



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **6TH DAY OF OCTOBER, 2004** AT 9:30 A.M.

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

At 10:03 a.m., Council recessed.  
At 10:15 a.m., Council reconvened.

Commissioner Francesconi left at 12:05 p.m.

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

Kathryn Beaumont, Senior Deputy City Attorney replaced Ben Walters at 12:45 p.m.  
Officer Anthony Merrill replaced Officer Curtis Chinn at 1:00 p.m.

On a Y-5 roll call, the Consent Agenda was adopted.

<b>COMMUNICATIONS</b>	<b>Disposition:</b>
<b>1148</b> Request of William L. Forshay to address Council regarding nuisance tree notices (Communication)	<b>PLACED ON FILE</b>
<b>1149</b> Request of Richard L. Koenig to address Council regarding public use of streets (Communication)	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>	
<b>1150 TIME CERTAIN: 9:30 AM</b> – Amend the Transportation System Plan and Comprehensive Plan to ensure that the documents remain current and consistent with Metro Regional Transportation Plan (Ordinance introduced by Commissioner Francesconi) <b>Motion to include a bicycle/pedestrian bridge over I-405 at NW Flanders on the master street plan:</b> Moved by Commissioner Francesconi and gavelled down by Mayor Katz after no objections.	<b>PASSED TO SECOND READING AS AMENDED OCTOBER 13, 2004 AT 9:30 AM</b>
<b>1151 TIME CERTAIN: 10:00 AM</b> – Tenth Annual Pollution Prevention Awards (Presentation introduced by Commissioner Saltzman)	<b>PLACED ON FILE</b>

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<p><b>1152</b> <b>TIME CERTAIN: 10:15 AM</b> – Accept the report of the Rehabilitation Code Task Force Report (Previous Agenda 1124; introduced by Commissioner Leonard)</p>	<p align="center"><b>CONTINUED TO OCTOBER 21, 2004 AT 2:00 PM TIME CERTAIN</b></p>
<p><b>1153</b> Revise seismic design requirements for existing buildings (Second Reading 1125; introduced by Commissioner Leonard; amend Chapter 24.85)</p> <p><b>Motion to direct the Bureau of Development Services to undertake an analysis to determine and do an inventory of buildings in the city that are of unreinforced masonry or plain concrete:</b> Moved by Commissioner Leonard and gavelled down by Mayor Katz after no objections.</p> <p><b>Motion to make sure that ecoroofs or green roofs and storm water improvements on site do not necessarily trigger a seismic upgrade or the ASCE 31 evaluation as required and add eco-roofs to the list of exempted building costs:</b> Moved by Commissioner Saltzman and gavelled down by Mayor Katz after no objections.</p>	<p align="center"><b>CONTINUED TO OCTOBER 21, 2004 AT 2:00 PM TIME CERTAIN AS AMENDED</b></p>
<p><b>1154</b> Amend Title 33, Planning and Zoning to update regulations that protect Portland historic resources and include amended demolition review procedures and zoning incentives (Previous Agenda 1126; introduced by Mayor Katz; amend Title 33)</p> <p><b>Motion to add that Historic Buildings subject to demolition review will be given priority for the location of city offices and operations that are to be located in privately owned facilities. The criteria for this policy will be referenced in the auditor's policy book and historic structure renovations that meet the design and performance criteria established by the City's Green Investment Fund (GIF) will be eligible to apply for financial assistance from the Green Investment Fund:</b> Moved by Commissioner Saltzman and gavelled down by Mayor Katz after no objections.</p>	<p align="center"><b>CONTINUED TO OCTOBER 21, 2004 AT 2:00 PM TIME CERTAIN AS AMENDED</b></p>
<p align="center"><b>CONSENT AGENDA – NO DISCUSSION</b></p> <p><b>1155</b> Accept bid of Hughes Fire Equipment, Inc. to furnish CBRNE Hazmat Response Apparatus Units for an estimated amount of \$1,247,085 (Purchasing Report - Bid No.103338) (Y-5)</p>	
<p align="center"><b>Mayor Vera Katz</b></p> <p><b>*1156</b> Authorize an Intergovernmental Agreement with Multnomah County for the City Equal Employment Opportunity and Workforce Hiring and Training Programs (Ordinance) (Y-5)</p>	
<p align="center"><b>Commissioner Jim Francesconi</b></p>	

**ACCEPTED**

**178783**

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<p><b>1157</b> Declare intent to initiate local improvement district formation proceedings to construct street improvements from Virginia Avenue to west of Virginia Place in the SW Nevada Street Local Improvement District (Resolution; C-10012)  (Y-5)</p>	<p align="center"><b>36261</b></p>
<p><b>*1158</b> Designate and assign a block of City owned park property bounded by NW Northrup and Marshall Streets and NW 10th and 11th Avenues as public street right-of-way (Ordinance)  (Y-5)</p>	<p align="center"><b>178784</b></p>
<p><b>*1159</b> Authorize an Amended and Restated Perpetual Easement and Limited License Agreement with Jubitz Corporation for the Columbia Children's Arboretum (Ordinance)  (Y-5)</p>	<p align="center"><b>178785</b></p>
<p align="center"><b>Commissioner Randy Leonard</b></p>	
<p><b>*1160</b> Amend contract with Scan One, a CorVel Company to extend time and provide for additional funds for document imaging of the Multnomah Personal Income Tax Program (Ordinance; amend Contract No. 35088)  (Y-5)</p>	<p align="center"><b>178786</b></p>
<p align="center"><b>Commissioner Dan Saltzman</b></p>	
<p><b>*1161</b> Authorize contract with the U.S. Geological Survey for streamflow and water quality monitoring without advertising for bids (Ordinance)  (Y-5)</p>	<p align="center"><b>178787</b></p>
<p><b>*1162</b> Extend contracts with Adolfsen Associates, Inc., GreenWorks, P.C. and Parametrix, Inc. to provide services for development review for stormwater management, natural resource protection and public education and involvement (Ordinance; amend Contract Nos. 33932, 33933 and 33934)  (Y-5)</p>	<p align="center"><b>178788</b></p>
<p><b>*1163</b> Accept a grant from the U.S. Fish &amp; Wildlife Service in the amount of \$10,000 to develop a notebook of a strategy for protection and restoration of terrestrial riparian and upland species and habitats for up to two Portland watersheds (Ordinance)  (Y-5)</p>	<p align="center"><b>178789</b></p>
<p><b>*1164</b> Authorize a contract and provide for payment for the construction of CIPP Consolidation Project, Project No. 7727 (Ordinance)  (Y-5)</p>	<p align="center"><b>178790</b></p>
<p><b>*1165</b> Authorize an Intergovernmental Agreement with Portland State University for \$4,690 to conduct an analysis of the potential impacts of greenroofs on the urban climate (Ordinance)  (Y-5)</p>	<p align="center"><b>178791</b></p>

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**Commissioner Erik Sten**

<p><b>*1166</b> Authorize subrecipient contract with Central City Concern for \$532,635 for the omnibus contract to provide homeless services and provide for payment (Ordinance) (Y-5)</p>	<p><b>178792</b></p>
<p><b>*1167</b> Authorize subrecipient contract with Salvation Army District Office for \$219,219 for emergency winter shelter and provide for payment (Ordinance) (Y-5)</p>	<p><b>178793</b></p>
<p><b>*1168</b> Authorize contract with 22 projects chosen to further the goals of the Economic Opportunity Initiative and provide for payment (Ordinance) (Y-5)</p>	<p><b>178794</b></p>
<p><b>*1169</b> Apply for a \$16,800 grant from the Federal Emergency Management Agency for Portland Fire &amp; Rescue for website development (Ordinance) (Y-5)</p>	<p><b>178795</b></p>
<p><b>*1170</b> Authorize Intergovernmental Agreement with Portland Community College for advanced cardiac life support training (Ordinance) (Y-5)</p>	<p><b>178796</b></p>

**REGULAR AGENDA**

**Mayor Vera Katz**

<p><b>1171</b> Archives Week Proclamation (Proclamation)</p>	<p><b>PLACED ON FILE</b></p>
<p><b>*1172</b> Authorize acquisition of property at 9827 NE Sunderland Road for the Bureau of Maintenance (Ordinance)</p>	<p><b>REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION</b></p>
<p><b>*1173</b> Change name of Vehicle Services Division to CityFleet (Ordinance; amend Code Chapters 3.15.080 and 5.04.180) (Y-4)</p>	<p><b>178797</b></p>

**Commissioner Jim Francesconi**

<p><b>*1174</b> Authorize contract with Kiewit Pacific Co. for pre-construction services for the Portland Aerial Tram (Ordinance) (Y-4)</p>	<p><b>178798</b></p>
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<p style="text-align: center;"><b>Commissioner Dan Saltzman</b></p> <p><b>1175</b> Accept an Intergovernmental Agreement for \$72,697 from Metro to help fund an outreach campaign to support a standardized recycling system for multifamily complexes throughout Portland (Ordinance)</p>	<p style="text-align: center;"><b>PASSED TO SECOND READING OCTOBER 13, 2004 AT 9:30 AM</b></p>
<p style="text-align: center;"><b>City Auditor Gary Blackmer</b></p> <p><b>1176</b> Revise City Election procedures to implement Measure 26-53 Charter Change (Second Reading Agenda 1147; amend Code Sections 2.08.040 and 2.04.090)  (Y-4)</p>	<p style="text-align: center;"><b>178799</b></p>

At 1:17 p.m., Council recessed.

**October 6, 2004**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **6TH DAY OF OCTOBER, 2004** AT 2:00 P.M.

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

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

<p><b>1177</b>    <b>TIME CERTAIN: 2:00 PM</b> – Create a local improvement district to assist in the capital financing to construct street improvements in the Portland Mall Revitalization Local Improvement District (Ordinance introduced by Commissioner Francesconi)</p>	<p><b>Disposition:</b>  <b>CONTINUED TO NOVEMBER 10, 2004 AT 9:30 AM TIME CERTAIN</b></p>
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At 2:04 p.m., Council recessed.

