good solid technical advice that recommended that these buildings included in the upgrades, and for some other reason the task force didn't include them, they've got to explain why, and if not, put them back in the recommendations.

**Saltzman:** I'd like to hear the explanation next time.

**Katz:** Ok.

**Saltzman:** Could you quickly give us a few examples of -- lightly reinforced or plain concrete buildings? So we can visualize what we're talking about?

**Thomas:** A lot of the Portland public schools built in the 1940's, for instance.

**Saltzman:** The tilt-up construction?

**Thomas:** No. When people stopped using unreinforced masonry, they switched to concrete because they thought it was better. And it was, but they didn't put any reinforcing in it, therefore it's susceptible to brittle failure because there's no reinforcement.

**Katz:** We'll come back and have further conversation on that. Thanks.

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

**Katz:** Go ahead, bob. It's an irish trick. [laughter]

**Robert Ball:** I have a question. This is testimony just about the seismic part at this time?

**Katz:** You'll have to come back on the other.

**Ball:** Ok. My name is robert ball, my address is 1001 northwest 14th avenue. Specifically i'll just address the seismic issue. I will say beforehand that I am in support of the changes that the task force has recommended to the code. So I just want to state that up front. We'll talk about the reasons when we come back. But with respect to the seismic upgrades, I can tell you from personal experience that has done renovations on buildings that require the full standard of seismic upgrades, I have also owned and renovated buildings that are lightly reinforced, one I did at northwest 20th and flanders street called the embassy building, which I could not have done or could not have rehabilitated that building if it were not for the fact that it was lightly reinforced and I didn't actually have to go in and meet all of the standards. I can tell you from very direct experience I also own an apartment building in northwest Portland and have owned several that frankly because of the current rules and regulations, there's work that i've wanted to do on the buildings, electrical, plumbing, because of the threshold levels I was not able to undertake because of that. Frankly, the standard of living for the tenants in those buildings becomes less when owners can't do that. So I think -- I shared the same concern as commissioner leonard, how do you balance that. But the reality is, I just try to go to a practical level, that those apartment buildings that I have owned and

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still own have people in them now, they are unreinforced, and they're right now subject to collapse or calamity if an earthquake occurs. So we have to balance it and realize people are there. After listening to today's discussion, I wasn't prepared for this seismic discussion, but my recommendation would be to look at every time I rent an apartment to somebody I have to give them a pamphlet that says that you may have lead-based paint in your apartment building. One of the issues may be just what we talked about disclosure of that fact to the -- if they're in an unreinforced masonry building, the city require us to disclose that. So they can make the choice whether they want to be in that building or not. But I can say that it has stopped me from doing renovations, projects from happening. I have done very substantial ones where I was -- in the pearl district where the sales price was justify me doing that, but there's many others we couldn't do. So I would offer that we look at some alternatives, maybe disclosure alternatives, and think about -- or maybe the change of use triggers. If we do have an industrial building we rah changing the use, increasing the density, that may be a point where we back off of those exceptions. But where we have existing residential buildings that people are there anyway, the way I will get it, i'd like to provide a good standard of living in those other areas that can be life safety issues as well, electrical systems, things like that that could end up being fire hazards. The reality is the buildings will just sit empty if we don't do some sort of upgrades or upkeep.

**Katz:** Thank you. Think about the disclosure notion.

**Michael Hagerty:** I'm michael hagerty, 320 southwest stark. I'm currently a principal in the structural engineering firm of james j. Pearson incorporated. I participated in the development of the original seismic design requirements for existing buildings for the city in the mid-1990's and those requirements in chapter 24 serve the city well, resulting in seismic improvements to many historic buildings, including the building we're in. However, there have been changes in seismic engineering as well as the financial climate for improving existing buildings. The effort to improve existing buildings is affected by various interests that are often in conflict. There's the desire to preserve strike buildings, there's a public need to occupy safe buildings, there's an owner's desire to have an economically viable investment, there's a public's need to maintain, improve the city's economic health by retaining as well as attracting new small businesses that frequently occupy existing buildings. Buildings become improved only when these interests are balanced. If regulations make it impossible to rehab buildings, they remain as hazards and there are -- they're far -- there are far usable buildings in the city. The task force met frequently as david said, and I was allowed to participate as a guest frequently, and I reviewed all the proposed changes. While i'm not in agreement with all of them, particularly lightly reinforced or unreinforced concrete, I feel in balance they're reasonable and continue to serve the public good. The task force object was to strike a balance between public safety, historic preservation and the financial reality of building seismic improvements. While adhering to public standards they attempted to ease restrictions where they could in order to promote building rehabilitation. Adoption of this code amendment will improve Portland's historic preservation efforts and help make seismic building renovation feasible. I urge you to pass it.

**Katz:** Thank you.

**John Czarnecki:** Good afternoon, mayor Katz and city commissioners. I'm john, 2742 northwest xavier street in Portland. I'm chair of the Portland historic landmarks commission. I'm here to speak in favor of the proposed revisions of the seismic requirements for existing buildings. The landmarks commissioner enthusiastically supports the proposed revisions. By themselves these revisions support the reuse of existing resources which is the first rule of recycling. As an essential part of the resource code package, however, they will help Portland maintain its status as a livable city by allowing owners to see historic landmarks and districts as assets and integrate them into projects early on in the planning process. The landmarks commission has been briefed on and reviewed the proposed revisions on several occasions. The two land developers on the commission



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are familiar with the impact of seismic requirements on older structures. The two architects are generally familiar with the technical intent of the code. The four other members also have long experience with historic structures and they, like all of us, are very conscious of public safety. One of our number has been a member of the rehabilitation code task force since its formation and I as the commission chair have been involved in individual discussions with the b.d.s. Structural engineers leading the effort toward reform. The task force itself has included b.d.s. Engineers, staff from the state building codes division, p.d.c., the Portland public schools and Portland state university as well as professional representatives from the private sector. In the end, we believe we have a balanced, well considered package that protects public safety while encouraging the rehabilitation of older structures. It's a win-win situation. Thank you very much.

**Katz:** Thank you.

**James Bella:** My name is James Bella, 3412 Southeast 160th, president and founder of Oregon earthquake awareness. I urge you not to approve this task force message. Isaac Asimov wrote a story about a preacher who believed in fire and brimstone. So this preacher is up in the pulpit and says to his congregation, what a fearful thing it is, every member of this congregation must sooner or later die. He looked around and got a somber response, like he was expecting, except for a fellow, he had a grin on his face. Kind of like Art Demuro. So he said once again -- [laughter] every member of this congregation must sooner or later die. And still a grin on this guy's face. And this irritated him and made him angry. So he says to the fellow, what do you find so amusing about this about -- about this statement? He said, I'm not amused, I'm relieved, I'm not a member of this congregation. This man heard what he wanted to hear and we're the same way. We only hear and we believe what we want to believe and hear. Task force obviously believes rather insists it is not a member of the earthquake congregation. Politics is what people want. This revision to chapter 2485 interim seismic design requirements for existing buildings should not and must not be approved. Confucius says to see what is right and not to do it is lack of courage. Joe Paterno says we need people with the courage of their conviction who's will influence their peer who's haven't the courage to have any convictions. Oregon earthquake awareness says, so-to-see what is right and not to do it is Portland task force. James says, to die in a killer building is a bummer. After the Northridge earthquake the people who worked in a building that had collapsed were invited to a meeting by the owner's engineer. They wanted to do the right thing for their employees. After the presentation, the building's occupants only had one question -- why were we allowed to be in a building that if the earthquake happened four hours later, none of us would be here? These seismic design requirements are a relief to building owners who want to continue changing and remodeling unsafe buildings and passing real risks on to the rest of us, our children and families. These buildings are killer buildings, they're seismic time bombs. True courage consists in knowing what to fear. Much of the language in these requirements is do nothing. Problem with doing nothing is you never know when you're through. Why are we and 149 more of us more than are in this room now -- right now, being allowed to be in a building that if an earthquake happened now, none of us would be here? To see what is right and not to do it is lack of courage. It need not -- it must not be our public policy. I know not what course others may take, but as for me, give me earthquake resistance or give me death.

**Katz:** Thank you.

**John Tess:** Mayor Katz, city commissioners, my name is John Tess, Heritage Consulting Group, 1120 Northwest Northrup Street. Like Don, on the original -- I sat on the governor's seismic task force and was on the most recent seismic task force. Rather than go over the -- repeat a lot of testimony you've heard already, I just want to say there was a very high level of professional professions -- professionals and experience on the committees, and the committees, all of these committees represent a broad representation, and we were hear from Mr. Bella many, many times. I would just echo what Mr. Demuro had to say and Mr. Ball in terms of these incentives that are

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being proposed, and I would hope -- wholeheartedly recommend that you in fact adopt the recommendations as set forth. Other than that, i'll let someone else talk and submit my testimony later. Thank you.

**Katz:** Thank you.

**Wade Younie:** I'm wade younie, a practicing structural engineer here in Portland. I live at 3540 southwest 86th, Portland. And i've been involved in this -- the existing building issue since -- into the mid-80's. I've currently am the chairman of the structural engineers of Oregon, a vintage building committee, which has worked in conjunction with the development of these revised chapter 2485 revisions. The revisions to the more liberal triggers are dangerous, and need to be reconsidered. All the buildings that are renovated for extended life need some sort of seismic upgrade. I see many extremely dangerous buildings that slip through the cracks and are completely upgraded without any seismic work at all. And those are the ones that worry me the worst. And it's the 30% trigger is exactly the kind of issue that troubles me the worst. We were looking at a building recently, and the developer was trying to get his square footage down to the 30% so he could avoid doing any work. And he had one of the most dangerous buildings that i've ever seen. So it's not the right direction to go. Full code compliance is not practical, and it's generally not necessary. I mean -- so that's a very important fact. So what I suggest, Portland really needs a smart code. And we were talking about that earlier. That was good. So what is a smart code? Well, to me, a smart code is a process that relies on the s.c. To identify real seismic hazards and using the a.s.c. 31 that they spoke about earlier, developing a plan to mitigate hazards. Just the hazards. So basically what you would do is just fix the worst problems and tailor the upgrades to the degree of the project, the extent of the project.

**Katz:** Thank you. Your time is up.

**Younie:** Pardon me?

**Katz:** Your time is up.

**Francesconi:** Do you have a lot more? Do you want to summarize? Is that all right, mayor?

**Younie:** I've got a few more things. That's all right. Sorry. It's not my job to run this. Sorry, mayor.

**Katz:** Go ahead. I'm trying to get through all of this. Since we have a little bit of time, if there's something the council members want to ask him, we can proceed. Go ahead. Anybody else want to testify? We will proceed with planning staff report, since --

**Leonard:** We have one hand raised. Why don't you come forward.

**\*\*\*\*\*:** I'm sorry.

**Robin White:** Good morning, madam chair and members of the commission. I'm robin white. I live at 0308 southwest montgomery. I was a member of the first task force, i'm a member of the Oregon state seismic advisory committee, and then also a member of the second task force, and i'd like to add my voice to the other members of the task force urging you to support the proposal as it came out of the task force. It's been mentioned I think that the first time around, the first task force we did in fact pull numbers on out of the sky. We had no experience to go on, but that was a totally different situation from this time around. We had a lot better valid research, we did in fact go back to the report, which was prepared for us the first tie. We looked at the size misty of the city and we had the experience of the past few years of having the first seismic stringers that we had. And so we made our decisions based on valid research. To a person, everybody on that task force is concerned about the safety of the people of the city of Portland. And I think if we were in a perfect world we'd all want to wave our wand and say every building would be brought up to code or even better. The problem is, we can't do that. We're not in a perfect world and we did have to balance the economics of the buildings, the impacts of buildings that can't afford to be upgraded, and just standing there vacant, and then the benefit that we've achieved already. And so we feel that we did come up with a good compromise, come up with a good program. And so the -- to the amendments,

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i'd just like to voice some concern that said we have been meeting for 16 months on a regular basis.

We've not been meeting in a vacuum. We've had two public open houses for people to come in and provide input, and i'm concerned that at the last minute the work of the task force can be overthrown without having it brought or discussed to -- by the task force. To the specifics of the proposed amendments, i'd just like to point out that the horner report, we focused on the u.r.m. Building, which is what we were told were the most vulnerable buildings. I don't remember the lightly enforced concrete buildings and in checking with don, he did not remember that, but we thought that maybe the possibility or the problem was that the city of Portland really doesn't have a good definition of lightly reinforced buildings. And so I would be concerned about automatically just adding that in. It does bring in another group of buildings that didn't -- that weren't impacted and didn't have the chance for input on the impact of their buildings if we in fact add the lightly reinforced concrete buildings. So I just urge you to support the task force proposal.