**October 7, 2004**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **7TH DAY OF OCTOBER, 2004** AT 2:00 P.M.

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

At 2:40 p.m., Council recessed.

At 2:45 p.m., Council reconvened.

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>1178 TIME CERTAIN: 2:00 PM</b> – Approve an Intergovernmental Agreement with the Port of Portland related to Portland International Airport and accept \$88,572 to reimburse costs to prepare a detailed work program for a joint airport planning process (Ordinance introduced by Mayor Katz)</p>	<p><b>Disposition:</b> <b>PASSED TO SECOND READING OCTOBER 13, 2004 AT 9:30 AM</b></p>
<p><b>1179 TIME CERTAIN: 2:45 PM</b> - Tentatively grant the appeal of Reed Neighborhood Association and overturn Hearings Officer's decision to approve the application of John Welsh, Michael Andresen and Pamela Andresen for a zone map amendment and land division and uphold Hearings Officer's decision on the adjustment at 3407 SE Steele Street (Findings; Previous Agenda 1144; LU 04-017115 ZC LDP AD)</p> <p><b>Motion to continue for 60 days with the Applicant's Agreement:</b> Moved by Commissioner Sten and seconded by Commissioner Leonard.</p> <p>(Y-3)</p>	<p><b>CONTINUED TO DECEMBER 2, 2004 AT 2:00 PM TIME CERTAIN</b></p>

At 3:18 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.

**October 6, 2004**  
**Closed Caption File of Portland City Council Meeting**

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

Key: \*\*\*\*\* means unidentified speaker.

**OCTOBER 6, 2004**                      **9:30 AM**

[Roll call taken]

**Katz:** All right, communications, 1148.

**Item 1148.**

**Katz:** You have three minutes, sir.

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

**Katz:** Good morning.

\*\*\*\*\*: I passed to this lady a copy of what i'm about to tell you.

**Katz:** Ok.

\*\*\*\*\*: I'm more than somewhat sorry --

**Katz:** Do you want to identify yourself?

**Bill Forshay:** I beg your pardon. I'm bill forshay. I live at 28th and skidmore. I've been a resident of the city for 13 years. And i'm more than sorry that i'm here today, but I received a nuisance notice regarding my trees, and so i've come to find out why, anonymous complaints are honored by so much city attention as a live delivery by a city employee and then two mailings of the same regarding my vegetation. It seems my trees are not cut high enough. If I do not take them to the 11.5 height the city requires, Portland will come and do it for me while charging me \$300, plus labor, and 40% overhead, and auditor and contractor charges. If I fail to pay a tax lien will be placed to ensure payment. Meanwhile the process of making me fit the rules will be ruining the look of my property and devaluing the very nice neighborhood in which I reside. I take pride in my house and have so far survived there on a tiny social security, and whatever I can earn. It seems strange that an anonymous complainant can force the city to take action against innocent trees and old widowers. Just two doors down, a family of four with two young children and a very young tree and small rose bush received a similar notice. Oh, wait a minute. Am I suggesting that if someone came to my door and suggested that my hedge and trees formed an impediment to their passage, that I would not have attended to their complaint? I remember in the nazi era, germany's children were taught to inform on their parents and good german soldiers of christian families came to jewish doors and escorted them to the trains of death while just obeying orders and regulations. So who is the tree fuhrer with whom I must confer? That is that, herr leonard? When does a caring city destroy itself by inflicting property damage by forcing another grouchy old man out of his home for daring to defy the stupidity of the city government. Let's make a new position. A reasonable observer, who visits and observes, talks to neighbors and operates rationally rather than on the basis of poorly-designed, co-optive rules. Handling anything in the city's sphere with no axe to grind, bringing an awareness of the use of reason and understanding of compromise and accommodation to the differing conditions he is likely to meet. Choose someone with an awareness of our governmental direct action is stressful for individuals who have not to deal with it often. You may the woman who delivered me this notice was able to do all that, but she was following the rules. I'm sure my gripes fell into attentive ears, but rules are not subject to individual cases.

**Katz:** I think we understand the issue. Which one of yours is the tree?

**Forshay:** The very last one. I'm got a pole showing the 12 1/2-foot height, and the other poles are showing the trees in the alameda neighborhood which are considering lower than mine. Everybody



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can walk under mine, but some anonymous complainant comes along, says, I don't like your trees, and does it to this little rosebush --

**Katz:** You're going to get a heart attack and I want to prevent them.

**Forshay:** I'm going to have a heart attack anyway, because the city's going to push this, whatever I tell you.

**Katz:** Ok, thank you. 1149.

**Item 1149.**

**Richard Koenig:** Richard koenig, southeast Portland. Good morning, city of Portland, city council.

**Katz:** One second, richard.

**Francesconi:** Sir, let me talk to urban forestry about your trees, sir.

**Katz:** That's ok. Go ahead.

**Koenig:** I'll have a separate chat with jim later. Thanks. On august of -- in august of 2002, city council, by unanimous vote decided not to declare war on the public's right to use the streets of Portland. Commissioner leonard was not a city councilman at the time. He's recently expressed his lack of understanding about the right of the public to use the highways and streets of Portland, as distinguished from the privilege of the motor vehicle operator. The o.r.s. At 173.130 does not speak as to why the motor vehicle operator is privileged, but makes it clear that the Oregon legislature meant what they said when they declared that the highways are open to the general public as a matter of right. Mr. Leonard, having spent some time in salem as a legislator, should remember this principle of legislative construction. When a statute is equally susceptible of two interpretations, one in favor of natural rights and the other against, the former shall prevail. This morning, you've been officially with a letter from the speaker of the house of representatives, in which the statement is clearly made that when a search for their -- of their records was made for a law, that the public has to obey before using the highway by right, they could not find one. Since the speaker's office has to sign off on every bill that has ever become law, that office is uniquely qualified to tell us that the public has never been subject to the same laws as a motor vehicle operator. A copy of this letter is placed in the city clerk's file and may be recovered by asking for it by reference to this date or my name. Now i'm cutting my three minutes short today so I can specifically take questions from anyone that has any further questions. Especially mr. Leonard, since you weren't here in 2002.

**Katz:** Richard, we don't take questions, so use your full three minutes.

**Koenig:** All right. I want to make it perfectly clear here, I want the public to note, that not only do you not take questions or answer questions here in city council, but you don't answer them when it comes to the hard -- the hard questions at any time or any other place. Now that kind of defies the opening line of the Oregon constitution that each one of you folks were sworn to uphold, that you're here for three legitimate reasons. Three only. Remember what they were -- what they are? To assure our peace, safety and happiness. If you don't talk to us, if you don't answer the hard questions, we have to wonder. Thank you.

**Katz:** Thank you. Ok. Consent calendar. There is an item to be removed and returned to my office. Item 1172. Any other item?

**Moore:** That is already on regular agenda.

**Katz:** Oh, yes, you're right, it is on regular agenda. Any items off the consent agenda? Roll call on consent agenda.

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

**Katz:** Mayor votes aye. [gavel pounded] all right, time certain, 1150.

**Item 1150.**

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

**Katz:** Good morning.

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**Jeanne Harrison:** Mayor Katz and commissioners, I'm Jeanne Harrison with the office of transportation. I'm here today to bring forward the first update of the city's transportation system plan, which was adopted in October of 2002. The office of transportation intends to update it frequently to keep it relevant and consistent with Metro's regional transportation plan amended earlier this year. The Portland Planning Commission is forwarding this update to you with their recommendation for approval. This is a technical update rather than a full review and consists of minor policy changes, minor street corrections, additions and updates to the major improvements and refinements and studies. It also incorporates the recommendations from many plans and studies completed and approved by you since 2002. Examples of those plans are the South Waterfront Street Plan, the I-5 Transportation and Trade Partnership, the Killingsworth and Russell Improvement Plans, the St. Johns/Lombard Plan and the Foster Streetscape Plan. The Northwest District Plan, transportation recommendations, are also included in this update. Luba has remanded two elements of that plan to the city since the planning commission took action on this update. Because of the possibility of a remand, planning commission added a qualifying statement to the Northwest District summary in the update that recognizes the possible need for an update in the future. The city attorney and staff will be meeting to decide what action to take in light of a remand. At this time we're not recommending any changes to the T.S.P. Technical update beyond what the planning commission approved. The planning commission is also recommending that the city council recognize the need to update the central city transportation management plan, to address larger policy issues in the central city and to ensure that regular updates to the T.S.P. are funded as needed. Today PDOT has one minor amendment to the emergency response map beyond what planning commission approved that came to our notice just yesterday, and Will Stevens is here from PDOT to address that change if you'd like to hear from him.

**Katz:** Questions?

**Will Stevens:** Good morning. My name is Will Stevens, Portland office of transportation, I manage traffic calming for the office. I'm here to correct -- ask the council's authority to correct a minor mapping error that occurred at the time that the emergency response classification system was developed in 1998. This pertains to Northeast 48th Avenue -- 148th Avenue North of Halsey. There is the -- a map error occurred when the local service street segment was also included as an emergency response route along with the district collector segment of the street. This is an anomaly that was not caught when we were mapping the system. Both the district collector and the local service street segments carry the same name. So it was simply a mapping error that the council did adopt the plan as designated and we're asking your authority to correct that minor mapping error.

**Katz:** Ok. That's included in here.

**Stevens:** Yes.

**Harrison:** It's not in the document today. It just came to our notice yesterday, so it would be an amendment.

**Katz:** An amendment, all right.

**Harrison:** Yes. One other short comment. I understand that Chris Smith is here to testify for the Northwest District Association, and he has one request that was heard by planning commission, and they did not take action on it, however PDOT does support it and it's adding the Northwest Flanders connection over I-405 as a future connection and that was adopted as part of the Burnside Plan. We did not have it added on the Northwest District Master Street Plan, which is in this update, and we do support that amendment from Chris.

**Katz:** Ok. Questions? All right, Chris, why don't you come on up, explain your amendment.

**Chris Smith:** Chris Smith, 2343 Northwest Pettygrove Street, a member of the NWBA directors, and testifying on behalf of the association this morning. I actually have several amendment requests. Two are to remove things. The first, as Jeanne mentioned, is to add the bicycle/pedestrian bridge over I-405 included in the Burnside Boulevard concept plan. That's clearly a big add to both our

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neighborhood, to the neighboring pearl district and to bicycle connectivity throughout the northwest section of the city. We'd love to see that get into this update. It's not controversial. I think it's just a matter of getting it on the list. So we'd like to see it happen. With regard to the rest of my testimony, you have a letter that was the basis of my testimony to planning commission about the t.s.p. update and it is essentially a reiteration of the neighborhood's opposition to the northwest district plan and the specific elements of that plan that are included in this t.s.p. update. And those are related to both the parking plan and the northwest vaughn portion of the northwest district plan, including reconnecting northwest 20th street underneath the i-405 freeway as part of mitigation for traffic control changes on vaughn, a project simply labeled intersection improvements with no designation of what those improvements would be and then language in the policy section incorporating the northwest transportation fund. The parking piece is language -- policy language encouraging parking in structures. So our association would like to see that not included in t.s.p., because we didn't want to see the original plan adopted, but i'd like to bring your attention to the fact that luba has remanded the vaughn portion of the district plan back to you. We think it would be very inappropriate to take plan language been remanded and include it in other plans. I'd definitely ask you to amend this today to remove that until you had a chance to deal with the remand. Thank you.

**Katz:** We'll have discussion.

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

**Katz:** Good morning.

**Ron Swaren:** My name is ron swaren, sellwood neighborhood. I'm a resident of Portland, but I worked in seattle from 1998 to 2002, so i'm just getting up to speed on some of the transportation issues. In the past I did participate in various things as far back as 1970, working for tom walsh's campaign, where the issue was stopping the massive freeway construction projects slated for the Portland area. What i'd like to speak to is basically three elements in the 2004 transportation plan. One, sellwood bridge, the east side streetcar alignment, and the milwaukie light rail. I know this isn't the perfect venue. I think light rail is becoming a much more subsidized form of mass transit than initially intended to be. I attended blumenauer's mid district summit two months ago in gresham and brought up the fact that with projected growth in that area, and probably declining federal funding for light rail, that other solutions need to be found for the transportation crunch in the south Portland area and south willamette corridor. As areas grow in population on both the east side and the west side, the sellwood bridge is becoming more impacted by traffic. So I think there needs to be a comprehensive solution found for other river crossings over the willamette. Sellwood bridge is the only crossing in about -- I think about 12 or 13 miles of river. So it's becoming more heavily used. As far as the east streetcar alignment, I think that's an excellent idea, but I would like to see the streetcar extended down to milwaukie instead of a light rail system. As I said before, I think the light rail is becoming more expensive as time goes by. We're seeing a projection of \$100 million per mile for this system crossing the willamette river and down to milwaukie. So currently I think the streetcar costs are projected around \$22 million per mile. My other objection to the milwaukie light rail is that typically light rail has -- has not really lessened traffic, but the bottom line it becomes a focal point for development, and that's fine. I just don't see how this -- or union pacific corridor really lends itself to the kind of development that light rail lines have fostered in the past. I don't think anybody would want to live next to a freight -- freight yard or freight rail line, and unless that's moved out of there I -- I simply don't support the milwaukie light rail line, but I think a streetcar system would be much more workable and more cost effective. And I think the sellwood bridge should be rebuilt with the possibility of a streetcar over the -- over the bridge, connecting to a lake oswego line.

**Katz:** Thank you.

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

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

**Katz:** Anybody else? Ok, let's take chris' request on the bicycle and pedestrian bridge over i-405.

**Francesconi:** We should definitely include it. So I guess the language would be that we include a bicycle/pedestrian bridge over i-405 at northwest flanders. I guess that's a motion.

**Harrison:** On the master street plan.

**Francesconi:** On the master street plan, yes.

**Katz:** Any objections? Hearing none, so ordered. [gavel pounded] all right, talk to us a little bit about the luba issue.

**Harrison:** The city was remanded on two elements. Those relate to transportation issues on the vaughn/i-405 corridor. We've just started conferring with the city attorney and bureau of planning on how to address this.

**Katz:** What were the grounds for the remand?

**Harrison:** The classification of vaughn, which is currently a neighborhood collector. Luba found that we hadn't provided evidence in the record that new traffic that was going to be generated from the rezoning in northwest was going to be consistent with the classification of northwest vaughn, so that would require either additional evidence or finding existing evidence in the record. Whether we would do that on the remand to city council or appeal, that's still under discussion. The second issue is the actual operations of --

**Katz:** We don't know yet what we're going to do.

**Harrison:** Correct. We're still exploring those options. The second issue is the actual operation of the vaughn/23rd/i-405 intersection. We had a project in the northwest district plan, which is in this update, for that intersection, but we did not do additional analysis to show what the effect of a new project would be because of our concerns about the potential impacts to the neighborhood. We wanted to do more analysis first. We may be able to provide evidence in the record that indeed the intersection would operate at an adequate level of service. That will take more research of the record before we can decide what to do on that particular issue. So right now what we're doing is including in the update the rather placeholder project for the northwest vaughn/23rd intersection, and the master street plan is in there as well as some other minor projects that were identified as part of the northwest district plan. So we're asking to have those remain -- added to the t.s.p., along with a summary of what the northwest district plan does, how it was adopted, and what the issues were, just standard for our t.s.p.

**Francesconi:** Well, is there some footnote or provision we can put on this, that we do have to revisit it, depending upon what we do. I mean, chris' point's right.

**\*\*\*\*\*:** Right.

**Francesconi:** We just can't leave it the way it is.

**Harrison:** Right. We added a footnote at the request of planning commission, which says these issues may have to be revisited depending on the outcome of any remand from luba. That hasn't changed from what planning commission said. We still don't know exactly what might need to be done, but it does give us the -- you know, sort of the heads-up, things may have to change. So that is in there, in the update, right now.

**Katz:** Council? All right, chris, you heard the conversation on this issue. All right, passes to second. 1151. We can start. Do you think we can start?

**Francesconi:** Thank you, jean. Thank you, chris.

**Katz:** Ok, talk slowly.

**Saltzman:** I think we have everybody here.

**Katz:** All right, 1151.

**Item 1151.**

**Saltzman:** Madame mayor, members of the city council, america celebrates pollution prevention week each fall, and in Portland we observe pollution prevention week annually by recognizing city

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of Portland employees and citizens who work in partnership with the city to prevent pollution and to protect our environment. This is the tenth annual observance we've had. This year's pollution prevention awards go to winners. Winners will receive a certificate and a gift. So I want to congratulate our award winners and thank you for your efforts to help make Portland a cleaner, more livable city, and environmental services director dean marriott will now present this year's awards.

**Dean Marriott:** Great. Thank you very much, commissioner. Good morning, mayor Katz, members of the council. I am dean marriott, environmental services director. If I could have ask commissioner Saltzman to step over here to help us and june gladson from the bureau is here with the certificates and the gift. The gift is a paperweight or a piece of memorabilia made from recycled glass, of course. Last year you'll recall that we had a lot of recipients who were outside of the city family, and this year we decided to sort of focus on city employees. So the folks you'll be saying hello to this morning are from various city bureaus. There are four -- three teams and one individual being recognized this year. So i'd like to ask, as I read off the names of the teams, if they would all step over here, and i'll read a description of the reason you're being recognized as you come forward. The first is the sustainable stormwater team from environmental services with kevin perry, henry stevens, and tim kurtz. Come on up. The sustainable stormwater management team within the bureau of environmental services provides support for innovative ways to manage stormwater runoff within the city of Portland. Through their work rain in Portland's urban area does not automatically mean more pollution or sewer overflows into the willamette. They turn it to groundwater. The rain garden at glencoe school adds an attractive to the school grounds and prevents basement flooding for more than a dozen homes nearby. Two Portland streets now have vegetated curb extensions that clean the stormwater before it enters the sewer system. And there will be more projects like this in the future thanks to the hard work of kevin, henry and tim. Thank you very much. [applause]

**Katz:** Thank you. That's a cool project.

**Francesconi:** I just got to see it just last week. It's terrific.

**Marriott:** The next team is the multifamily assistance program from the office of sustainable development. Josh arnold, kyle diesner, elisha polacok, and anthony roy, and I apologize in advance if I mispronounced the names. We have two members of the team here. This program helps multifamily property owners and managers to improve energy efficiency in their buildings. The team worked with more than 4,000 housing units last year to reduce tenant energy bills and power plant emissions. Over the next 10 years, the energy efficiency projects facilitated by this team will keep \$2.75 million in the pockets of apartment tenants annually instead of going out to pay the power companies. A funding partnership with climate trust helped to fund this program. Congratulations. [applause]

**Marriott:** The third recognition award goes to an individual, curt ireland, with the bureau of waterworks. Is curt here? All right. Let me come back in case he's on his way. Let's have the distribution maintenance team from the bureau of waterworks come forward, please. They are mert bean, wanda hall, nancy nold, lewis scofield, and george carlson. I'll read to you what this group is being recognized for. The people I just introduced are members of the water bureau distribution maintenance team. It's their job to put into action on the ground the protective water discharge procedures in coordination with engineers and the bureau of environmental services. This team works geographically throughout the water distribution system doing inspections and repairs. They're instrumental? Making sure that pipe-cleaning procedures that improve the conditions of water mains do so without any adverse impact to our river and streams. Congratulations and thank you very much. [applause] you'll have to fight over the paperweight. I didn't notice whether curt came in. Did anybody notice?

**Katz:** Why don't you go ahead and give it to him.

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**Marriott:** We'll give it to him. Let me tell you what about curtis being recognized for. He's a border quality engineer with the bureau of waterworks. The primary work of his operations and maintenance group is to make sure that Portland water users have reliable drinking water. In addition, they play a very important role in protecting our rivers and streams. Kurt's the permit manager for the water bureau compliance with the city's federal discharge permits, and while chlorine disinfects drinking water and makes it safe, it's not always good for fish and wildlife. Kurt oversees the operation to make sure that the chlorinated water is dechlorinated water before being discharged to receiving streams. So he's very much helping to prevent pollution. We'll make sure he gets the word with your thanks.