**Katz:** We will have further conversation on the lightly reinforced.

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

**Katz:** Let's come on up and begin the staff report on demolition review.

**Kelley:** About how much time do we have?

**Katz:** Since we're only going to take two testifiers after the staff report --

**Kelley:** One has said they're available to come back on the 6th.

**Katz:** They are?

**Kelley:** So we have one testifier affiliated with the national trust for historic preservation who's flown up from san francisco, I think we'd want to hear him today. I guess --

**Katz:** We will.

**Kelley:** The choice would be don mazziotti had to leave, and will be back on the sixth, so we've checked his calendar. He'll make his presentation first thing on october 6 meeting, which is at 10:15, a.m. Here I guess the question for you is would you like staff proposal -- staff presentation from planning staff now or on the 6th? You'd want it now?

**Katz:** Yeah, because i'm not sure how many people are going to be able to be here on the 6th. They came here to hear the staff report, it's important that they're educated on the new answers and the facts.

**Kelley:** Let me clarify that in terms of the staff presentation, we'll do two out of three things. Two things we'll cover nicholas on my right will do the presentation, what the demolition review provision entails and what the zoning incentives are that we have on the table. The third issue which are the financial incentives, largely through the Portland development commission, that will be presented on the morning of the 6th when don can come back.

**Katz:** Fine. Ok.

**Nicholas Starin, Planning Bureau:** Good afternoon. Nicholas starin with the Portland planning bureau. I'm here to talk about the demolition review proposal and the zoning incentives. There's a fair amount of detail in this proposal. Forgive me as I click through this, because I know we're pressed for time. I did want to observe before I began that despite the fact it is sort after comply indicated proposal from another perspective, it's actually pretty simple. There's two things we're proposing, one is to establish a meaningful public review process before demolition of irreplaceable historic buildings in the city, and the second is introducing a meaningful package of incentives that help building owners rehabilitate and preserve their structures. I'm going to cover some brief background before I get to the proposals. As I said, as gil alluded to, at the end of the first phase of this project, in 2002, council directed staff to go back and do two things. Extend demolition review to protect more resources, and with the explicit direction that it include the authority to deny demolition under appropriate circumstances, and to develop more incentives to help preserve buildings in the city. Age advisory group was convened that had members of the preservation community and the development community and building owners on it. It met five times. They

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provided advice to staff as we formulated these recommendations, and those recommendation were contained in a status report that was presented to the body in january of 2003. We've done a number of other outreach steps. We've briefed many land marks commission, the planning commission, we've held open houses, the status report that I mentioned, public hearing here on january of 2003, we've met with neighborhood associations, the coalitions, the city wide land use chairs, business associations, the american institute of architects, historic resources committee, and others interested stakeholders. We sent out over -- we sent three separate notices to over 3,000 property owners, and interested parties, and the staff report was released january -- july 16 of this year. And we've continued to taken put on this, and in fact in recent weeks we've been responding to a number of comments and incorporated some of those comments, some suggestions into the documents before you. Real quickly, the historic designations are bewildering. There's a lot of them. I think what we need to focus on today is just two distinctions. One, and that's listing in the national register, you can be individually listed in the national register as a structure, or a historic district can be listed on the national register. So those are the two that are most -- two designations most applicable to the review, because that's where we're proposing to apply it. This map shows where they are, I should say, go back -- there's -- a little bit less than 500 individually listed structures, and approximately 1400 contributing structures in the city's 10 historic districts. This shows where they are, not surprisingly in the older parts of the city in downtown and in -- along some of the main streets. The blue dots are individually listed structures, and the purple are the historic districts. We also have local designations and the zoning incentives will apply, also apply to available to local landmarks. However, the proposal is not extend demolition review to the locally designated research, and that's a map of the local resources. That's where they are combined, you can see it's an additive process, a property can have more than one designation. Demolition review. The existing regulations that we're amending have three different pieces to it. One is demolition delay review, that's a nondiscretionary 120-day delay before the demolition of a designated historic resource. There's no authority to deny or condition approval of demolition and that currently applies to locally designated resource and properties in the city's historic resources inventory. Demolition delay extension review, which was adopted as part of the last phase of this project, applies to again individually listed properties and contributing properties and historic -- in historic districts. That is a type 3 land use review before the landmarks commission, makes a decision, and if that body can extend the 120 days delay up to maximum of 300 days. If it finds that that delay could result in relocation of the resource. Again, there's no authority to deny or condition approval of the --

**Saltzman:** That adds 180 days on top of the 120?

**Starin:** That's correct. Again, there's no authority to deny or condition approval, so under these reviews at the end of the delay period, either 120 days or 300 or someplace in between, the building -- the demolition permit will be issued. There's also an existing demolition review process that the mayor was -- spoke about, the clerical error that basically resulted in applying only to properties that have a covenant with the city. That is a type three review, again, with a landmarks commission hearing and final decision. This review there is the authority to deny or condition approval of demolition, and the approval criteria speak to relocation opportunities and viable economic beneficial use and economic hazard standard. This is the one property in the city --

**Katz:** One property.

**Starin:** This is the clarence moulton house. They signed an agreement with the city, so that's protected. What are we trying to do, what are we proposing to change? Two things. We're proposing to extend demolition review to cover more than one property. Specifically in individually listed national register properties and contributing resource and historic districts listed in the register. We're also proposing to amend the approval criteria and clarify them and provide two sort of approval paths whereby a demolition permit could be obtained. And one speaks to

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economic hardship and the other speaks to balancing public policies. So the first thing we would do is get rid of demolition delay extension review, because we wouldn't need it anymore because those properties would be covered by demolition review. How many properties are affected, approximately 1800. There's been some discussion about thousands of buildings being affected by this, and that's just simply not true. It's approximately 1800 buildings would be subject to demolition review, yes, there might be additional properties designated, in fact we hope that occurs, it would be great. And they would have of course the property owners would have opportunity to consent or not for designation, so they would know what they're getting into. Where the affected properties? It's the same map. As before. I just wanted to point out what plots are not affected. Particularly local landmarks and as well as noncontributing properties in historic districts. I just want to be clear about that. Only contributing properties. How would demolition review work? We've created a new type 4 land use procedure, it's largely the same as a type 3 procedure, the main difference is that city council is the review body and will make the final decision.

**Francesconi:** Why -- does that mean all the evidence and everything is right here in front of us?

**Starin:** Yeah.

**Francesconi:** And the appeals from us? If people don't like our decision, is there any appeal?

**Starin:** They can appeal to land use board of appeals.

**Francesconi:** Why isn't there a body that hears the record, develops the evidence, sends it to us, flushes it out. Wouldn't that be a more efficient way to do things?

**Starin:** Yeah. That's basically my next slide. I'll explain the thinking behind that.

**Saltzman:** Didn't we give you direction in 2003 to do it this way?

**Starin:** I believe so.

**Francesconi:** Maybe you can answer why we did that.

**Kelley:** The staff will prepare their usual staff report and they will seek the advice of the landmarks commission, and there will be a public meeting at the landmarks commission in which the public will be allowed to testify, and landmarks commission may make a recommendation to this body, however, they're not a decision-making body in this case. The sole decision rests with this body. Why city council is the decision body?

**Francesconi:** Yeah, why are we doing it that way?

**Starin:** I briefly mentioned, there's two raw approval criteria. One that is -- talks about economic hardship, the other is a balancing of public policies as embody in the comprehensive plan. And it was felt that this -- this body was the most appropriate body to weigh the full array of public policies in making this decision. And we recognize landmarks commission has expertise and historic preservation and urban design issues, that's why we're seeking their direction. The other reason that we wanted to go directly to a public hearing here is that we have the 120-day rule for a final decision, and we felt it was going to be pushing it to enable -- it to require actually two hearings.

**Kelley:** Can I take a moment to explain that? Commissioner Francesconi, obviously the 120-day rule could be satisfied by having a lower body make a decision that's appealable. But I think we look to the council to be the balancing, in other words, to ascent to a hearing officer, a case where you're weighing different policy one against the other in terms of demolition without sort of bright line criteria. That's a decision that's really much better put in front of a deliberative body like yourselves. So that's --

**Francesconi:** When we amend the comprehensive code, you know, there's comprehensive policy -- there's conflicting policy that we have a hearings officer that recommends things to us, then i'm thinking of our experience on piac, where we on police review cases, where we were the body, didn't work all that well, so we delegated it to another group that would flush it out and then present it to us. It's my experience sometimes we work and sometimes we don't in that capacity.

**Kelley:** We can continue to discuss that issue.

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**Starin:** How will an application for a demolition permit be reviewed and how will it be obtained? There's two ways you can get approval. One is you can -- the argue that there's an economic hardship, so denying the permit creates economic hardship. And two, there's an argument you can make that -- you're proposing for the site meets other public policy purposes. So the economic hardship criterion reads that demolition permit will be approved if denial of the permit would effectively deprive the owner of all reasonable economic use of the site. Why do we choose this standard? Well, this has been extensively used in federal and other case law, we looked at other jurisdictions ordinances, it's some version of this standard is used, and many of them, it's also a standard that's used extensively in Portland's -- used in Portland's adjustment process. And we believe it allows the flexibility for a decision to be made whether a hardship exists based on the individual circumstances. There has been some input that we received that has asked for the standard to be rephrased as fair market return or reasonable economic return, and we don't believe that actually provides any more clarity than reasonable economic use. In fact it's less clarity because this is a standard that's been used in more cases. What is reasonable, what is fair, that -- we believe this standard allows the council to make that decision based on the circumstances. 5% fair, is 13% return fair, we really couldn't land on an actual return figure that would be reasonable over time. How will we determine -- how will staff and council make the decision whether there's an economic hardship? There's a fairly extensive list in the code of supplemental application materials, including opinions on structural soundness and financial information, and costs for -- cost estimates for rehabbing and demolition and so forth, and we did this after a fairly extensive research project looking at what other jurisdictions required and consulted with a national experts on preservation law, and we feel this list is a good representation -- all the things on this list will be useful in making this determination. But I did want to make a clarification based on some of the information we've heard in some of the letters, that the bureau of development services has the authority to waive application requirements if they're not needed for the review. So if an application is making a case using the public policy argument, many of these might not be relevant. Staff is not going to require them to turn this material in if it's not needed for the review. And there's a required preapp as part of the new type four procedure, and that would be the time where staff and the applicant could work out what materials are going to be needed. But we do need to list these in the code if we do want to require them at some point.

**Saltzman:** There was -- should I wait? On this item there was concern expressed by many about disclosing proprietary information, which I guess any a number of these fall into that category. The form of ownership of the property, why would that be -- maybe you can go through your presentation, but I would just flag, it seems like some of these, because it all is a public record.

**Starin:** That's correct, it's a public record. Any given piece of that, I would have to go back and look at the research, I have come late to this, this was already developed, but I think we vetted this with a number of people, and we could figure out why any one of those is important. But you're right, it is a concern, some of this is proprietary, but it is determined to be potentially helpful in making that determination. The second criteria -- criterion, it's an or, so you don't need to satisfy both of these conditions, you need to satisfy just one.

**Katz:** Thank you. Everybody hear this? It reads a demolition permit will be approved if demolition of the resource has been evaluated against and on balance as been found supportive of the goals and policies of the comprehensive plan and relevant area plans. What sort of factors are going to be taken into consideration when you're using that criterion? We have a nonexclusive list in the code where we try to provide some guidance where the council can consider the merits of demolition, perhaps it's an eyesore and it needs to go, or the merits of new development, either specifically proposed for this site, or ix; }lowed under the existing zoning. The area's desired character, is it expressed in plans or other documents, the merits of preserving the resource, taking into account the importance of preservation and the goals of the city, and as well as any proposed

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mitigation that the applicant might be proposing such as moving the building, or those things. What are the potential outcomes? Approval, still have to wait 120 days, mandated by the state, approval with conditions, or denial. So it's a -- what conditions might the council impose? Well, a wide array. It could be anything from, ok, you can demolish it, you just need to photographically record and it put a plaque out front. Or it could be, you're proposing to put affordable housing here, you can demolish this as long as you come in with at least 20 units --

**Katz:** I, joe smith, tore down an historic --

**Starin:** It would more likely be the recording the structure and the history associated with it. That probably wasn't a good choice. Another approval condition, an example would be if the applicant was using the public policy argument and was saying, in this -- here's a single family home on a big lot, it's zoned for high density residential, I really want to put in a lot of units of housing and the council decides that's the right thing to do. Well, the council could say we approve the demolition as long as you put in 20 units of housing. That's an example. And that's why we require issuance of a new building permit, either before or simultaneously with the demolition permit. Which does a number of things. It ensures a new use is ready to go, that we don't get parking lots and vacant lots in exchange for the loss of the resource, and it's the mechanism for ensuring those conditions of approval are carried out. Because if they come in with that building permit they could go through design review, do whatever, and get approval for a 10-unit housing, the condition of approval said there needs to be 20, so they wouldn't be issued that. How many demolition reviews do we expect? Not a whole lot. There have been seven or eight national registered building that's have been torn down in the past eight or nine years. At that rate, maybe one or two reviews a year.