**Katz:** Maybe you can find paperweights for the entire group.

**Marriott:** I'll have to break more glass and recycle it to do that. We will do that. Thank you very much, mayor.

**Katz:** Thank you, everybody. Thank you for doing such good work for us. Karla, we'll have to take a little break. All right, let's take a recess until 10:15, but be back here at 10:15.

at 10:03 a.m., Council recessed.

at 10:15 a.m., Council reconvened.

**Item 1152, 1153 and 1154.**

**Katz:** Before don starts, let me start of give you the lay of the land. Don mazziotti is going to testify on the incentive portion of this package. Then staff very briefly will review where we are and what we did during the two-week interim. Then we will take the testimony of the folks who signed up two weeks ago. If you testified on -- well, you didn't testify actually on any of the historic preservation issues. Then we'll take commissioner leonard's recommendation on the -- from the task force on the seismic upgrades and his -- he's got an amendment as well on reinforced concrete. Then we'll have commissioner Saltzman lay out another amendment that he had proposed that we had reviewed during the last two weeks. And then if there's time -- is john russell here? He's here. I'm going to -- i'm going to give him an opportunity -- I don't know what he's going to testify, but i'm going to give him an opportunity to testify. And then if anybody else wants to afterwards, somebody who has not testified before, but has come off the streets or has an interest, if there's time, we'll have them testify. We're not going to reopen all of this. We've gone through this systemically, but if there's time and the council's willing we'll allow people to testify later on, at the very, very end. All right. Oh, and then we'll bring it back next week. And god willing, if there isn't any more amendments, then we'll take a vote.

**Don Mazziotti:** Thank you, mayor Katz and council members. Don mazziotti, director of the Portland development commission. I'm here today to offer my support and endorsement of the historic code amendments, which are before you. I do this after staff has worked extensively, not only on the various committees formed to put together this proposal and with the planning bureau and the like, but also i've consulted personally and directly with both developers of historic buildings in Portland and owners of historic buildings in Portland, and I think that it's fair to say, and john russell is a good example, art demuro certainly another, a good example that this is a workable program. And p.d.c. has structured some specific incentives to make this work, or make it work more effectively. Before I talk about that, I do want to summarize what p.d.c. has done in the way of historic preservation in the last eight years. Just to give you a high level notion of whether we're in that game or not. We've given in that period of time 100 grants to historic buildings, which have totaled more than a million dollars. We've given -- we've built over 2.4 million of square feet over that time period. We've rehabilitated or helped build 1100 housing units that were part of historic structures, thus contributing to their preservation. We've made 50 loans totaling \$8.3 million through our financial assistance programs. In those programs, we've added 2.3 square feet,

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including housing units in mixed-use projects. So far we've distributed \$19.4 million in loans, preserving 714 affordable housing units in historic buildings. All told, we've contributed about \$30 million to historic preservation just in the central city just in the last eight years. Last year, working in coordination with the mayor's office and with the bureau of planning and b.d.s., our commission adopted a budget which includes for each of the urban renewal districts in the central city \$50,000 line item that would go toward grants for small building owners. That is owners of small buildings to provide them with technical assistance, say in the \$2500 range, to determine whether their buildings are feasible and economic for historic preservation, thus helping them get into the game, determine whether it's economical feasible. And if it is to offer them assistance to upgrade and preserve the structures that are historic and turn them into economic use. Our seismic loan program was also modified and expanded by the commission to include the historic building loan program, which specifically designates seismic loan funds to historic structures that are in need of seismic upgrade and for which there is a development consistent with the urban renewal plan. Our storefront improvement program provides matching grants of up to \$20,000. It's the most extensively used program at p.d.c. And the most extensively used for historic preservation. That remains available and the commission has over the last two budget years, or fiscal years, increased the amount available to businesses. In addition to those incentives, p.d.c.'s business and financial assistance programs now have a preference for historic upgrades. P.d.c. is also the city agency responsible for h.u.d. 108 loans and e.d.i. grants for real estate acquisition and improvement. We offer another program that commissioner Sten is very familiar with. And we have a series of projects today. And almost on any day, geared to upgrading, improving, rehabilitating and preserving historic structures. Today we have four good examples. We're working on structuring a transaction which would preserve the meier & frank building and convert it into economic use well into the future, including an upgrade at meier & frank store. The holman building, which mayor Katz cut the ribbon on about eight months ago, is an art deco building, rehabilitated and preserved and converted to economic use. Portland boathouse is located there. And we just recently announced 185 employees from two cost will locate there, mckenzie and associates and a software company out of maryland. The armory story you know pretty well. A \$28 million project with \$4.6 million from p.d.c. to preserve one of the most important historic structures and convert it into an economic use that we hope will open by the end of next year, provide both community space and performing arts space in a historic structure that frankly had no other economic use. And we'll shortly be considering possible uses for the globe hotel, a contributing structure in the historic district. So we believe we're diligent in our continued search for additional resources. We think that this is a workable proposal before you. I'm sure there are modifications which could be made to make improvements, as in everything, but we've added a series of incentives programs that will help owners of buildings convert and preserve them, help building owners, whether the projects are large or small, seismically upgrade historic structures. We'd expect, for example, in the new park avenue area, formerly called the midtown park blocks, several structures within the next 12 months or so that will be working with the owners to do historic preservation and convert them to economic use. With that I conclude my testimony. We think these are workable proposals. We're glad to participate and we're also happy to share our strong experience and historic preservation in support of those programs with the community. We intend to do more in the future.

**Katz:** Thank you. Questions of don? And let me add, we have new challenges ahead of us on potential demolition of historic buildings in the central city that we're going to have to deal with. Ok.

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

**Katz:** Thank you, don. Nicholas. Nicholas is a latecomer to this issue, and I want to personally thank him for the wonderful job that he's done picking up the work of cello at the time she left.

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**Nicholas Starin, Planning:** Thank you. Good morning, madame mayor, members of the council. I have a brief presentation this morning. As you know, last time I did the presentation on the --

**Katz:** You're not going to repeat the whole thing?

**Starin:** I'm not going to repeat any of that.

**Katz:** Ok, good.

**Starin:** What i'm going to cover today is material that's in the memo that went out to council on monday. This material responds to specific requests we heard from council at the end of the hearing on the 22nd. Before I begin, I do want to note, for the record, that the project file is in the room to my left over there should anyone want to take a look at that. As I say, i'm going to work from the memo that went out on monday. There's four attachments to that. The first --

**Katz:** Let me just clarify.

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

**Katz:** These are issues that commissioner Saltzman has asked you to look at?

**Starin:** Correct. And commissioner Sten as well.

**Katz:** And commissioner Sten?

**\*\*\*\*\*:** Yes, yes.

**Katz:** Ok.

**Starin:** The first one, a, responds to a request that came from commissioner Saltzman regarding the supplemental application materials associated with the demolition review process. We went ahead and reviewed those and added some further commentary that explained why we think all of those -- excuse me -- all of those requirements are potentially useful in making the determination of an economic hardship or a policy decision in demolition review. And I just want to remind the council as well that b.d.s. pay waive individual requirements when they're not relevant to the review, and in addition the applicant, if they choose to withhold some requested information they may do so in writing and the review will proceed based on the material that's submitted. We just want to reiterate that we believe all those materials are necessary for the review.

**Katz:** This is not an amendment.

**Starin:** This is not an amendment.

**Saltzman:** After these through, I wanted to ask about this.

**Katz:** All right.

**Starin:** Ok. The second enclosure b responds to I believe another request from commissioner Saltzman regarding some of the bigger picture recommendation that came out of the project advisory group. These are -- most of these are -- have significant work program and budget implications and are not part of this current package, and the enclosure explains in more detail why they're not part of that. That said, we strongly believe that all of these have merit and deserve to be thought about more and would, you know, help make a strong preservation program for the city. One of the recommendations for creating a policy that prioritizes location of city services and historic buildings, we believe could be accomplished as parts of this current package, and I believe commissioner Saltzman may be improving an amendment to do so. So I want to suggest that while we don't -- while following up on these recommendations, for instance creating a city preservation office, is appropriate to happen as part of the city budgetary process, I would like to suggest that council may want to provide direction to the bureau of planning and other bureaus to begin thinking about what, you know, phase three of this project might look like, a less code-oriented, sort of proactive one. One of the recommendations, number eight from that table that reiterates the recommendations, calls for creating a swat team, kind of a multidisciplinary group that would have city -- representatives from city bureaus and the private sector and the preservation community that could respond proactively to crises situations when a resource might be threatened, but also go out, look for opportunities to help historic property owners. And we think that might be a good direction that we could follow up in the near term, and would also perhaps help us think about



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scoping out what -- a more institutional historic preservation office might look like in the future. So we'd be open to council's direction on that.

**Katz:** Council's direction that is in need of a formal amendment.

**Starin:** It is or isn't?

**Katz:** Is not. It's a direction, and I want to talk to that a little later on.

**Starin:** The third attachment to the memo outlines a concept for a new zoning amendment that commissioner Sten asked us to look into. It's based on -- we have a concept that's based on an existing incentive available in the r.x. Zone. The goals of this incentive, to help provide new use options that viable -- viable reuse options for a stock of buildings, for instance nonconforming uses or conditional uses, in multidwelling zones that were -- and buildings that were not necessarily originally intended for residential use, for instance old churches or community centers that are having a difficulty under the current residential zoning. And zoe we -- we used the r.x. Zone as a model for that, and we wanted to make sure that in addition there was a review process involved in this to make sure that impacts in the neighborhood were looked at. So the initial concept would apply to the r.h., the r-1 and r-2 zones, not the r-3 multifamily zone or any of the single-family zones. And it would allow retail sales and services, office, or manufacturing and production uses. Again, if it was a designated historic property, because that's the goal of this project, is to create incentives for historic resources, and the significant difference from the existing r.x. Incentive would be this is only available on sites where the last legal use was something other than a residential use. So this helps to limit is to those targeted buildings, for instance, you know, community centers, churches, or buildings that have been in long-term nonresidential use, and more importantly prevent conversion of an existing residential use to a nonresidential use. It would need to go through review. I've included the approval criteria for that. One question that we've not fully answered yet, and as we go forth to actually develop this code language, would appreciate any input on that, is whether this would be a type two or type three review. Type two review is in the spirit of creating incentive and lowering regulatory burdens and encouraging use of the incentives, but type three would be more in the spirit of providing maximum public involvement and notice and making sure there's a hearing up front.

**Katz:** We debated that the other day, and did not make a decision. So that's something the council needs to think about.

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

**Katz:** Let me just add, since our last conversation, commissioner Sten, there's another historic building that the real estate interests have put on the docket for demolition, and that's the william temple house. Now the folks who are looking at reuse are not particularly interested in demolition, but it's been advertised as one for demolition. That's serious, just as serious as the carriage house.

**Starin:** Yes. And we believe -- you know, as we've scoped this incentive, we believe, for instance, that this incentive could be of use in a situation like the william temple house where they've had a long-term nonresidential use and are looking for ways to preserve their resource.

**Katz:** There may be others that we didn't know about at the time that we had that conversation.

**Starin:** All right. So this would require an amendment. And so we would ask the council to direct us to develop the actual code language, consistent with the concept that's in the memo, that we would bring back. And just a correction, it's october 21 that we --

**Katz:** We won't be able to vote for the package --

**Starin:** That's correct.

**Katz:** Ok.

**Starin:** Tentatively october 22 at 2:00 -- 21 at 2:00 p.m. Finally, enclosure d, three relatively simple technical amendments, which I won't explain unless you want me to. They're technical in nature and correct inconsistencies. Finally I wanted to close by reiterating together with the existing sort of palette of incentives, most notably tax incentives, but also the existing zoning

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incentives, and other, you know, available loans and grant programs, combined with this new package we've put together that you've heard about with the seismic programs, we believe it creates a valuable and robust array of incentives and urge you to adopt this program. That's my presentation.

**Katz:** Let me quickly review. Then I think commissioner Saltzman wanted to ask some questions. We're going to vote on the commissioner Sten and all amendment next week after you put --

**Starin:** Two weeks.

**Katz:** Two weeks, after you put it in writing.

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

**Katz:** The notion of a SWAT team, I'm going to go ahead and proceed with your bureau managers, because I have to tell you I can't find anybody -- I can't find one individual -- there is no one individual in the city who manages all of the preservation issues for historic buildings or historic public place. There isn't. There are individuals all over the city, and what happens through default is the mayor's office does it. And quite frankly, the mayor's office can be a point person, but assistant person to put those kinds of deals and activities together. It's got to be representatives of b.d.s., got to be representatives of p.d.c. And other bureaus. We've been very lucky with the SWAT teams, and we'll do that, and then if the council wants to be a little bit informal we can do that somewhere down the road. I think that's it. I think that confers -- oh, and then commissioner Saltzman's amendment we'll cover later on. Ok, go ahead, commissioner Saltzman.

**Saltzman:** Just to follow up on the additional information required when submitting a demolition review permit.

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

**Saltzman:** As I said last time we received numerous letters from people saying they felt the types of information being requested, assuming things like financial statements, studies commissioned by the owner. They felt some of the stuff was proprietary, and that's why I asked you to look at this again. So is this information submitted protected at all?

**Starin:** My understanding is for the most part it would not be. When it gets submitted it is -- it becomes part of the public record.

**Saltzman:** Ok.

**Starin:** But I would defer to the attorneys about the details. I think there are a few certain circumstances where a summary might be able to be prepared versus details, but I --

**Saltzman:** Well, as I understand in entering the demolition review process, you can make a case for demolition -- or an applicant can make a case for demolition based on a policy rationale.

**Starin:** That's correct.

**Saltzman:** Or an economic rationale, which requires this information. So I think my point would be, if you're going to choose -- if an applicant's going to choose to make the policy rationale -- I mean, right now as I read it, they still have to submit all this. I guess I was suggesting -- want to clarify. If they want to make the policy case, if that's the case they're going to make, why should they have to submit this information?

**Starin:** Well, I guess we need to enumerate in the list what is required, and then the route would be to waive those requirements based on the review. So some of this material actually might be useful in a policy decision. For instance, the one that asks about the extent to which historic preservation incentives have been pursued, but for instance if -- if the -- if the applicant was requesting, you know, a review based on the policy criterion, then, you know, the amount paid for the property by the owner probably wouldn't be needed. And b.d.s. would -- if they don't feel they need it they wouldn't ask for it. And as I said, even if they asked for it and -- and the applicant was comfortable that they didn't need it to submit that information in order for the decision to be made, they wouldn't have to turn it in, as long as they stated that in writing. So we think we need to list these in order to have the discretion to ask for it.

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**Katz:** But some of it is a public document?

**Starin:** Much of it is public. Some of it would clearly be proprietary.

**Saltzman:** But some of it clearly isn't.

**\*\*\*\*\*:** Right.

**Saltzman:** It seems to me, we can waive the requirements, submit the information -- to submit the information, a lot cleaner, maybe less onerous from a general paperwork reduction point of view. Do that, and b.d.s. Could say we need x, y and z, as opposed to saying here's the alphabet of things we need, and we'll consider which ones to waive.

**Starin:** Are you suggesting maybe we should go through and break them into two sets of materials or --

**Saltzman:** Since there are two paths, maybe that's the way to do it. If you're going to pursue a policy based on argument, we only need ownership, a few of these nine or 10 things. If you're going to pursue economic hardship, then we need at a minimum, all 10 of them. We may waive some of it.

**Starin:** Ok. Jeff Joslin is here. I wanted to say also, the burden of proof is on the applicant in this case. So that's sort of the other fundamental --

**Saltzman:** I understand. You know, I think it's probably a tough case to make a policy-based argue, but if that's how they're going to choose to make their burden of proof, we shouldn't ask them to disclose information that's purely proprietary. Some is public record. Some is clearly proprietary. A study about profitable use of a building, that's information that somebody else could take with and run with. If I was the developer, you know, I paid for this study, and i'm basically handing it over for free through the public process to somebody else.

**\*\*\*\*\*:** Shall I address the question?

**Katz:** Yeah.

**Jeff Joslin, Bureau of Development Services:** I think it is in the realm of possibilities to consider two separate sets of application requirements for the two criteria. The intent was, as nicholas stated, that we could expect and -- and review materials, a case-by-case basis, depending on which criteria is being addressed, what's necessary to address it, what an applicant was interested in and willing to provide in order to make their case. And evaluate that application submission accordingly. It was our feeling that creating additional requirements or segregating requirements for a different criteria was going to potentially be a little more complicated than in some cases. At some point in the process their choice of criteria might shift, depending on their outcome. There's no requirement, for example, if they've gone down one path, that they need to submit, take it -- resubmit and take it from the top as an entirely new procedure. So there was an assumption that that was a possibility. We're getting as much information up front would -- would be desirable and potentially simplifying. Finally, I don't -- I don't think there's a procedural problem in terms of how we accept and review this material in terms of potentially protracting the process, that the way state statute applies to this question, when we receive information that the code requests or requires, they can provide us as much or as little as they desire. We'll inform them of those aspects, that we still think need to be addressed in order for that application to be deemed complete. They can provide us at that point any or all of that. And the law requires us that -- that to constitute a complete application, and we proceed from there. We don't think we're creating any timing difficulties. And again, at that point we wouldn't be forcing them to provide information.

**Saltzman:** Well, if you do -- if you're holding up this application that's not complete, if i'm going to make a policy-based argument and submit that, my arguments, and say that's all i'm going to give you, are you going to process it on the merits of that argument or say it's not complete?

**Joslin:** I would imagine the rule in these cases they're going to be complex, and that more often than not applications won't be complete for one reason or another. That completeness check process is not an arduous process. We have 14 days to determine whether it incomplete or not,

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provide a letter that -- that informs them of that. They can submit a piece of paper the next day and ask us to go forward with that additional new information. That would constitute a complete application.

**Saltzman:** That would, even if it wasn't entirely responsive to you, as long as they submitted something.

**Joslin:** Correct.

**Saltzman:** That gets them over the completeness threshold. Ok.

**Sten:** Can I make one comment? I'm not sure to how to get in this there, if the council would agree, but ultimately the council will have to make the decision. It's really hard for me -- I don't even want to have these hearings, but I recognize we're doing it for a good reason. It's hard for me in the abstract to really know for sure which details are going to be necessary for me from an economic standpoint to get to a rational decision that I can support. So I would be very with some kind of notion that the developer can make a choice as to how much to submit, but if they don't submit that much, I think they'll likely get a bad recommendation from the staff as opposed to you guys get into a wrestling match over stuff that frankly may or may not at the end of the day influence my decision. You know, i'd be comfortable giving developers some room, because if you don't make a case, if you say trust me, it's uneconomic, i'm not going to vote for it. On the other hand if you're saying, you know, I got to get all this stuff that may or may not get to the heart, it's almost impossible for me to kind of mediate at this point the conversation about what should be submitted and what should not, because it's so abstract, that i'd like to give a little room for the developer to use their judgment, at their own risk.

**Saltzman:** I think that's what they just described.

**Joslin:** Yeah. I think the recommendation and requirements as we imagine them does exactly that. It's inclusive, but affords that room to move.

**Katz:** Ok. Thanks, everybody. Let's open it up for public testimony. We'll start calling the names of the people who signed up two weeks ago.