**Katz:** There's some now that are in question.

**Starin:** That's right. Another point I want to make, is this proposal unique? We found at least 274 jurisdictions across the country that had the authority to deny a permit under appropriate circumstances, including major cities, seattle, sacramento, tucson --

**Katz:** Jacksonville, Oregon, medford.

**Starin:** I don't think medford. Before I get into the zoning incentives, there's a number of meaningful incentives out there, including the state special a -- tax assessment and the federal tax credit, which are representative -- represent a significant public investment in these buildings. We already have a fairly extensive array of zoning incentives that are available to historic buildings, including transfer of development rights, and additional density and residential zones, and I won't go through all of them, but we've used this to start from and we've added new ones and improved some of the existing ones. So the new incentives include expanded transfer and development rights, which allows unused development potential on a site with a landmark to be transferred someplace else, this allows -- helps relieve redevelopment pressure on that site and can potentially provide income. We've -- this is available in most of the multifamily zones and most of the commercial zones and the e.x. Zone, we've create add new tool, new provision to allow it in the e.g. 1 and 2 zones and the existing tool in the r.h. Zone. We have add the x zone as a potential receding site so that I know creases the number of sites that could potentially use the transferred development right. We've also created an exemption for minimum housing density requirements. This allows different sorts of redevelopment opportunities for instance with older commercial or institutional building that's are either nonconforming in residential zones or conditional uses. They could be redeveloped into residential using at lower than minimum densities, and for instance, this might have been a useful tool in the early stages of discussions with the shriners hospital. This was an issue. Increased parking ratio, maximum parking ratios. We're applying higher ratios -- parking is complicated in the central city. There's different ratios depending on what kind of billings. New buildings are allowed more parking. We're applying those higher growth parking ratios to national register properties, so they have -- so they basically gives them an opportunity to seek more creative solutions to parking problems, perhaps in shared parking or redevelopment situations. We're in -- I

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think a real significant incentive that we're proposing that art mentioned is allowing increased flexibility for office and retail uses in the central city industrial zones, which are currently in the central city industrial zones, you can only build -- you have 3,000 square feet of retail or office uses, we're increasingly up to 12,000 square feet by right for both of those use and creating a mechanism for more office uses if you go through a conditional use review.

**Katz:** Let me ask gil, will we get permission from metro to do that?

**Kelley:** Yeah. We're talking here about a fairly small inventory of buildings.

**Katz:** I know.

**Kelley:** In terms of this question and the housing density question, it's really a minimal effect.

**Starin:** And also the central city, I believe the central east side and lower albina are not on the regionally significant -- we're also removing some of the regulatory burdens associated with using these incentives. Some of them required submission of a renovation plan and an entire land use review, process historic preservation incentive review, we're removing that requirement so it will be easier for them to be used. An associated amendment that was passed through policy package three that we worked closely on with that staff involves increased flexibility for bed and breakfast facilities. And I think one of the most important incentives that we're proposing is extending the incentives, most of them, to contributing resource and historic districts currently, are only available to individual landmarks both local and national register. So this increases the number of resources that can access it, access incentives as well as provides a benefit to the population of building that's will be subject to demolition review. So in conclusion, our recommendation is you pass the ordinance that adopts the report in front of you, and amends title 33 to include a new demolition review process and new preservation incentives off-lease i'm --

**Katz:** I'm going to invite our guests up and i'm going to turn it back to the council to flag any issues we want to look at before we come back.

**Francesconi:** I'm going to have to leave, but I promise there's nothing to flag, but I promise to watch the tape, because this is very serious. I appreciate what you're doing, because we do need to preserve these buildings, so I appreciate it.

**Mike Buhler:** Good afternoon, mayor Katz, members of the council, thank you for allowing me the opportunity to testify this afternoon. My name is mike buhler, regional attorney with the western office of the national trust for historic preservation on behalf of the national trust, thank you for the opportunity to comment on the proposed historic resources code amendments. We commend mayor Katz and the city for taking the initiative to rethink preservation in Portland by engaging in a thoughtful inclusive process to develop a comprehensive preservation program that both protects and promotes the city's historic built environment. As you may know, in 2003, the national trust state and local policy department prepared a report for the Portland development commission providing an overview of local preservation incentives and regulation usa cross the country. With specific recommendations for increasing the effectiveness of the city's preservation program. The need is clear, as mentioned earlier by the mayor, since 1996, demolitions of historic resources in Portland have increased almost 30%. While over 500 national register properties in Portland enjoy tax relief under the state special assessment program, the city lacks substantive authority to extend the loss of its most significant historic resources on the register. We're gratified several of the trust reports key recommendations are reflected in the proposed amendments before you today. As recognized in the report, at the heart of a strong historic preservation ordinance is the pow tore deny not merely delay demolition permits for historic buildings, provided there are incentives and balancing approach incorporated in that. Major cities close to Portland such as seattle and tacoma, have long had demolition review advances -- ordinances in place, providing the authority to deny demolition of historic resources if necessary. Time and again, strong preservation controls in the cities have served as a catalyst for economic growth. Since enacting demolition review in the 1980's, for example, seattle's preservation program has helped make the city a tourist



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destination by safeguarding once threatened attractions including pike place market and pioneer square. Likewise, tacoma has revitalized its waterfront through the preservation and rehabilitation of warehouse buildings. The proposed amendments are in step with other major cities with demolition review ordinances in place. Such as san francisco, denver, new york, chicago, Washington, d.c., sacramento, san diego, santa barbara, salt lake city, minneapolis, and boise, among others. Significantly the proposed amendments before you balance demolition denial authority with discretion to allow demolition where overriding policy considerations exist or where economic hardship has been demonstrated. When local regulation is to be carried out by reference to national register status as here, it's important that safeguards are in place to ensure fairness to property owners and communities alike. To this end, we are encouraged that recent changes have been made to clarify demolition review criteria. Such as balancing the value of the proposed new development with the relative significance of the existing building proposed for demolition. While we support adoption of the proposed amendments at this time, we agree with staff and many in the room that valuable suggestions have been made that are worthy of consideration and encourage the city to continue to engage affected property owners and other stakeholders in that process. Thank you.

**Katz:** Thank you. I'll open it up to the council, items you would like b.d.s., other than the unreinforced concrete, or bureau of planning. Thank you, sir.

**Saltzman:** I guess between now and next time i'd like more information on other recommendations from the mayor's advisory group that we were shown earlier this afternoon about things like prioritizing the location of city services, and historic buildings or sites --

**Katz:** That additional --

**Saltzman:** Why those weren't incorporated.

**Katz:** That's the additional list you identified.

**Saltzman:** Process manager for historic resources, created an endangered landmarks list, all those things, were they were not incorporated in this draft or what the pros and cons were of the committee's discussion on those other incentives.

**\*\*\*\*\*:** We'll report on that at the opening of the meeting on the 6th.

**Katz:** On the 6th.

**Saltzman:** Or if you want to give us something ahead of time.

**Sten:** Probably more for the audience than gil, but i'm interested in the issue and gil had said he'd bring something back, it's more a neighborhood issue, but there's a significant number of historical buildings that were not built to be residential that are now because of zoning change just in residential zones, and i've come up to a number of cases where they end up being nonconforming use that's are very hard to get. So I would look to like at, is there some way to give them, if they do a historical rehab, maintain the integrity of the building, more he way to do the kind of thing the building was built for. It's tough to say you can't knock it down, but it has to be residential fits not a residential building when the economics are already pretty tough. I think it requires some kind of good neighborhood agreement and I think it would need to have -- so the neighbors would have some sense, some sort of ring around it so that there's some -- the offset to neighborhood right to expect it to be residential. It's a whole category of buildings where I don't think any of the neighbors reasonably think an old commercial building is going to be turned residential, but it's just so hard to do right now. I'd ask for some work on that. This would fall into the category of another incentive, I hope.

**Katz:** I have one that i'm going to ask every developer who comes in and raises some concerns, most of them are probably doing business in seattle, boise, tacoma, san francisco, and other local areas, why is it all right for those areas to have demolition denial ability and not us.

**Saltzman:** I have one other thing, getting back to the exception for demolition -- the economic balancing criteria and the discussion about disclosure of what's been a concern about propriety

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information, so maybe a rationale about each one of those -- maybe not each one, but certainly some of them strike me as more intrusive or propriety than others. I flag the one about the ownership of a property, but there's others on that list as well. So why is that relevant to that mix vis-a-vis the proprietary information concerns raised by people.

**Katz:** Ok. So you really don't have that much more to do other than our conversation on the reinforced concrete, which is b.e.s.'s purview.

**Kelley:** We'll coordinate with b.e.s., and we'll -- don will be here at the beginning of the 6th to talk about the rest of the incentive package.

**Katz:** I'm sorry that you didn't am get to testify, but I think there was a desire to gets to at least the staff reports, flag those issues that we still want to poke around in, come back in two weeks in the morning and then we'll have to come back one more time and put a closure to all of this.

**Kelley:** I want to confirm with city clerk that we have 10:15 on october 6. 10:15 a.m. As the continued hearing, so we don't need to renote the hearing.

**Moore:** Yes. We have you down.

**Katz:** And is everybody going to be here?

**\*\*\*\*\*:** As far as we know.

**Katz:** Anything else? If not, thank you, everybody. That was a good hearing. We stand adjourned.

At 4:25 p.m., Council recessed.

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SEPTEMBER 23, 2004 2:00 PM

**Item 1127.**

[ Roll call ]

**Saltzman:** The mayor is absent. Will you read the item for us?

**Saltzman:** Ok. This is a hearing on the record, and i'll ask kathryn beaumont, our attorney, to please describe the hearing and how it will be conducted.

**Kathryn Beaumont, Senior, Deputy City Attorney:** Good afternoon. Before we begin the hearing I have several announcements to make concerning the nature of the hearing, some guidelines for presenting your argument and testimony to the council, and finally a few more reminders about the nature of the hearing. First, 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 and 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 that was presented to him. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded that you must limit your testimony to the record. In terms of the order of testimony for today's hearing, we'll begin with a staff report by bureau of development services staff, john cole, 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 will go next. Each person will have three minutes. The applicant will then have 15 minutes to address the city council and rebut the appellant's presentation. After the applicant, the council will hear from persons who oppose the appeal. Again, each person will have three minutes. Finally, the appellant will have five minutes to rebut the presentation. The council may then 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 few reminders about the nature of this hearing. This is an on the record hearing. You must limit your remarks to arguments based on the record compiled by the hearings officer. In presenting your argument you may refer to evidence that was previously submitted to the hearings officer. You may not submit new evidence today that was not submitted to the hearings officer. So as a reminder to both the applicant and the appellants, if you have slides, photographs, or other material that was not presented to the hearings officer, you may not present it to the council for the first time today. 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 city council today improperly presented new evidence or presented the legal argument that relies on evidence that is not in the record, you may object to that argument. Finally, under state law, only issues 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 council's consideration of this issue. A final note for the council, this -- the applicant has not waived the 120-daytime limit for making the decision. The 120th day is a week from today, so the council, if the council does not make a final decision today, you do need to make a final decision no later than next thursday.

**Saltzman:** Ok. Thank you, kathryn. Do any council members wish to declare a conflict of interest? Do any members have any ex parte contacts to declare, or information gathered outside of

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the hearing to disclose? Ok. We'll bring -- begin with a staff report. Mr. Cole, I understand this is your first **time before us**.

\*\*\*\*\*: Yes.