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

**Robert Ball:** Good morning. My name is robert ball, 1001 northwest 14th avenue. I'm here to offer my support for the code amendments that are before you. When I think about what these amendments will do for our overall city, I remember back when I was a college student. I interned for a great economist for the state of Oregon, ed whitelaw, and I came from a very small logging-based community here in Oregon, and ed taught me that really -- he was one of the first people that said that the value of our trees are actually probably greater where they sit than they would be logged. And that was against a fabric of everything that I had heard growing up as a young person, and for many people in my community. And ultimately I think that that bore out to be true, because the power of trees impacted the quality of life that we all have here in Oregon. I think the same thing is true of our historic buildings. When you look at them and what they provide for the city of Portland, they give our city more energy, creativity, a landscape that all of us can be proud of, and something that I believe actually will attract more people to our city and business to our city. Over the last number of years, i've developed over \$100 million of historic property here in the city of Portland. It's very difficult. Sometimes very risky. Sometimes you lay awake at night wondering if the projects will go because of the complexity and the dollar amounts. But the bottom line is that in my experience renovating and developing historic buildings, I really worked well with the state of Oregon, the city of Portland, the historic design review, the commission, and I found that if I worked with all of those parties as a team and made them part of the project, that they in fact would be successful and they have been. So i'd like to say to -- to you and to my fellow developers, that my experience has been that if you work with the parties involved, and you actually include them as part of your team, they'll understand the financial burdens that you face and work with you to make it happen and save those buildings. I believe that the seismic code amendments that are being

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brought before the council are critical to making that a success. Very, very critical. I know you'll discuss that later. We talked about it a couple weeks ago. I do see a couple areas that I believe there's room for improvement after this gets implemented as the council looks at making changes, revisiting possibly the office of preservation. One, ensuring that that smart code is automatically updated with any appeals that continue to come in, if that in fact happens. I've struggled with the issue that was just before you, what really constitutes an economically viable project, and I can only say this, that I think the council will see very quickly if they've made the right or wrong decision, because if the development doesn't happen then obviously it was not economically viable. So I would encourage the council and future councils to remain open, to have a mechanism to look at that, if that in fact becomes the case, and I'm sure that all of us will do the right thing and make those things happen when the time's right.

**Katz:** Thank you. Time's up. Ok.

**James Hamrick:** Mayor Katz, commissioners, James Hamrick. I manage the state historic preservation office. I very much appreciate the opportunity to testify in favor of these amendments today. I've been around long enough to remember the old heyday of the Portland landmarks commission, when it was one of the best in the nation. I believe the proposal before you is a good step towards reclaiming that legacy. I also appreciate the substantial work and products that came out of the working group. I believe the group composition was fair and balanced, and that the negotiated projects received appropriate scrutiny by stakeholders before they were presented to you. No doubt, you might hear agreement or disagreement with that statement, but I nonetheless urge council to bring this process to a close. There's no basic disagreement in the room about the fact that strengthening the preservation program is needed. As the council understood when this process was suspended several years ago, part of your duty in amending the ordinance was to bring it in compliance with state land use laws relating to the protection of national registered properties, and subsequently asked that additional incentives be examined. The current language in that statute meets those goals, in my opinion. Our office has been fielding questions about some of the language in the code proposal, and I'd like to comment on what I believe is some misinformation or confusion as to it relates to the national register program. I understand that questions have been raised by commenters about the status of contributing properties in the city's 13 historic districts, and I believe that only primary contributing resources should be protected under the ordinance. In a September 16 memo that I wrote to the mayor's office, copies of which you now have, I reiterated that contributing resources just that. No matter what other secondary classification it may have had under past administrative practice. I also stated that in terms of deals needed for the requirements of protection of national register properties that all properties must be included in those protections as the entire district is considered to be of statewide significance. And parenthetically, we also have had questions about whether or not people can remove contributing status on properties in districts. That's a very difficult process to do. And generally only relates to whether or not there's been a fire, other sort of change of character in the property. And then if in fact it seems that if there were fewer contributing properties that were considered for protections, that we might wind up losing district character and integrity as a result of inappropriate alterations or other things and potentially result in delisting. In terms of incentives, we believe that a broad range of incentives is good, not just for the business community. Currently we have design review authority of over approximately 500 properties p.d.x. We are proud that existing state and federal tax incentives have assisted in the preservation of some properties in the city and believe without them many significant properties could have faced demolition. I know my time's up, but I just want to basically tell you that we strongly support the issue of demolition denial and I can come back and answer questions about that if need be. Thank you.

**Katz:** Thank you.

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**David Mortenson:** Hi. My name is dave mortenson, 1007 southeast 12th avenue. Mayor Katz, council members, thank you for letting me speak. I'm the current owner of the rachel louise hawthorne house, a national historic building, one of the 481 national historic buildings in Portland.

And I was actually frankly drawn here, not just by the art scene, but i've heard from a lot of young, in my case not so young artists, that the physical environment, the victorian and early 20th century buildings are a huge draw to young people that want to come here for part of the cultural scene. I think the value is much greater than just the dollar value of this building or that building. I cringe in horror at the idea of the ladd carriage house being torn down. I've taken dozens of people to see and they're knocked out. It's an important resource to preserve here. The only other thing I wanted to say, other than to urge you to go ahead and -- if you see fit -- to approve of these amendments, was to follow up on something commissioner Sten said two weeks ago. The rachel louise hawthorne house is currently in an industrial zone. There are not that many historic residential properties in the southeast industrial zone, but it makes it extraordinarily difficult to get a loan. It makes it extraordinarily difficult to find another buyer as the value increases on a property like this.

It has always been used for residential in this case. It's a very tiny percentage of buildings we're talking about, but there are no incentives or anything else in any of these proposals to try and save housing, which is currently stuck, basically, in an industrial zone. And I realize it's probably too late in the process to do anything about it right now, but I hope in the future that this will be looked into, I mean as the value theoretically increases, finding an all-cash buyer will be more difficult. And eventually, i'm almost 40 now, i'll probably be too old to do all the work myself to keep the thing standing, and i'll need to find someone.

**Katz:** Thank you. Your time's up. Thanks.

**Katz:** Who wants to start? You have three minutes.

**Harry Beerbaum:** I'm sitting in for chris. My name is harry beerbaum, general manager of the arts at 128 northeast russell and I reside at 928 north deku.

**Katz:** Do you need him?

**Beerbaum:** Ok. Now we have our graphic. Thank you. My name is mark woolly. And i'm moving in the next week to 2644 northeast 39th. I have a gallery, mark woolly gallery in the pearl district, i've had for about 11 years. My business partner, chris, is currently in new york, so we prepared this statement two weeks ago. So i'd like to thank you for the opportunity to address the council. We bought the old hibernian hall in 1914. It's been used through the years as a community center with performance and athletic events. In the last few years the building was known as the grace and evelyn collins community center located at 128 northeast russell in the elliott neighborhood. We are pursuing a historic designation for the building, which is in an r-2 residential zone. The use of the building as a community center is currently grandfathered through conditional use. Our goal is to continue to operate as community-oriented arts center, which would include the current performance space, in the upstairs of this building, with the addition of two commercial art galleries and a small cafe, seating has drawn approximately 75 patrons on the lower level. We recently met with the elliott neighborhood association and separately with the elliott neighborhood's planning and land use subcommittee. And many adjacent neighbors and businesses, which have been supportive of our plans, however the conditional use as a community center does not allow a commercial art gallery or restaurant. Without the additional revenue streams from the commercial uses, it will be very difficult, if not impossible, for us to financially carry this building. If we are in that situation, we may have to look at our option for demolition, which would allow for five housing units on the two lots. That certainly was not our intention when we purchased the building, as we both have long personal histories in Portland's music and arts communities, as well as involvement in historic preservation. We feel that buildings like ours should be preserved used for the cultural enhancement of the city. Thus we hope that under the historic resource code amendments we will have a process that allows us to gain incentives, including at least some

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commercial use for our space. I'd like to thank everybody we've worked with in a number of commissioners' offices for their openness and flexibility and knowledge about this complex issue. You may be aware that our neighbor to the east used to be a theater. The Egyptian theater. Amazing landmark. If you drive by there now, it's a big green box. And we feel that if we're able to operate this building as we would like, we would kind of replace the entertainment value that was lost when that was converted to a big green box. And we don't want -- we don't want our green building to be a green box or housing units. We'd like to -- we'd like to do what we do, which is enhance the cultural life of the city. So I hope we get that opportunity.

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

**Gussie Reinhardt:** I'm here to support the -- the noble efforts of our lovely mayor.

**Katz:** Gussie, it's ok.

**Reinhardt:** I've lived in Portland all my life. That's a long time. It's the most beautiful city. And I know how much richer it will be if our mayor is able to prevail. I know the importance of history and heritage. I'm thinking of the specific landmark, the Lair Hill area, where the Jews of Poland and Russia came at the turn of the century, and where there is one historic building left in that area to tell the history of Portland where those Jews came for the freedom that they got when they came here. Steve Lowenstein in his book, "The Jews of Oregon: 1850 to 1950," describes the synagogue which has been a house of worship for its 116 years. He describes it as a handsome wooden structure of Romanesque and Gothic features with a tower in the northwest corner of the building. That landmark to me is specifically so important because I would like to feel that as my great-grandchildren grow -- and thank God I've got them -- that they can some day point to this building and say, "this is where my great-great-grandfather prayed." Thank you for hearing me.

**Katz:** Thank you, Gussie. This is a very special occasion. I didn't know Gussie was going to be here, but if you know Gussie she's had a fingerprints all over the city for wonderful causes. And I'm so honored that you made the trip down here on this particular issue that you care so much about. Thank you. Ok. Go ahead.

**Michelle Provinsal:** My name is Michelle Provinsal, and I come before you today as a representative of the Historic Preservation League of Oregon. For over 27 years HPO has been a statewide organization that's educated, communicated, and advocated on a myriad of issues. We were instrumental in getting the special assessment for approved projects getting past. Crater Lake Lodge is here because of us HPO holds facade easements. Over those 27 years we've seen in changes in how Portland approaches and manages historic resources and the changes have not always been for the better. Portland's position as a leader has been eroded as protective measures and historic resources have disappeared. We're pleased that the city council has directed staff to research, analyze and recommend enhancements to the city's historic resources codes. On behalf of our members preservationists here in town and throughout the state, we encourage adoption of the complete package as presented. Portland is a leader in many ways, but this is not one of them. Over 200 cities across the country believe that the ability to say no to a proposed project that will have irreversible impact on historic resource is in their best interest. Portland should follow suit. These enhancements represent a solid suite of incentives and protective measures keeping Portland's distinctive character intact.

**Katz:** Thank you.

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

**Partick Gortmaker:** Honorable Mayor Katz, commissioners, I'm Patrick Gortmaker here on behalf of the Old Town/China Town Neighborhood Association and Old Town Visions Committee. Our neighborhood incorporates historic districts that have a total of 78 contributing properties in the two districts. We also have two city council adoptive plans for our neighborhood. The vision plan for Old Town/China Town and the Old Town/China Town Development Plan. Both plans identified that the successful rehabilitation of these older historic structures will rely in part on the creation of tax

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benefits and other financial incentives to help offset the enormous costs of rehabilitation, mostly due to the seismic upgrades. There have been preservation successes in our neighborhood, but of course many of our buildings are in such disrepair that rehabilitation may not be possible. These buildings are no longer economically viable and without a strong incentives package they may remain in their current state. The question that our neighborhood has grappled with is can you have an effective preservation policy without demolition denial. The authority to tell a private property owner that they can't tear down their building for new development must not be given lightly. We do believe you can have a strong preservation policy that includes demolition denial if there's a strong incentives package. However, we do feel there are areas of the current package that could use additional clarification and refinement. The new code language proposed for reasonable economic use is vague. We do feel there needs to be more certainty in this area and its valuation of economic viability, lionel such as fair market return or reasonable rate of return, gauged on financial tools, such as internal rates of return and cash on cash are much more definable and certain and should be incorporated into the language. If denial is used, we need incentives that are strong enough to ensure a building does not sit and continue to decay. Preservation has a definite cost. We're afraid that stagnation may continue in our neighborhood. We need to find incentive dollars that aren't tied to tax incentive financing that can be used citywide. The city needs to pursue more local incentives, like a local historic tax credit or a seismic tax credit. Additional financial incentives that we discussed include waiver of the fees such as the system development charges or design review waivers for any historic renovation. Preservation expert inside the city responsible for assisting owners and developers through the review proceeds would alleviate some of the hesitation and certainly show how serious the city's about preservation. We need to put together the most comprehensive plan and provide a clear certain path for private property owners to pursue preservation as a first option. Thank you.

**Katz:** Thank you.

**Polina Olsen:** Good morning. I'm polina Olsen. Southwest virginia avenue. I'm here to urge you to pass the amendments. I'm the webmaster of the Oregon jewish genealogical association, and I also give walking tours of what is left of the old jewish immigrant district, now lair hill. Among the many things I point out, the neighborhood house where english and americanization classes were taught, a boardinghouse where immigrant single men lived while they saved money to send for their families, and the lovely synagogue, the inside of which looks right out of eastern europe, 150 years ago. People on my tours don't believe me when I tell them these buildings are not safe from demolition. They think I don't know what i'm talking about. Because the buildings are in a design district or on the historic registry, they feel certain that they're protected. It's counter intuitive to think otherwise. Most of the jewish immigrant district was demolished in the name of progress by urban renewal in the early 1960's. Now instead of small kosher butcher shops, bakeries and victorian houses, we have nondescript highrises. They could be anywhere. When these old things are gone we cannot get them back. We can only make plastic models or dress up in costumes, a poor, cheap substitute. Thank you.

**Katz:** Thank you.

**\*\*\*\*\*:** City commissioners, I wish to comment --

**Katz:** Identify yourself for the record.

**Art deMuro:** I'm sorry. Art demuro, venerable properties. I wish to comment on four aspects of hrca. Number one, the incentives. Of course, the more incentives the city council will obtain the better, as there's no more effective tool to promote redevelopment than increased attractiveness as a free market option. The reason I support the basic package offered is that it is heavy on redefinition of code process and regulations. I contend that the most effective and cost efficient way for city government to assist me in my private historic redevelopment efforts is to remove or amend regulations that make the prosecute more difficult and more expensive. Hrca does this with a very



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pragmatic accommodations in zoning building codes and seismic codes. Number two, denial. Historic redevelopment is by nature more difficult than new construction because it presents a developer with the restrictions of an existing structure as opposed to the full potential of a vacant site. The process is inherently more complex and more expensive, therefore demolition can be a very attractive option, especially so to those inexperienced in the redevelopment process. Demolition review and denial just like zoning shifts the starting point of the discussion of possibilities. It orients the property owner first toward a public-preferred course of action, but still allows for that property owner to justify a change in course with evidence of necessity. While attending last week's national trust conference, I met a preservation attorney from California. I asked which cities there have denial authority, and she answered all of them, and explained that California's authority is statewide, as they see demolition denial of historic landmarks as resource protection under responsible environmental protection laws. Number three, the balance. Generally speaking, commercial historic redevelopment cannot happen without public subsidies in some form. Simply put, the cost to rehabilitate is usually more expensive than the cost of new construction. So those of us who retain and redevelopment rely on special assessment, low-interest rate seismic loans, federal rehab tax credits, new market tax credits, energy credits, low-income housing tax credits, etc. Each financing package becomes a quilt of this and that to bridge the predictable gap. Speaking for myself, I feel that the city's request for demolition review authority is an equitable exchange for the expensive public assistance available to me and our company. And fourth, the goal. My vision for our city is public leadership that embraces the responsibilities of stewardship of our architectural heritage and entrepreneurial. While our firm is only one member of a small circle that specializes in this arena, I believe that hrca, along with subsequent programs and directives that you're considering, will widen the circle to catalyze more property owners and developers to seek profitable opportunities in this field, and I welcome a more crowded field.

**Katz:** Thank you.

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

**Katz:** Grab the mike so we can hear.

**Alfred Staehli:** Good morning. I'm Alfred Staehli, an architect in Portland, historic preservationist. I believe I sent this letter, which hopefully you all received through the auditor's office. I'm not going to read it I'm going to begin by reading a couple of the paragraphs from it. Beginning, while I'm an advocate for rewriting the historic resource code and applaud the work to incorporate less limited and stronger provisions regarding demolition, the proposed code amendments are in total are a great disappointment. The provisions including -- included for the restoring a greater measure of effective demolition delay will not make that planning tool truly effective and useful for timely intervention when a landmark is threatened for demolition and imminent loss. And I cite the Ladd carriage house as a coming demolition application, which hopefully will have a successful conclusion without what I believe will be the inevitable hand-wringing. This is what I would call a category one landmark in my -- which is described in my letter, and would deserve the very highest level of city intervention if necessary to save that landmark in downtown Portland. The very last of its kind of private wooden building in that size and scale and activity in downtown Portland, or for that matter in possibly almost any city. And this letter concludes, these are my comments and observations on the code amendments. I hope that you will approve of them as a beginning and instruct the bureau of planning to undertake a full rewrite of the code and its simplification and reordering. I would help if invited to do so. Please just do it. And I also wanted to call your attention to a couple of things I brought with me. This is a book which actually sets up the standards for architects and engineers who would be qualified to do the reviews that you're requesting. If you don't have this information, you should get it. The other thing here is the -- this is a copy of George McMath's original 1968 code amendment. This is copied from a spirit duplicated master copy, and it's only eight pages long. And I have copies here that I'll leave and they can be distributed to you.

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And I think if you'll read it, you will be impressed by its simplicity and effectiveness, and this is what we should strive for in the current virtually unreadable code, even after amendments. Thank you.

**Katz:** Thank you.

**Joni Scheib:** My name is joni scheib, 7927 southwest 31st avenue, apartment 112 in Portland. And I wrote a letter addressed to the mayor and all of the commissioners as well as mr. Sten, who I understand is proposing this code. I am here on behalf of buildings in Portland, one in particular, which I believe has been mentioned by a few other people over at 136th southeast mead street. This building is of great importance to me because my great-grandparents lived basically across the street from the building. I feel this building represents a great part of history in Portland, and I don't see how it could be possibly be destroyed. It's a beautiful building. There's basically nothing wrong with it. It's probably in better shape than some of the other buildings. It's survived earthquakes with no problems. I also see other historical buildings in that area that represent Portland, a lot of which have been destroyed by urban renewal, which I think was mentioned already today. I love going around Portland neighborhoods and seeing older buildings. I understand there's tours going on of older buildings. I just can't fathom seeing things being destroyed in manner just because you want to like build something else or somebody doesn't like this building being here. I also had difficulty trying to get through reading the entire code system, trying to understand what's going on and why they're trying to get rid of buildings. I just -- I voted for a lot of you people up here, and I would be highly disappointed, and others as well, if you decide to say, ok, we're just going to destroy some buildings, because we need to build something else, or we don't -- we don't find them of value. I think these buildings are part of Portland. They represent Portland. They represent citizens that have lived in Portland. I'm a great-grandchild of someone who lived in a house that is across the street from the building that I mentioned in the letter addressed to all of you. I just can't see you guys destroying -- destroying these buildings. Thank you.

**Katz:** Thank you. All right, dixie, go ahead.

**Dixie Johnston:** My name is dixie johnston. I'm co-land use chair of collinsview neighborhood association. I've also been active in the city land use group. I wholeheartedly endorse the mayor's proposal here. The city staff has had an excellent public proceeds. People who have any interest whatsoever in historic preservation have had plenty of opportunity to put in their perspectives very early in this process. And I hope you keep that in mind as you look at suggestions at further amendments. I also wish to thank gil kelley publicly. He has done an incredible job in opening up public processes in this city. I think the bureaus have been working more closely together. I just feel like he needs some more public thank-yous for his hard work. Most of these historic areas, from a tourist perspective, are really worthwhile taking care of. Dave and i, just like commissioner leonard, are historic freaks, if you might say. We like to get amtrak passes and travel around the united states. We stay in historic districts, in historic buildings. It adds to the revenue, as well as help the sense of place for any community we have been in. And I really think we should consider the legacy we're living -- leaving for the future. I know that the developers are concerned about the costs of preservation and the more we can help them with incentives the more grant money and other helps we can give them, I think the better off we will be. I have three quick suggestion that I think could be considered. In the demolition review process, if there is a decision to destroy any building, is there a way that the public could have that information and is there a way we could salvage the materials ahead of time? Second suggestion I have is commissioner Francesconi had a superb idea that was put in the press a few weeks ago. I think that should be a consideration. And lastly, I also would like to suggest that we take another look at public buildings, especially Portland public schools. According to the long-range facilities plan that was published a couple of years ago, there are at least 50 of these buildings on Portland's historic resources inventory. This may be

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as many as 70 of these buildings that have some sort of historic significance. I'm hoping there would be some sort of a public process, maybe a phase three process, where we can take another look with these buildings. Thank you.