**Saltzman:** Ok.

**John Cole, Planner, Bureau of Development Services:** My name is John Cole. I'm a land use planner for the Bureau of Development Services. I have been the staff planner for this particular application. I'm going to spend I hope less than 10 minutes going through a number of overheads to talk about the issue before you. And the history of this particular land use application and appeal. The purpose of today's hearing is as has been mentioned, to consider an appeal of a hearings officer decision that approved a rezone and a land division. The applicant on this original land use application was a Pam Andresen and John Welsh. The appellant at today's hearing is the Reed Neighborhood Association. The actual appeal had been submitted by Cameron McCreddie, who is the president of that organization. The original application as it came before staff and the hearings officials for our review was to rezone a piece of property from an R7 classification to an R5 classification. Subsequently they were interested in dividing this property into two parcels, and there is an existing house on the property, and in order to preserve a substantial portion of that existing house, they were asking for an adjustment from a rear yard setback. In reviewing this particular application, the hearings official approved the rezoning request, they approved the land use -- the land division subject to a number of conditions, and they denied the adjustment from the setback requirements. The appeal that has been submitted by the neighborhood association focuses on the land division, the partition component of the original application, and they've made three primary points in their written objections. The first being that the approval will result in density that exceeds the maximum allowed by code, that in order to achieve the minimum lot size the applicants have resorted to an irregular property shape, and that the lot sizes that are proposed conflict with the city's solar access criteria, and I'll talk more about those points in a minute, but I'll just walk through the zoning requests and this will also help give you a or -- an orientation as to where the property is as you can see, this is a corner lot located on the corner of Southeast Steele and 34th Avenue. Here in this lower portion of the zoning map as you begin to see the re -- Reed College campus. There are specific criteria within the city code regarding what needs to be -- what conclusions need to be reached in order for a rezoning -- in order for rezoning to be approved. The hearings official found that this request was in conformance with the comprehensive plan, that there was adequate public services available, and used those findings in support of his approval. The applicants also proposed dividing this piece of property into two pieces. They own a rectangular piece of property, and I believe you have an 8 1/2 by 11 version of this in your packets. It might be a little clearer. The applicants own a home that exists on this property currently. At the top of the page you see what is a driveway that comes in and turns into a two-car garage on this piece of property, and I will have a couple of pictures here in a minute. The applicant were interested in tearing down the two-car garage component of their home, creating a 3,000-square-foot lot on the north side of their property, and a 6,500-square-foot piece of property on the south side. In order for them to achieve the minimum lot width standard of 36 feet, reach the minimum lot size in the R5 zoning district of 3,000 square feet and save as much of their home as they could, they proposed a lot line that wasn't as straight but matches this red line you see in the drawing in front of you. In reviewing a land division proposal, there are 11 criteria within the Portland city code that staff looks at. In this particular case, not all of those 11 criteria were applicable, but we did take a look at seven of those criteria as did the hearings official. At the end of the hearing process, the hearings official did rule that the applicable criteria were met, including those related

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to lot size and lot dimensions, and he did reach a finding that the demolition of the existing home in order to meet the solar access requirements was not a practical -- practicable requirements in this particular indication, and found that he could approve this particular application in the face of the solar access requirements. I mentioned that the applicants raised three issues. They've made the point that there is a clause within the city of Portland code that allows corner lots to be further subdivided and developed into duplexes. Their fear is that this particular project will be subdivided once the subdivision is complete, that there will be an opportunity for someone to come back to the city, further subdivide the corner property. Staff's response and our consideration of this potential is that it is true, there is a section within the city code that does allow higher development potential for corner lots within single family zoning districts. That's not what the applicant has asked for in this particular application, but if in the future a property owner were to approach the city and be interested in exercising this alternative development option, if they met the particular zoning standards at the time, we would approve that application. The second objection from the appellants, as i've read in their written materials, is that the irregular lot line, the red lot line that I showed you a few slides ago is in conflict with some of the purposes of the city, the density standards and lot standards, and staff's response to that is it is an irregular lot line being proposed with that corner at the end of it. It's not what we typically see, but it is not an uncommon occurrence for somebody to propose a property line that suspect at right angles to the street and straight to the rear property line, particularly if the properties in the neighborhood are not set out on a -- if it's a cul-de-sac we see a lot of bends in property lines people create. So no adjustment was requested and none was required in order to propose that property line. The third point that deals with the solar access criteria, there is a standard within the development code that encourage properties to be configured in such a way that access to those properties, solar access to those properties is maximized. And for a property such as the one before you today that's on the northeast corner of two intersecting streets, the solar access criteria would suggest that the property created right on the corner, on on the south side, should be narrower than the interior lots. That's not what the applicants are proposing, they're proposing just the opposite, a wider lot on on the corner and a narrower lot on the interior. But the solar access criteria, the language that's used in the development code, does not use the word "they shall be in this configuration." it uses the word "they should be" in this configuration. And it goes on to state that if this criteria is in conflict with other sections of the development code, the other sections of the development code will prevail. And in this particular application, it was both staff's interpretation and the hearings official's interpretation that in order to meet the solar access criteria, the applicants would have to tear down their existing home in its entirety. We did not feel that was a practicable application of the solar access criteria, and exercised that particular judgment that is afforded us in the development code. Your alternatives as a council here today is to deny the appeal, uphold the hearings official's decision, deny the appeal but modified the hearings official decision based on a review of the record and some of the testimony you may hear today, or as you'll know, you can appeal or uphold the appeal in part or in whole based on a review of the record. Kathryn had mentioned the 120-day decision deadline, so I won't repeat that for you. And i'll just run you really quickly by about half a dozen slides of the neighborhood. This is looking west on steel street, the property that will we'll be discussing and have been discussing is just to the right of where this car is shown. We're speaking about the yellow home here, it's a picture taken from the steele street right of way looking at the home. Once again, this is looking at it from a little further down steele. I will point out there was an estate sale going on on a couple of homes down the block when I took this picture, so normally there aren't this many cars parked that close to the corner. This is the north side of the

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property and you're getting a look at the side of the two-car garage and this is the area that the applicants are proposing to tear the home down in order to create the width they need to create a new parcel. Once again, looking at the home from a little bit farther north on 34th. A little bit farther north yet. And there may be a number of discussions about the character of the neighborhood. This is a long distance shot, once again, looking south on 34th. The house at issue is roughly where the pointer is. And just a couple other shots around the general neighborhood, showing you the sort of streetscape and character of the neighborhood at issue. And with that, I'll complete my presentation, and hopefully it wasn't too much longer than 10 minutes, and I'll answer questions.

**Saltzman:** Any questions?

**Leonard:** I have a couple questions. The solar requirement, what is the -- you said that the language said that if there was a conflict with another code provision, the solar requirement would not apply. What is the provision that the solar language is in conflict with in the code?

**Cole:** Commissioner Leonard, the specific solar access approval criteria -- pardon me, I'm going to grab the code.

**Leonard:** Go ahead.

**Cole:** The specific code section that the solar criteria in our opinion is in conflict with is the citation that's 33.610.200, lot dimension standards. Subsection a, which talks about the purpose of the lot dimensions, states that lots are intended to be of a size and a shape that development on each lot can meet the development standards of the zoning code. And once again, it was our interpretation at a staff level and at the hearing official level that it was not a practicable application of the solar access standards, that the applicants be required to tear down the existing home on that corner lot in order to meet the solar access standard.

**Leonard:** And the reason they would have to tear down the home to meet the standards would be what?

**Cole:** Well, I'd refer you to the plot plan that you have in front of you. The solar access standards would require that the southern lot that they create be narrower than the northern lot. So that the very corner lot could take advantage of the right of way and gain access from solar access that way and the wider lot behind it could set back a little bit and gain access. But you can see that there's a home on the property that takes up a certain amount of real estate, and in order for them to meet the solar access standards, they'd have to move the proposed property line farther to the south, and as they did that, they're moving from what's now the garage of the home into the kitchen and the living area and the bedroom. So the city of Portland does not allow a property line to be created going through the middle of a single family home, so that's where their alternatives are limited.

**Leonard:** So why wouldn't that suggest to you that the subdivision of the lot would not be appropriate? I'm just asking what your reasoning was.

**Cole:** Sure. Sure. My response would be I guess, it has been staff's practice to consider existing structures as consideration in reviewing land division applications. And where there are existing structures on the property, we do try to acknowledge them, support the land division if the other development criteria are met, and if I had to kind of dig a little bit deeper as to what the rationale was behind that, we do have housing stock within the city of Portland that has value when we're trying to protect that particular housing stock, and allow people then to achieve some of the densities that our comprehensive plan is calling for. So this would be an example where we felt there's an existing home on the property that's worth protecting and how can we achieve the density without requiring that demolition.

**Leonard:** Is it unusual to have a conflict with solar access requirements and creating housing?

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**Cole:** It is not uncommon for us to see land divisions being proposed on properties where there isn't an existing home, and it's not uncommon for us to need to make this the conclusion that i've reached in this application in order for that land division to go forward without requiring the demolition of an existing home.

**Leonard:** I guess i'm asking if you didn't -- if you had a vacant property, is it normal that you could configure the placement of the structures on that property to be able to create the density you're talking about and have the solar access?

**Cole:** Gentlemen -- yes, that's true.

**Leonard:** This is a peculiarity of having an existing structure that creates that dilemma? The other thing I want to ask, this is to help educate me, I note the site is 9,576 square feet. I note the comprehensive plan designation for the area, although it's zoned r7, is r5. Doesn't that suggest 5,000 square feet?

**Cole:** Yes, it does. The code gets very specific in terms of how to calculate the allowable density on properties, and there even is additional instruction in the code as to how you round up and how you round down when you have a certain --

**Leonard:** You're anticipating my next question.

**Cole:** -- decimal point.

**Leonard:** My math from irvington grade school is two into 10,000 would be 5,000. But you don't quite get there with 95 thousand 076.

**Cole:** That's true, but you get one point 9 something, and at that threshold, we're instructing in -- instructed in writing by the development code to round up.

**Leonard:** In the development code is what document?

**Cole:** It is the -- in this particular case it's titled -- title 33 for Portland code.

**Leonard:** It's actually adopted in the code?

**Cole:** Yes.

**Leonard:** It says to round up?

**Cole:** That's correct. There's very specific instruction as to how you trillion indicate your decimal points to two decimal points and round up, or you round down depending on where you fall.

**Leonard:** And you double-check third degree math?

**Cole:** I'm confident this is a property eligible for two lots according to the specific instructions of the code.

**Leonard:** So what does the square feet of each of the lots then -- is one 5,000 and the other 4,576, or some other number?

**Cole:** Parcel two is proposed to be 3,000 square feet, that's the minimum permitted lot size in the r5 zoning district. Parcel one is proposed to be 6,576 square feet.

**Saltzman:** Let's hear from the appellant. You'll have -- the principal appellant will have 10 minutes.

**Saltzman:** The 10-minute clock is in the bottom left portion of the video screen.

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

**Saltzman:** It looks like you're going to show us a power point.

**Jacob Brostoff:** That's correct. This is a summary to assist mr. McCredie in his presentation.

**Saltzman:** So this is considered new information.

**Beaumont:** It's my understand -- you can show it to the council materials that was --

**\*\*\*\*\*:** That's within this presentation.

**Brostoff:** The content of the presentation was shown to the hearings officer. The summary of our arguments as well as diagrams in the original hearing.

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**Beaumont:** I'm going to have to rely on Mr. Cole as an expert for what was or was not shown to the hearing's office. Be forewarned, if you show something to the council that wasn't shown to the hearing officer, there's a grounds for it to be rejected.

**Cole:** I'll raise my hand if I think there's new testimony.

**Saltzman:** That sounds good. If you could state your names, we'll start the clock rolling.

**Cameron McCredie, President, Reed Neighborhood Association:** My name is Cameron, I'm chair of the Reed Neighborhood Association. My address is 4726 Southeast 32nd Avenue, Portland, 97202. I'm here on behalf of the neighborhood to appeal the hearing officer's decision in the land use case before us. There are three basic parts to our appeal. This proposal is incompatible with the character of our neighborhood. The irregular shape and size of the new narrow lot proposed -- excuse me. The proposal is incompatible with the character of our neighborhood, the irregular shape and size of the new narrow lot proposed by the applicant, and some inconsistencies in the findings, conclusions, and conditions of approval. First, however, I want to talk about the character of the R7 zone within the residential core of the Reed neighborhood. This is the site in question. It is in the middle of the Reed neighborhood that is currently zoned R7. This is considered the central core of our neighborhood. Known as Reed College Heights and Reedwood, the R7 zone represents a remarkable homogeneity for inner Southeast Portland. Typical houses are 1950's and 1960's ranch style. They are a number of examples of American modernism throughout the zone, creating a unique architectural heritage. In almost all cases the houses are wider than they are tall. I provided you a kinko color copy of an original brochure that was available when Reedwood first came about. Looking at a typical block, you can see a common low roofline and wide front yards. As described in the original Reedwood brochure, the parklike setting is an original family friendly characteristic. This was achieved by providing slightly larger lots with generous setbacks and again, an open sunny horizon. There are two-story -- where there are two-story homes, they are typically split levels with the first floor being a daylight basement designed to provide -- preserve the neighborhood's wide low profile. So throughout the neighborhood we have a low profile that was deliberately designed by the original developer. This is a survey of the neighborhood done by neighbors. Just before the first hearing on this proposal in July. Please note that the predominance of one-story structures shown in orange. We also have some great examples of custom built mid-century designs. The Reed Neighborhood Association recently created an add committee to research ways to preserve and promote our neighborhood identity. We want to work on a positive manner toward developing design standards that meet the city's expectations while protecting the unique characteristics that make up our central residential core. We wish to continue where we left off with our neighborhood planning process, which was shelved due to defunding. We are also exploring historic preservation strategies. Reedwood and Reed College Heights are a small part of the larger Reed neighborhood where you will find a diverse mix of land uses, including light industrial, commercial, and high density multifamily housing. While we support well designed infill, we have concerns with the design of this particular project. We are concerned that it has a number of negative impacts, including the loss of affordable homeownership opportunities. While this proposal creates two smaller lots, the increased value from the subdivision creates a net gain in land value for both lots. This process creates a buildable lot, but fewer opportunities for affordable single family homeownership. With the R7 to R5 zone change from the comprehensive plan, and a 3,000 square foot minimum lot size, the ability to remove attached garages, potential homeowners find themselves at a disadvantage. We have a great deal of diversity throughout our neighborhood. Including high density housing, commercial, and industrial development, and a variety of homeownership opportunities. We want our neighborhood to continue to grow in a



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positive way that preserves our unique modernist heritage, while meeting our obligation toward future Portlanders. We have worked well with the city in the past for example we are proud of our draft neighborhood plan, and the work we did on it with the planning bureau. We want to continue to work with the city to find ways to preserve our architecture and promote well-designed compatible infill. Although our neighborhood plan remains unadopted, we continue to advocate for its key points. Our draft plan identifies areas within our boundary that are suitable for higher density primarily along the corridors of 28th avenue and along southeast holgate. Unfortunately, we are here before you today because this particular proposal is not compatible with our vision of the neighborhood. Nor I believe the city's vision of what r5 zoning should look like. As you can see, the solar access regulations require the smallest lot to be on the corner. Just as the -- just the opposite of what the applicant is proposing. The arbitrary approval of the application results in significant amounts of shade throughout the day on on the property to the north. The reed neighborhood association objects to the approval of the land division. The approval was not conditioned to prevent further subdivision of the remaining larger lot, which is more than 6,000 square feet. We believe it is not the intent of the r7 to r5 zone change to triple density. We ask the lot split be of two equal sizes. Two lots of equal square footage allow more flexibility in building design, less chance of of future lot splits and much more in character with the neighborhood. We find the decision of the hearings officer is at times convoluted and inconsistent. While most of the conclusions are based on the absence of building design at stated on page 3, response to neighborhood review, the decision to reject the applicant's setback requirement was based partly on being out of character with the neighborhood. In the middle of page 17 we read that the applicant is likely to build a two or three-story house. Which would likely accentuate the proposed 7-foot building separation. This would further detract from building scale and placement of houses in the neighborhood. We believe consideration of existing architectural design, scale, and predominant neighborhood characteristics must be consistently apply through each step of the process. I provided you with a copy of an email I received from one of our board members, somebody who I greatly admire. He wasn't expecting this to be included in the testimony, but it's just very welcome posed. -- well composed.

**Saltzman:** Are you watching the clock? You have about a minute and 50 seconds left.

**McCredie:** Ok. Please -- I just ask you to look at that when you have time. I'd like to show you what some of the housing might look like if this goes through. This is the existing property. This is what we think it would look like if that was built. This is a similar picture of the same street. If we were able to remove garages and put in two-story houses this, would be the character of the neighborhood. Thank you.

**Saltzman:** Thank you. You do have a minute left if you want to read portions of the email. We have it in front of us, too.

**McCredie:** I appreciate it. It's a well-composed letter and it really describes the mood of the neighborhood.

**Saltzman:** Ok.

**McCredie:** Questions?

**Saltzman:** We'll now open it up for supporters of the appellant. Each person will have three minutes each. You can come up and give us your name, you don't have to give us your address, but you can do that too, if you wish, and the clock will be in the lower left hand of the video screen. Come up three at a time.

**Saltzman:** Just give us your name and if you hear the beep or if you can see the video terminal, that keeps track of your time.

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**Cindy Kjeldsen:** Thank you. My name is cindy Kjeldsen I live at 3365 southeast steele street, that's Portland, 97202. I am the neighbor directly across the west, across 34th street from the proposed development, and I will be directly impacted by its approval, but today i'm speaking and providing evidence for ms. Floria ardelene who lives directly north of the proposed development. My personal attorney has already submitted a letter to the hearings officer addressing the legal requirements for the proposal, and how it fails to meet 33.639.010, which I propose is to minimize the effects of shade on the adjacent property. My husband is also -- has also sent you portions of that letter on september 20. In terms of solar access, her home will be the most impacted if this proposal is approved. I'm submitting three exhibits based on position from the u.s. Naval observatory showing the amount of sun her home will receive on the south side of her home, should the proposal be approved. The graphs are based on whether the proposed house on the south is 30 feet high, which is the legal maximum, or 24 feet high, and it will be 12 feet 6 inches from her home. Her home is only 9 feet 6 inches high at the roof overhang. Based on this information and the altitude tables of the sun, she will receive direct sunlight on three-fourths of the south side of her home for less than 5% of the year. From october through march she will receive no direct sunlight. Not even on her roof, and the tables for that data are in exhibit 4. One thing I did want to mention is that it looks like if you see pictures of her home, that that is a garage. That has garage doors. But that entire interior area has been converted into living space. So that entire side would be living space, bedrooms and kitchen and family room. Why is she concerned about being in the shade? She, like everyone else, enjoys sunshine. We get little enough of it as it is around here. She's concerned about mold and mildew, and i'm submitting five exhibits that emphasize that sunlight helps kill mold and mildew, and by blocking her southern sun exposure, her entire home will be susceptible to mold. Exhibit 5 specifically addresses mold and fungi potential for adversely affecting human health, and she currently has five elderly ladies in her care.

According to the insurance institution information, there were more than 10,000 mold-related lawsuits pending in state courts across the country. That's on exhibit 10. Three, participation in Oregon and the national solar energy programs are -- is eliminate first degree her roof does not receive enough direct sunlight. As a nation moves towards the use of renewable resources, access to solar energy will be of increasing importance. In support of this i'm submitting exhibits highlighting the u.s. Department of energy's commitment, including then president clinton's million solar roofs initiatives of 2010, I also submit two exhibits regarding Oregon's energy commitments, including residential tax credit for energy -- solar energy products.

Saltzman: That was your three minutes. Sir?

**Raymond J. Arrigotti:** My name is raymond, I live at 3401 southeast harold court. I want to ask you today to take care of this case for us, because my wife and I have lived in our house, which is nine houses away, for 42 years. There are other homeowners in our neighborhood, and one is here today, living there 56 years. All together, there's 235 homes in the two areas that you're looking at. A square footage of 6,000 square feet or more, and approximately 80 of us attended the hearing on wednesday, july 14. The future livability of our areas is now in your hands. On several occasions during june and july, I visited with mr. John welsh, part owner and applicant. During our first visit, he explained that he and his partners had purchased the home that was seriously deteriorated inside and outside, and that he would restore it and then move into it with his wife and daughter. He also stated that he wanted to build a second home on the property, thereby increasing the value of the two homes to six \$600,000. He stated that he had visited the city of Portland land use permits office, which suggested how to get approval of such a project. During later visits, mr. Welsh informed me his wife rejected the plan to move in because she read that our areas were considered

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high crime areas for car break-ins and prostitution. He advised me that once he obtained city approval, he would be able to replace the house with three skinny, tall homes such as at 39th and bybee. Attached to this letter you'll find a photo of that situation. At the July 14 meeting, Mr. Welsh testified that he lived at 3407 Southeast Steele, but he actually lived at 5004 Southeast Raymond. During the past month, Mr. Welsh has installed a new roof, replaced the windows, and replaced the siding. Actually repaired the siding. But no effort has been obvious on restoring the deteriorated walls, floors, ceilings, cabinets that many of us view during estate sales before the November 3, 2003, home sale to Mr. Welsh and his partners for \$201,000.

**Saltzman:** That was your time. Thank you very much. We have your letter here.

**Margaret Willoughby:** I've been here for 34 years. Anyway, my name is Margaret Willoughby. I live at 3405 Southeast Instantly. I live on the corner of 34th and Insley. My house is situated about a block from the property that is the subject of this hearing. Insley stretches between 34th and 37th in a slight curve that makes it visible from one end to the other. All the houses are single family dwellings and the majority are single level. This neighborhood where the homes are built in the 1950's and 1960's. Very uniform and family oriented. Many of the homes have been kept in the family and hardly ever go on the market. The neighborhood is remained unchanged since it was originally developed. I was approached by a film scout from Nike. They were interested in filming a commercial for Peter Jacobsen for a new golf shoe that was coming on the market. I asked why they were considering our street for the shoot. She said that they were looking for a street that looked like the 1950's, and our neighborhood was unique in that respect because you could look up and down most of the streets and not see any jarring roofline or buildings. The view was pleasing, like we were stuck in the 1950's. Many commercials and even a movie, "The Incredible Journey" has been filmed in our neighborhood. Movie making brings in revenue to our city, and our neighborhood serves as an attraction because of its historical uniformity. I suggest that this is just one reason why more development that looks out of character and scale is not appropriate and will not enhance this neighborhood. Thank you for your consideration. And I felt that if Nike felt the neighborhood was more unique than anywhere else in Portland, it was a subject we should consider. Thank you.

**Saltzman:** Thank you. Next three?

**Maureen Wright, 1505 SE Madison, 97214:** My name is Maureen Wright. I have the unique qualification of being a Buckman resident. So I don't even live in this neighborhood. But I'm here in support of the argument that the Reed Neighborhood Association has presented. More importantly, I think that the best experts about neighborhood livability and the characteristics of a neighborhood are the residents of that neighborhood. Constituents need a voice in the land use process, and while we can certainly commend the staff for their diligence in referring to textbook answers, the truth is that the code is supposed to reflect neighborhood livability and the public's sentiment and a representation of their general interest. Basically that's I think should be more compelling than the narrow interests of one particular citizen. The neighborhood association has provided you with an alternative proposal of a less dense land use, and it seems that it's a very reasonable and moderate compromise. So in conclusion, my testimony is, please take seriously the public involvement process, please take serious the best experts are the neighbors about what the characteristics of their neighborhood and livability is, and finally, please balance the general community interest of public involvement of all neighborhoods against the narrow interests of one particular lot owner. Thank you for your consideration in my remarks.

**Saltzman:** Thank you.

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**Margaret Gunn, 5344 SE 34<sup>th</sup>, 97204:** My name is margaret gunn, i'm a resident at 34th avenue on the south side of steele street. I had lived at this residence for 30 years. I am familiar with the neighborhood and the property in question. I do not drive, and I walk through different parts of the neighborhood on a daily basis, and for 30 years i've taken the bus from the corner of 34th and steele to commute to and from work. I'd like to address issues about the land division and the proposed development by mr. Welsh. I would like to submit what you've seen in the power play -- power player -- power point in which the lot in question stands. The map is divide in addition individual lots and as you can see, the property in question lies directly in the center of it. The orange houses represent one story structures, the yellow houses represent cape cod bungalows, which are 1 1/2 stories high, and the light blue squares are property that are split level houses. These split level houses are built in areas where the slope of the land positions their top story at the same level as the ground level of the property in question. And their lower stories below that level. The large majority of the homes are one-level structures, and they're uniform in size, well-maintained with mature landscape features. The property owner proposes hideaway will -- he will build a house on a -- to construct a house of reasonable living space and include the garage, he suggests it is reasonable to assume it will be two-stories tall. I propose a two-story narrow house with minimal space for landscaping will not be compatible, since it will be tall. In addition, it will block the sun from the structure to the direct north of it while waived on the grounds the previous hearing determined that the solar requirements were not met in mr. Welsh's application. Second I submit this i.r.l. Administration with portrays a reasonable concept drawn to scale from the plans this which have been submitted by the applicant. They are on the backside if you need to see those. In keeping with his blueprint is a single box shape. In such close proximity to the existing house, I suggest this structure bare of any landscaping and having no more than 10 feet at best from existing homes will not be compatible and will generate a feeling of discomfort to those around it. I also suggest that his presentation of his plans are wanting in completion and suggest that he has shown no interest in considering a compatible architectural style. Finally, I feel the applicant's claim that by subdividing the property because he can improve housing density is contrary to the original intent. Rather than recover an empty lot by building on it, or removing a condemned and unusable building and replacing it, the applicant has decided to slice out part of the existing home, he has purchased and slice an angular odd-shape from behind the existing home in order to create a lot and then claim it as available parcel ready for infill.

**Saltzman:** Thank you. Your time is up.

**Wright:** Could I say one more thing? I'd like to request you postpone your decision until you have reviewed all the letters submitted by the neighborhood, which includes mine and which goes into more detail and actually addresses the zoning numbers, the various particular zoning code numbers, which I didn't have time to do in this presentation.

**Saltzman:** Thank you.

**Frank A. Baccellieri, 5205 SE 36<sup>th</sup> Ave., 97202:** Good afternoon. I'm frank baccellieri, a lifelong resident of southeast Portland. I believe reedwood is a special fixture for the city of Portland. The original developers and property owners had a vision of a contemporary eclectic style, never attempted before or after in southeast Portland. In an area of typically bungalows and tudor style homes, they added the california ranch, split levels and daylight basement types. The dwellers come here for the style and feel of our neighborhood. It is interesting, different, and unique. And we love it. We embrace the development and positive changes that comes to our city, at the same time, hold on to our values. New affordable housing is important, but does every property have to be subject to high density style construction? We believe development does not have to come at

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such a high price where art, history, and livability are not taken into consideration. My wife and I invite you to our home for a visit and a tour of our neighborhood, so you too can experience that which is reedwood. Please call and come by. Thank you.

**Saltzman:** Thank you.

**Janet Barrett, 3350 SE Colt Dr., 97202:** I'm Janet, I live on southeast Cole, around the corner from the subject house. My husband and I moved in about 3 1/2 years ago, and we looked all over Portland, and we picked our place because of what it looked like. And the livability, and the distinct design that we found in our neighborhood. We certainly could have picked lots of other places, but we chose this for the lot size, the landscape, the way the whole neighborhood was laid out. And we ask that that be respected because I invested in that. And I'd like to see that maintained.

**Saltzman:** Thank you.

**Ginny Baldino, 5134 SE 36<sup>th</sup> Ave., 97202:** I am Ginny, I am a resident of reedwood, which is a subdivision of reed neighborhood. I am currently on the r & a board and over 10 years ago was also present of r & a. During our residency, we have seen many of Portland's business owners, some small, and some more well-known, like the boyd's coffee, kasch's nursery, willow buy hearing, and the fischers of lents pharmacy, they chose our area to reside and to raise their families. Even our current assistance -- assistant police chief baby-sat our house when we were on holiday. He was 17 years old at the time and happened to live next door. We are not opposed to small houses on small lots if they are compatible with surrounding homes. But could they just start on the fringe and just nibble a while before being dropped by parachute directly in the middle of prime property? Thank you for your time and thoughtful consideration of this land use proposal.

**Saltzman:** Thank you.

**Dave Kimmel, 1335 SW 66<sup>th</sup> Ave. #201, 97225:** Good afternoon. My name is Dave Kimmel, and I'm a land use consultant that has been working with the neighborhood association. First I would like to commend the association on the understanding of the needs of the city to increase density, provide affordable housing and to contain the urban boundaries. Until 1990, I lived in the reed neighborhood and appreciated many of the advantages of being close to the inner city, in a great urban center with good mass transit. In reviewing the application and the subsequent approval by the hearings officer, I feel the city planner and the hearings officer failed to adequately address three items that make the city of Portland development work for all parties. First, in section 33.610.020, which is the land division component in r5 zone, it specifically talks about how you can get the maximum density out of the lots when you subdivide. That allows two and it says adjustments of this are prohibited. However, the hearings officer and the city planner failed to address the fact that and even stated earlier he could come back with a second application. It's clearly not intent of rezoning with a comp plan to allow for greater infill and smaller lots, is to allow somebody to create the absolute minimum lot and then turn around and come back with a subsequent application and say, well, I left 6,000 square feet or 5600 square feet here, now I can still get another two, 3,000 square foot lots. So I believe they failed to condition this approval to say, ok, if that's the 3,000 square foot lot you want, then that's the only one you're going to get. You can't redivide the secondary property. For 15,000 square feet that would be a different situation, but it also wouldn't have a maximum of of two lots. Secondly, the applicant has chosen not to provide an actual plan for what his proposal is. So everyone's left to wonder and to guess and to see the structures that you've seen in the pictures as to what this might actually look like, but knowing you have a 3,000 square foot lot with two single family dwellings and a driveway pretty much is forced into a two to three-story lot to meet the development code, hence it's going to stand

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out as an oddity within the neighborhood as opposed to being a part and being compatible with the neighborhood association. Thirdly, the city staff should have recommended the applicant have a more appropriate development and could be created by initially dividing the lot into two relatively equal lots and/or dividing the lot to meet solar access the southern part of the lot was developed and at the opposite end if you're going to create the 3,000 square foot lot. The staff stated in that discussion of solar access that you couldn't draw property line through the middle of the home. That's correct. However, the application does draw a property line through the middle of the line and demarcates components of the home to allow for setbacks.

**Saltzman:** Thank you.

**Sten:** I have a question. I'm asking you this in your expertise as a land use person. What criteria do you think specifically the application, to dot subdivision doesn't meet? I understand the argument about the next subdivision that could or could not come, that's irrelevant to this decision, as I think you know. Can you point to me which criteria you think this does not meet on this application?

**Kimmel:** Sure. I can point to two. When you look at 33.610.020, it talks about how you go about that process as the -- as staff stated, to create the number of lots. And then when you further look at the tables, it says this is the minimum lot size. In the process of the comp plan and the zoning, it's not corn templated to create or -- the intent has never been to create multiple opportunities to divide, but if you have a parcel that fits within that that's rezoned, this is how you would come upon your number of lots. And two is the maximum. The reason it's prohibited is to preclude exactly what we're now facing if there's no condition. That's --

**Sten:** You may not be understanding my question. My assumptions, which could be wrong, the neighborhood is not going to be happy if we approve this and put the condition you're talking about on there. I think the opposition is to the house being built on the lot, and i'm trying to find out if you have an argument what's wrong with that decision.

**Kimmel:** The major reason that that's inappropriate -- there's two reasons, that that's inappropriate, and the first is, it's solar access is a criteria, and the lot has not been subdivided in a process that considered that. It just whacked out one end as opposed to considering either dividing the lot in two lots and/or putting it at the opposite end where it is appropriate and it does meet the solar access. You could divide the lot and meet the solar access and to do all the other criteria that are specified in the code. The second aspect is that the intent is to fit within the character as we try to create these infill and to make our city better, then it's to try to fit in the character and not create something that's an oddity within that. If this were allowed the way it is, you would be creating nothing but an oddity in an unusual set of circumstances, and virtually force the redevelopment of that entire parcel into something now that stand out as you drive down the road and say, that's kind of weird. That doesn't fit. And that's what the neighborhood association in all my conversations with them, we want it to fit, we recognize density is important.

**Sten:** I understand what the neighborhood is trying to say. I was trying to get you to help me show where in the code you're making your argument from. I understand the neighborhood's argument. Where you're making the character argument from?

**Kimmel:** If you look at the photos that you've seen and the character argument is predominantly single or you could even --

**Sten:** No, no, I got that. I'm asking if you can point in the code how -- i'm interested --

**Kimmel:** Without the code -- in my hand, no, but I can go back and look at the sections of code if I can borrow the planner's, and I can give you a specific reference in the code language.

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**Sten:** I understand the argument, there's a legal argument and there's a common sense argument that are being argued here.

**Kimmel:** There is a legal argument.

**Sten:** Occasionally the legal argument doesn't line up with the common sense argument.

**Leonard:** I want to ask a couple questions on the issue of the subdivide itself. Would you think it would be reasonable then, if the lot is some 9500 square feet for it to be divided equally in half? Does that accomplish what you think?

**Kimmel:** I think that's one method of accomplishing both the objectives of the code and a accomplishing for the density and for the subdivision. It might be 5,000, 4500, there may not be an exact 50/50 split of the existing lot.

**Leonard:** Would that allow the design and placement of structures that wouldn't interfere with the solar access?

**Kimmel:** Certainly.

**Leonard:** And the second would be that it would preclude the ability of subdividing it one more time?

**Kimmel:** That would be correct.

**Leonard:** Ok. Thanks.

**Saltzman:** Ok. Thank you very much.

**Jody Kurilla, 5055 SE 34<sup>th</sup> Ave., 97202:** My name is jody, I live on southeast 34th avenue. My husband is a native Portlander and i'm a transplant from new york and I thought I was going to have a little bit of the green acres syndrome when I came here, and I have to tell you I love this city. This is an amazing city. I've been here eight years now. I'm a resident of reed neighborhood and as you can see from the presentation, reed is a home to many classic examples of mid-century design. I have given you all these different neighborhoods across the united states that are not unlike ours and what this is is the -- I had to stop because it got too much. This is the next thing. This -- the mid-century is the recent past. This nike wieden & kennedy is buying up these type of houses, the for sale signs are up constantly. There's a home where the woman took the numbers off her house because so many people were coming up and asking her if she could buy the house. So we're not opposed to new construction if accomplished with the integrity of the neighborhood in mind. I liked what you just said, mr. Leonard. As a business owner my commute through town is giving me a chance to see new housing going up all over Portland. You really do notice the ones that aren't very good. You don't notice the ones that are good because they fit into the neighborhood. In some ways this is what I see, like in the 1970's, what these codes came to represent was to stop what happened in the 1970's. This is a little bit like the sheep in different -- the wolf in different sheep's clothing. So I have no opposition to knew creative construction or reconstruction with the compatibility of the neighborhood in mind. The proposed plan for mr. Welsh does not resemble anything in reedwood, and I have to say that he said there isn't anything like it in reed and he's right. Tearing down attached garage and erecting it in its place with the only nonmodernist 26 wide by 30 foot tall building in reed giving the tenants the only -- removing the privacy we have, removing the solar access to his neighbors and removing the current setbacks that are uniformly common in our neighborhood is not reed. City code came about to protect this and I don't think this is what's happening. I would like to talk a little bit about something that I don't find very comfortable, this is about mr. Welsh and his not being honest about his intention. He told me he was considering moving in but he wasn't sure his wife wanted to. He said he would make the home into a show palace and went into the idea of building a row house, and went to the board meeting and he said they were asking where's our city representatives, and he made the association sound

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very weak and infect wall. He showed me the house and I thought in my humble opinion that it needed gutting. He didn't do it. He didn't gut it. There was never anything there. It was an oil tank fire in the house, it has mold -- is that me? Ok. All right.

**Saltzman:** We have the rest of your letter.

**Kurilla:** Thank you. I'm going too fast.

**Dan Middleton, 5110 SE 36<sup>th</sup> Place:** Good afternoon, commissioners. I'm the vice-president of the neighborhood association and the land use transportation representative of the neighborhood and the landowner of the neighborhood. I do live there. The reed neighborhood board has come before you to ask that you as the city leaders about the statement of the livability about the city of Portland. The law allows development that is not always in the best interests of the neighborhood in which it takes place. This particular development fits that case. The reed neighborhood is not against development, we have a history of development. You've heard a retelling of that history today. We want development that fits the character of the neighborhood. This particular development does not fit the character of the neighborhood. You have heard from the neighbors, some of who have lived there for decades. You've heard from new homeowners who have bought in the neighborhood because of the flavor of the neighborhood. This area is unique to Portland. We ask that you keep the unique flavor of this neighborhood. Movie studios have come to this neighborhood to film because of the unique look of this neighborhood. Let us not destroy that look, flavor, and uniqueness of this neighborhood such that those movie studios take their money elsewhere. I attend add meeting this past weekend as a representative of the neighborhood where there were representatives of the 20 southeast neighborhoods. One of the concerns of all 19 neighborhoods was infill and development within the neighborhood. This is a concern that is not going to go away and it's going to show up before you guys again and again. We ask that the city council step up and revisit this issue as it affects all neighborhoods throughout the city. We ask the city council be pro active and address this issue by sending a clear message to developers that development must be done with the overall welfare of the neighborhood as one of the ore riding concerns in the development. We are not against development, we are for thoughtful, wise, neighborhood friendly development. You have heard our arguments as to how we see the interpretation of the zoning code. We would ask that you see our interpretation as the correct interpretation of these kinds. I would like to offer a little different interpretation of code 33.855-050. Approval criteria paragraph a, number 1, quoting the code, when the comprehensive plan map designation has more than one corresponding zone, it must be shown the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of the surrounding land. I submit to you there are two zones, r7 and 5 for this particular piece of property. The surrounding property is all zoned r7 and thus there is no need to change the property to an r5 zone. In reality, you are allowing this property to become an r3. Which is not what the code has in mind. The argument for the land division is faulty and should not be allowed to stand. If we are going to divide this lot and divide it into two equal pieces. From a statement the developer made to me, it's my belief he wants to divide -- divide the remaining lot to get three lots. We, stop that by making the division of the lot be in two equal pieces. I would submit to you through the -- that the hearings officer has given us the basis for denying this whole request when I --

**Saltzman:** Finish your sentence.

**Middleton:** When on page 17 of his decision he says, and I quote -- therefore it would significantly detract from the area's livability or appearance. He says this in relation to the request for an adjustment setback from 5 feet to 3 feet. He is making this statement under the code that says, quote -- if in a residential zone the proposal will not significantly detract from the livability or



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appearance of the residential area, the proposal will be consistent with the desired character of the area. Unquote.

**Saltzman:** Ok. We have the rest of your statement.

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

**Middleton:** I would like to call your attention, we refer to 30 feet high, that's to the middle of the roofline. It could go 33 or 35 depending upon his plans.

**Saltzman:** Thanks. Is there anybody else in the audience that wishes to speak on behalf of the appellant? Ok. Seeing no one, we'll move to the applicant. That's mr. Welsh.

**Saltzman:** Ok.

**John Welsh:** My name is john welsh, i'm from Portland, I reside at 5004 southeast raymond. I guess the last hearing I had given the address of the property by some miscalculation. I'm accused of being one of nontruth. Anyway, i'd like to thank the city council for taking the time to do this, and I would like to take a moment to thank the people that have brought us to this moment. We have the bureau of development services, john cole, kevin killdrodorf, sarah, we've been through a lot of people, the hearing, ian simpson, the bureau of environmental services, the water department, fire department, department of transportation, and all those people that have helped us through this process. We also thank the neighborhood for coming forth and sharing their thoughts. It really is a little bit of a difficult communication process. There is a little bit of procedural things that just didn't work out very well for us in the neighborhood committee, and fortunately I have to let you know we are the first to try to do anything like this, and for them to think there's going to be something like this in their neighborhood, there's not, because it is r7, but it's comped for r5 and we're the pioneers of this type of process in that neighborhood. So it's going to be hard to find anything that's going to be a small lot in that neighborhood, because obviously it hasn't been ever done. I am the first and i'm sure that's a reason for a lot of the emotion. And speculation. I would - - I had kind of a general idea what I wanted to say, but I have to react to a lot of things I heard so I can clear up some things. As far as the lot size goes, all this stuff is -- we've been to the city and tried to figure out what was the highest and best use of our investment and property and how we would go about it, what's required, what's not required, that's how I got to know these people. For you, mr. Leonard, this is the work sheet that they provide us for figuring out what the lot size would be. And so for us to have are two equal lots would be -- after -- we'd have to rewrite the code, because we know we're at a criteria -- our whole application is basically our testimony, because there's a tremendous amount of criteria that goes involved in trying to go through this process. Obviously we've worked on this for months. We've worked very hard to meet all the criterias, there are some debated criterias. I -- as far as I understand the zone is pretty much been established as an r5, so this is going to happen whether it happens with me, it's going to continue to happen in this area as people do increase the density which was the pimp of the comp plan, was to increase the density from what I understand. So the first part of our request is the zone, and as we understand, it's pretty much -- it was decided most all these things are all decided before we ever came along. That's the interesting part of this. I do appreciate all the neighbors' comments and their dreams and wishes for the neighborhood. I'm highly invested in that neighborhood, I intend to do good things in that neighborhood because I have my own stake there, i'm -- I own property there. So the zone is already established from the comp plan. We had nothing to do with that. It was an invitation for owners to participate in the process of bringing more density and housing to the area. The irregular lot line issue that's brought up in the appeal, I mean, I just have to ask, what is regular? There are irregular lot lines currently touching that property that are angular, the streets are curved on the backside of the property, and we have done our research to where there was

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really no code that says lines have to be straight, square, etc. There's nowhere we can find something that says we had to have a straight line in order to have our lot line. The third part is the adjustment, and before I go there I kind of just want to respond to a couple of things here, just before I get to some of that part of things, because that kind of gets into the proposed property. There's really nowhere in the codes that ask me to provide anything more than a footprint, so the speculation if i'm putting a 12-foot house, a 15-foot house, most of these people I believe do vision boy their photographs that are part of the record with the hearings officer, you know, they mostly chose to picture these 15-foot houses that were going up in Portland for a while. Our foot plan was 26 foot wide, which is not a sliver house by any means, but again, we weren't required to present any kind of building expectations, so thus we do not have that. The -- some of the things i've learned about property and that I would share with you is, it is a corner lot. It can be duplexed today without much work. Which means I could build a house right connected to that house in that same foot plan into the same spot that I would want to develop property, and it would have the same height and it would have the same solar effect and it wouldn't be debated because it would be without the land division, I suppose. So something could be built exactly there today without all this process, just by duplexing because it is a corner lot. And I would still end up with a corner lot obviously. And being fair to the people, I had never really considered duplexing that lot until they started bringing -- people came around and told me, I understand you're building three row houses, apartments, the gossip has run rampant. So currently I can build there the same height of house on the same setbacks, blah, blah, blah, without going through this process. So with or without the adjustment -- without the land division, something could still be built there. And it would be a pretty large house. Staying with the character of the neighborhood, it was our decision that a detached house would be more fitting to the neighborhood than one great big long attached house. So that was the reason for requesting the lot separation. The -- talking about the solar access and getting to that north property line, we're not asking for any kind of setback, any property would be built there would be built with the five-foot setback on my set and on the other side, and the property to the north is kind of a quasi residential foster home, so it's kind of a commercial property to start with. I feel it's more of a commercial property next door to me, not really a residence. It is -- I don't know how the city looks at that, but -- so I know on commercial you can go right up to the property line without any problems at all. But i'm not asking for that. I would point out that in measuring her property, i'm not going to split hairs with dan, but I believe it's like 12.6 or 12 feet between the two lines, so her property line is set back 7 feet, was my rough real estate estimate with my tape measure, but it's more than the five feet that are required, and I would have the five feet that required. So on on the solar access issue, I don't know what more you can do than live up to the code the way it's written to have proper setbacks and if the code says you can build 30 feet high, you should be able to attempt to build 30 feet high. That would be my guess. If solar access was applied in this case, I would say we'd have to look at a lot of properties in this town that would be in consideration in the future or that have already been done or are currently being done, because I have spent many time throughout all zones that are r5 in our area of Portland, not just in reedwood, but all around, and this request of mine has been implemented numerous times throughout the city of Portland. I would also like to take a moment and mention to my friend ray, we are kind of buddies, he does like to talk to me now and then. Just to let you know, ray, the truth is, crime is bigger in reedport than it is in my neighborhood. It isn't prostitution it's rape. I'm sorry to say that is the truth. I just got it off the Portland information, and it was very surprising to me, because I was talking about the quality of the neighborhood there, and I was -- me and ray were talking, I said it amazed me that crime is higher in reedwood than it is I live on 50th.

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**Sten:** Katherine, is this stuff that was talked about at the hearing?

**Walsh:** I think this was in the first hearing. As a matter of fact. I would argue that. You can debate it. Anyway. I'm sure the prostitution was at the first hearing, but anyway, let's say as a matter of record, the sexual assault crime is higher in reedwood than it is in the area which I live, which is the woodstock area, just to clarify there was a statement being made that that being the truth. Again, this is a first time for this neighborhood, I appreciate their concerns, I -- my investment is full there, and I intend to do something in a very high quality area because why would I waste the opportunity and not do something of high quality that would match and fit the neighborhood and that would be very attractive to potential people who would also like to live in that area. Our bottom line, we're here to offer our agreeance with the land development services, the hearing officer, that we concur with their decision that this is a good project. It has met all the criterias and it should be approved. As far as the adjustment, i'll take a few minutes there and talk to you about the fact that the adjustment was denied, and my overall feeling is that that denial, I would ask the city council to consider overturning that denial and return the adjustment as originally asked for. I would point out we were asking for a setback which would leave us seven feet between both buildings, which exceeds the national average by two feet, which is five feet between buildings. We were asked by the fire department to put in an extra fire wall, which we were willing to do. The reason that we needed -- we preferred the adjustment is because it gave us additional offstreet parking. One of the concerns the neighbors have brought up is this kind of development, because we are on a transit major transit there on steele street, a major transit fairway, part of the reedwood plan is to have multiliving on the transit area, according to one of their documents. And I submitted that at the hearing, one of their original long-term was to have multihousing on that -- on those transit lines, at that point it was more like holgate, now it's become steele also is a major transit there. Anyway, so I kind of think because everybody was looking at the big picture trying to shoot this thing in the foot, I think they shot themselves in the foot by trying to ask for the denial of the thing, and there was kind of written in the decision that the hearings officer believed the city was against the adjustment. We don't know if that was a type error, miscommunication, but the city did approve the adjustment, and for a good reasons, and we would ask that you would reconsider that adjustment. Let me think if I got a minute or two.

\*\*\*\*\*: What about the email?

**Welsh:** I don't know what the email was, if it's pretty it's words looking at, but if it's not new material, it's not -- what the date was, we would -- obviously would have brought new material ourselves if we thought that would have been allowed. We have stuck with things that were part of the original. I'd say, I would go with you on this. I still have a couple moments, the character of the neighborhood is expressed in two fields. The neighborhood's field and my field. I've gone through the documentation at the city, there's all -- that were submitted to the hearings officer, and it's a black and white thing. If you look at my pictures you'll see the character as one way and if you look at their pictures the character is different. It's a perspective which one you look at. You can find whatever you looking for in the neighborhood. It's a totally diverse neighborhood. Growth is due there, I think some new things in the neighborhood would be a very positive thing for the neighborhood. This house was as they described you, a run-down, vacant, nuisance piece of property when I bought it. I did put a new roof on it and I -- it's not to protect bad walls or bad flooring, there's -- the remodeling, you know, it's contingent on a lot of things. We're working on the house, it has a new roof, we're investing a lot of money in that property, and continue to. We'll continue to do that. It's on obviously everyone knows it's by far a much better piece of property

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today than it was when I bought it. And I would continue to improve that scenario. I think i've covered the three things. Did you guys have any questions?

**Saltzman:** Questions of the applicant?

**Sten:** Just one. Did you show the hearings officer a plan for what you're going to build?

**Welsh:** It's not required, and he --

**Sten:** I understand that.

**Welsh:** It wasn't -- it's getting the cart ahead of the horse. You can draw a conclusion as to what might be there, but it would be according to code, obviously. That's what -- this is --

**Saltzman:** We saw a drawing earlier -- .

**Welsh:** I would be happy to show you this drawing. It's kind of a -- this drawing obviously it's like I say, you can go look -- find whatever you're looking for, but this is the little house over here, but if the garage is gone the house goes to here. The perspective is totally different than that drawing. I find that to be -- some of the pictures that were in the file where they crammed houses -

**Saltzman:** That's showing the existing house with the garage?

**Welsh:** Right. If the garage is gone this house would be different, and there really is no design for the houses at this point. We want to get -- we talked with architects, but we're trying to -- there -- we'll do different things with this house and this house. We'd like them to match and be very -- brother-sister properties.

**Saltzman:** You didn't present this drawing at the hearing?

**Welsh:** No. This I found -- it's perspective of what you're trying to look at. I just found -- I just had to chuckle when I reviewed the hearings officer's material and I just -- if you look at my photos I submitted, and you look at the photos the neighborhood submitted, it's a chuckle because it's what you're looking to find. You'll find all two-story house, all the different solar accesses, the close-together housing, big long -- anyway, it's -- it sums up the story.

**Saltzman:** Further questions? Ok. Kathryn, we were asked about an email that stated that was handed to us, I believe by mr. McCredie dated december 10. Is this something we should not look at?

**Beaumont:** I believe you can consider it. I conferred with staff and i've reviewed it briefly and it appears to reiterate opinions or arguments about the character of the neighborhood that were presented.

**Welsh:** That's fine. We just don't have privy to that.

**Beaumont:** There don't appear to be new factual statements.

**Saltzman:** Ok. Great. Thank you very much.

**Welsh:** Thank you.

**Saltzman:** Are there supporters of the applicant who wish to testify?

\*\*\*\*\*: I would like to.

**Saltzman:** Move one of the microphones over and give us your name. You have three minutes.

**Pam Andresen:** My name is pam andresen. I just want to say that the city of Portland code and criteria have been in place prior to this application. The zone change in the land division, and the comprehensive plan for this site to be zoned r5 was also in place prior to this application, and this application was based on that criteria and those codes and the comprehensive plan, so we're not trying to reinvent the wheel, we're just going by everything that's been in place all along. I would also like to -- I don't know the gentleman that was sitting up here that was referring to the code 33.610.020, saying that we could further subdivide the lot. That's not possible from that thing he just showed you. If the -- if that parcel one would be 6,576 square feet, if you divide that 5,000

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square feet there's no way you can get two lots out of that. So I don't know why that should be conditioned for, because it can't be done anyway by the code. So I just wanted to bring that point up. Other than that, I just want to say we're going by the codes and the criteria that are set by the city, and I don't think -- for both the land division and the zone change, we've met all those criteria.

**Saltzman:** Thank you. At this point the appellant has five minutes for rebuttal.

**McCredie:** I don't know how relevant this is but we do have a drawing that was submitted by the applicant showing a possible structure that could be put there.

**Saltzman:** Was this in the record Mr. Cole?

**\*\*\*\*\*:** Yes it is, I got it from Mr. Cole

**Moore:** Could you state your name for the record?

**McCredie:** Cameron mcredie. I would like to defer to dave here, because you did ask for specific codes that would allow for denial.

**Kimmel:** Thank you. Chapter 33.610 is the portion of the code that talks about how you develop r5 zones. And under the purpose address us your specific question commissioner sten. And that is, quote, these standards ensure lots are consistent with the desired character of each zone while allowing lots to vary in size and shape, provided the planned intensity of each zone is respected. Just momentarily ago, you heard the statement that you would have 60 some hundred square feet I believe left and that clearly you couldn't create two 5,000 square foot lots. That is correct. But the minimum lot standard in r5 is 3,000 square feet, hence that's where -- what they're currently dividing it to. So you could come back to 3,000 square foot lots. As you go through 33.610 in its entirety purposes one specifically talks about that 610.200 lot design standards. Lots are not so large they seem to be able to be further divided to exceed the maximum allowed density of the site in the future. That's a direct quote out of 33.610.200a.

**Saltzman:** Could you read that again?

**Kimmel:** Lots are not so large they seem to be able to be further divided to exceed the maximum allowed density of the site in the future. So the remaining lot is clearly left to be exactly that way. As you go through, and this was in the original submittal, 33.610 was submitted in its entirety as a part of the consideration for the hearings officer. When you go through those solar access actually can then be applied because the solar access when you do that and apply these particular standards that are a portion of the code, then you could divide that lot and divide it such solar access could be provided by shifting the new development if it's a taller building, to the south end of the lot, the one adjacent to steele street as opposed to being an interior lot, and I would somewhat object to the statement that the adjacent home is a business. That home may very well be sold, it would be another single family home for a future development, and the solar access standards would be denied that particular homeowner. That addresses I think the things we talked about prior to, and as it relates to the adjustment, the hearings officer clearly agreed with the neighborhood association that the applicant did not meet those standards and I see no reason why that should be overturned at this point. I see -- have seen no new evidence that would indicate that would change. Other than that, I would be -- give you the remaining time.

**McCredie:** I didn't want to be here, but as you can see behind me, as president of the neighborhood association, sometimes i'm obligated to lead the charge. And I appreciate your time and consideration in this, and I hope as we've expressed earlier that we can work together to create some design standards that are specific for the reed neighborhood that better reflect the particular style which is quite unique in the city. I know how difficult it is for the city to create a set of standards that are applied citywide, and sometimes that's very difficult to achieve, and I know there

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are other neighborhoods that have their specific design codes put into code, and i'm hoping that we also can be afforded that right. In the meantime, i'm hoping we gave you some good demonstration of what was unique to our neighborhood, and also reason to deny this application. Thank you.

**Saltzman:** Thank you very much.

**Leonard:** I have a couple questions of staff.

**Saltzman:** This is now the time for council discussion, where we can offer amendments discussion, or other language to be incorporated into a council decision. Commissioner Leonard.

**Leonard:** My question arises from a debate we had on the subject of narrow houses some -- I don't know it if was 16 months ago or 14 months ago.

**Sten:** It seems like yesterday.

**Leonard:** It seems like yesterday. My recollection is we developed and passed some standards for the construction of skinny houses, and one of those criteria was they should be no more than 24 feet high. Do I recall that correctly?

**Cole:** Commissioner Leonard, I didn't participate in the discussions that the city had over skinny houses.

**Leonard:** I'm talking about, we actually adopted an ordinance.

**Cole:** Subsequently adopted code sections.

**Leonard:** Right.

**Cole:** I will tell you today that this application before you does not get into the narrow lot development standards that were being discussed 16 months ago. This is a particular application to divide a piece of property and then subsequently build on it according to the standard r5 zoning district setbacks and height requirements. And those sort of standards that were being discussed 16 months ago are not triggered by this particular applicant.

**Leonard:** Why is that?

**Cole:** It's just a different code section. It's a trigger that this particular application hasn't met those particular thresholds in order to trigger that requirement. There will be -- there will be -- if and when the applicant comes in to build a home on this particular property, there will be setback requirements, there will be height requirements, and then there will be some of the additional development standards that take a look at how much of the front of the property will be devoted to a garage versus how much of the front of that home needs to be devoted to an entryway and living space, and some of those standard development code issues are applicable to subsequent development on this property.

**Leonard:** If you could help me clear up this dispute as to whether or not the lot it could be divided once again if it was -- if we approve this.

**Cole:** I'm glad to have an opportunity to address it, because I did think that there was some information that wasn't correct. There is the land division section of title 33, 600 series, that talks about what are the minimum lot sizes and what are the maximum lot sizes that you can create in any given zoning district. And when you look at those standards, this particular piece of property can only be divided into two properties. There's only two properties that are allowable on a property this size when you read the 600 series. I sort of bookmarked that. There is also a section of the development code, the section of the development code that deals with development in the single family zoning districts. And within that code section, a special allowance is granted to corner lots, and one additional unit worth of density is allowed for corner lots, provided they meet minimum lot size, and then meet the development standards of setbacks and heights.

**Leonard:** That minimum lot size is 3,000 square feet?

**Cole:** That minimum lot size is 3,000 square feet.

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**Leonard:** So it would be accurate to say if we granted this the 6,000 plus square foot parcel of this division would be allowed because it a corner lot to be divided to two 3,000 --

**Cole:** Yes, or built as a single duplex and not go through the property division.

**Sten:** Just a clarification, they could build a duplex, or they could subdivide -- further subdivide?

**Cole:** They could build a duplex or they could build an attached home, and attached home could look like a duplex except a property line would run through a dividing wall.

**Leonard:** I guess we heard the response from the appellant with respect to the design standards, and the appellant cited 33.610. Did you hear that?

**Cole:** I did.

**Leonard:** Why is what he said not correct?

**Cole:** My approach to administering the code, you start with the purpose, and the purpose lays out sort of the general goals of that particular sets of regulations. But then in the city of Portland's case, it goes on and offers more specific quantifiable standards that you can measure, and an application will either meet those standards or it won't meet those standards. And when you go on and take a look at the more specific development standards in this 600 series, that's where they talk about the minimum lot size needs to be 3,000 square feet, they also include a maximum lot size, you know, they state you can't create a lot larger than -- in the r5 zoning district, the maximum lot size is 8,500 square feet. So through the course of reviewing the specific development standards, and achieving these minimum quantifiable development standards, you're meeting the general purpose of the development code. And so --

**Leonard:** But that's open to some judgment in each case? Based on your experience and training and --

**Cole:** I do think where there is a code standard that when you're looking at it it's not clear, you're trying to decide how am I going to interpret this at a staff level, you always want to go back to the purpose and say, you know, does this add clarity as to which way we should make a decision. In this application, in terms of reviewing the lot size standards, in my opinion at a staff level, they were meeting the quantifiable dimensional and size standards for a lot division in the r5 zoning district.

**Sten:** I'm prepared to make a motion.

**Leonard:** So am I. Want to hear mine first?

**Saltzman:** That answers my question, though. I'm curious, going back to the earlier testimony about -- this is probably more for edification, but the impact of solar access of the development on the northern part of the property, the foster care home, is that -- they sound like there was interesting evidence based upon how it would diminish the solar access to -- of the foster -- foster care home s that a subordinate concern in this case?

**Cole:** Solar access is an interesting component of this particular application, and a debate. I do -- I would like to point out to the commissioners that there is a minimum setback requirement from the northern property line, and there is a maximum height limit in this particular zoning district. And the applicant has pointed out whatever they build cannot exceed -- cannot intrude into the side yard setback or exceed the height limit without going through a public review process. That's not their intent, so even if that particular lot was wider, it would not prohibit a person from submitting a building permit application that contained a structure that was built at setback, five feet, and 30 feet tall. So the solar access standards, the way they're currently written in Portland code, deals more with the ability to have solar access internal to the subdivision than it is necessarily for the properties that are to the north of that particular division.

**Saltzman:** Thank you. Sounds like there's two people here willing to make motions.

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**Leonard:** Go ahead.

**Sten:** I would move we overturn the hearings officer and deny the zone change, and if there's a second i'll make my argument why.

**Leonard:** Second.

**Sten:** This is actually a fairly tough case. I do think -- i'm going to make the suggestion to both sides before I vote that you consider trying to get together and work something that you can both agree with out, particularly to the developer, because I do think when you study the zoning code on this that although i'm going to vote, I believe this may get turned down, there's still the possibility under the zoning code to build something the neighborhood doesn't like. And I think the best thing will be to get together. But I think the pressure is going to be on you, because this is not going to be approved, to try and work something out. I have always found it difficult sitting in the seat, the cases where it's a zone change and compliance with the comprehensive plan, because what you have is an r7 neighborhood that has an underlining zoning of of r5. I believe the intent of the regulation which is I think the council's job from time to time in very unusual cases, to interpret the code, is not to allow homes to be squeezed in on on very small lots. I think the intent of this whole code, which is designed to say, if you buy a piece of property and you're redeveloping it, you can redevelop it to a comp plan which is more dense than what is there now. I don't think that is intended or was built for this type of argument you can knock down a garage and squeeze one one in. That being said, I am obligated by everything I do up here as my colleagues to stick to the code.

You do get, i'm going to be long-winded because I think the rationale is important, you get the right to develop -- whether we like it or not, if you buy a piece of property that's r7 you get the right to develop it at that r5 level and -- if you meet all the criteria. From my point of view, i'm going to be a stickler, I think you have to meet all of the criteria, particularly if what you're trying to do is not in character with the neighborhood. You may have the right to do it, but I is not in character to squeeze a house into the corner by knocking down a garage of -- that doesn't look or feel like it. So where i'm going to -- commissioner leonard may have a correspond can argument that helps us as well, there's room for more than one argument, i'm going to take a difference with the hearings officer on the solar access. His argument that this should be allowed because it is better than knocking down the house presumes the house is going to be knocked down and presumes that what we're trying to do is get a vacant parcel of land is the necessary result of not allowing this. So I don't believe he has met the solar access approval criteria. It is less specific, but I also do not believe he met the character issues that the final appellant's expert mentioned as well. So there are several reasons there. I would say I think the staff made a very -- the most clean interpretation of the code. There's a decent argument for that. There's this is one of those cases where if you go -- it's -- this is why you have a council from time to time to interpret when -- what seems to be a straightforward thought process gets to bad results. So I think there's a very clear argument the intent of the code is not to allow this development through a comp plan so therefore that's my motion.

**Beaumont:** Commissioner sten could I ask a question or two to clarify your motion? There were three land use approvals before the hearings officer. The zone change, land division, and the adjustment. The hearings officer approved the zone change and approved the land division, but denied the adjustment. Is your motion to overturn the hearings officer on the zone change and the land division?

**Sten:** Yes.

**Beaumont:** And to uphold the hearings officer on the adjustment?

**Sten:** Yes. That would be my motion.



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**Saltzman:** Ok. Further discussion? Karla, please call the roll.

**Leonard:** I learned a long time ago not to try to improve on the excellent argument of another. Aye.

**Saltzman:** Aye.

**Sten:** Aye.

**Saltzman:** Ok. So the hearings officer decision is denied, overturned, excuse me, and we need to bring back final decision.

**Beaumont:** This will be a tentative decision. We'll have to bring it back next thursday for a final vote and adoption of findings. Are we --

**Saltzman:** Are we scheduled to meet next thursday?

**Leonard:** We are now.

**Saltzman:** I was going to say maybe we could do it Wednesday?

**Beaumont:** We could come back Wednesday afternoon.

**Moore:** Nothing is there. Is this going to be very brief? We could put it in the morning if it was -- if wednesday morning is ok. There's nothing for wednesday or thursday afternoon.

**Saltzman:** This would be our only item thursday afternoon?

**Moore:** Wednesday or thursday if we changed it to the afternoon.

**Beaumont:** We could put it on the wednesday morning agenda.

**Saltzman:** Wednesday morning, september 29. Thank you all. We are adjourned until next wednesday.

At 3:56 p.m., Council adjourned.