**Katz:** Thank you, dixie. Ok.

**Bing Sheldon:** My name is Bing Sheldon. I have a new address actually. 338 Northwest Fifth Avenue also in an historic building. I guess I'd say it's about time, hooray, this is good public policy.

And those of us who have been engaged in this effort for years understand this is not the first time this issue's examined before council. Let's do it. Clearly the big issue is denial. And all I would wish to tell you is you confront issues similar to this when you consider condemnation. You have seldom used that power. I have total confidence that this government and this council can adjudicate those issues fairly. And so I urge you to go forward with these amendments to the code.

It's about time Portland sort of rose up and what it should have done years ago. And I think you can do it with a very clear conscience. I think you make good public decisions. And I'm confident that even in the battle over a denial, you'll make the right decision. If you'd had this ordinance years ago, we'd probably still have the Portland hotel.

**Katz:** I just thought of, we do this all the time when we deny zone changes. Go ahead.

**James Bela:** James Bela, 3412 Southeast 160 Avenue, Portland, Oregon. Someone once observed that consists in complicating simplicity. I think these amendments are too complicated for the desired objective. I think we're in denial about the earthquake threat, not about --

**Katz:** You testified on that issue last time. So please address the issue of the --

**Bela:** I'm addressing how they're interconnected. Conrad Adnair who was the chancellor of Germany after the second world war was in the hospital, and he had a very young doctor working on him. He says, chancellor, you're 82-year-old, I can't make you young again, and he said -- he says I don't want to be young again, I just want to continue growing old. And that's what we're asking of all these buildings. But a building only has three lives. It has a maintained life, an economic life, and it has a seismic life. And really we're only considered two out of these three. Portland is unique. It has the largest population in Oregon. It has the largest concentration of earthquake faults and has the largest concentration of old buildings. The future ain't what it used to be. We're assuming if you look at these regulations that a historic building will now encounter an earthquake, and if we look to Santa Cruz, Paso Robles, both these communities lost all of their historic buildings.

Many of these buildings are unreinforced masonry. This is a picture of Stanford University in 1906.

President of the university commented in his memoirs that this statue was great in the abstract, but not in the concrete. The same could be received our historic buildings. They're great in our heritage, but not in an earthquake. The Bureau of Planning, two-pager, makes note to the effect that by relaxing the seismic upgrade requirements we're going to be able to preserve more of these historic buildings. I feel that it's not properly recognized that life safety doesn't cut it if you really want to preserve a historical building. There should be something in the regulations for post-earthquake review of demolition, because after an earthquake there's going to be large pressure to demolish many unsafe buildings. And without preplanning you'll lose many of these historic landmarks. I believe there are liability issues that the city would assume for preserving an unsafe, unrehabilitated building, should the owner actually want to demolish the building and improve public safety. There should be --

**Katz:** Finish your sentence.

**Bela:** There should be a caps program, which is a prearranged program for people to evaluate historic buildings after an earthquake so that they're protected from hasty demolition.

**Katz:** Thank you.

**John Tess:** Madame Mayor, councilmembers, my name is John Tess, Heritage Consulting Group, 1120 Northwest Northrup. I've been involved in preservation for over 25 years and have had the pleasure in the city to work on some of the premier projects, including the new Market Theater, 13th

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avenue historic district, renovation of city hall, moving of the benson house and the rehabilitation of the brewery blocks. And I feel lucky to have done that. I would like to applaud the mayor for bringing her leadership in revisiting the preservation program to the forefront. Again, i'm really proud to be able to be a member in helping to plan a conference. Importantly has a long tradition of being a leader in historic preservation, and the time is right to take a look at a program and put it back to where it was. I think everybody picked that ordinance up. It would have made this whole process easier. With that, I would like to say that through the efforts of many we've begun to come up with initiatives that will help owners in their efforts to preserve and rehabilitate the resources. I hope to see those discussions continue and come to a fruitful and expeditious end, however I find it unfortunate we now find ourselves in a discussion that seems focused on the issue of demolition denial, instead of preservation, not only how we preserve and make our historic resources economically viable by putting in place appropriate incentives. We should be looking for here is a public process that allows appropriate public review of proposed demolition of historic structures as predictable, timely, and results, as I said before, in the rehabilitation of our existing historic buildings. Savings buildings is one thing, but having them function as part of the city is another. Why save them if it only means they will remain boarded up? As you know, this affects a lot of buildings in the city. And as the city grows, I think it will have a lot of impact, what we do here. Today I want to focus on several issues as we continue to go through this process. First, it is important that whatever we move forward with is clearly written, reasonable and without unintended consequences. I've heard from some proponents we should move forward and fix problems later. I would submit that we are not served by another and/or debate -- I mean, and/or debate. Second this package includes a process for demolition denial. The element of the package raises many issues that go beyond what is required to meet the requirements of state law, which has been used as an argument for putting it in place. I find it interesting that we've heard that we've had rash demolitions in the newspapers and which have reported a total of six since 1996. And that that warrants the implementation of demolition denial. A closer look at these projects demonstrates that each of these cases did provide a public process, in some instances public funding that met the city's goals. For example, we have bill that took down two older warehouses, the demolition of the union gospel building, which was a burned-out, unused building, and we're in fact being shelled and designing a new building to go there. The demolition of the chapel house, which resulted in the moving the benson house and saving of that, \$1.3 million, including some city's fund. Is that --

**Katz:** Your time's up.

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

**Katz:** Thank you.

**Steve Abel:** Good morning. My name is steve abel. I'm with the law firm of stoel rives. I was asked to take a look at a few of the legal issues that arise out of this package, and I have submitted to you and also to your city attorney copies of a letter that provides some analysis. What i'd like to do this morning is hit some of the highlights of my analysis. I want to begin with this first criterion for demolition denial, which speaks to the depriving of owners of all reasonable economic use. Where that phrase comes from in the case law is that that is the phrase that's used commonly by city government in order to protect themselves from taking claims. What I would submit to you is that particular provision is not adequate criteria for purposes of making a decision about denial or nondenial of a particular resource. What makes more sense is a rationally-based market rate sort of determination that says does the owner make market rate gain or profit, if you will, out of a particular resource, and measure by that. What you have when you have that standard that is the anti-taking standard, reasonable economic use, is a scintilla of profit, a scintilla, a small amount of profit, is enough to survive the taking, but it leaves the owner in a position of being unable to economically, through market rate, continue to survive in the use of that building. Please take another look at that. Secondly, as to the procedure that has been developed, this is an all new policy

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shift for the city to develop a type four process. This will be the only place, the only circumstance in the city code, where the city council is the first hearing body for these issues. And I would submit to you that that's not really where the city ought to be, the city council ought to be. All of our land use processes move up through the channel, the issues are folded out, either before a hearings officer or one of our commissions, and ultimately the issues are in focus before this council. What you're left with in this package is an ad hoc approach in that second criterion about how to make a decision. I submit to you that's a very difficult to make when all the evidence is before you. There's another interesting part of that, and it's in my letter in some detail, and that is this new policy approach has never been reviewed by the planning commission. This is the first time the city has even seen this type four approach. I think in fact that violates the city code for purposes of adopting that new policy. As to the overbreadth of the submittal requirements, I did disagree with your staff. There's no ability on part of your staff to waive requirements in the code. There's a strict requirement, the word is "you're required to submit all of the information." there's no ability on the part of staff to say, no, we're not going to have you submit that material. No ability. I think in the end, the final analysis, we really need to find a way to take these sorts of decisions out of the land use process. We're stuck in the land use process here. We ought to try to find a balanced approach that gives us rehabilitation and revitalization of resources. My time's up. All the rest of the materials are in the record.

**Katz:** I'm actually shock, steve. You as a member of a planning commission recommend we take this out of a land use. But I don't want to get into debate, I just --

**Abel:** If I can respond to that. The difficulty with the land use process is it puts you in an adversary model in each particular circumstance, instead of trying to find a mechanism through which these properties are rehabilitated or revitalized. The incentive package does not do that, especially in the land use model that we have.

**Katz:** Ok, for some other time.

**John Czarnecki:** Good morning, mayor Katz and city commissioners. I'm john czarnecki of northwest xavier street. We all agree that Portland's historic heritage has value. We're not always unanimous, however, and have each found ourselves on the losing side of a vote once or twice. Not this time. The landmarks commission unanimously and enthusiastically supports this historic resource code amendments. That being said, we have wrestled with several issues. I'd like to share our thinking about three of them. You may hear that the athletes don't go far enough to protect Portland historic resources. The fact is these are the right tools at the right time. Yes, the commission has long supported an updated historic resource inventory and other clearly-defined needs. We support the efforts outlined in the attachments of monday's memo, especially efforts b and c. Right now, however -- and you will certainly continue to hear about these needs from us and from others during the next budget process. Right now, however, i'm strongly concerned that opposition to the historic resource code amendments on the grounds that they do not currently include the sum total of our needs is misleading at best, at worst it's a cynical attempt to derail a good idea. Number two, you may hear that the public process is being short-circuited because the final decision about demolition review is not being made at the landmarks commission, but at city hall. The last few years has shown the landmarks commission to be hospitable to and encouraging of public input. I think the new process for this narrow class of case will support that role of the commission and not diminish its public responsibilities in binding land use cases. In fact, the public process may well be better served because the commission won't rule on demolition review case. The landmarks commission will be required to take public testimony at the meetings, just as other city commissions do under certain circumstances, then, landmarks commission will then provide expert advice to council. Public testimony will once again be taken at the council hearing, so at least two code-required opportunities for public input will be provided as a result of this process. Number three, and finally, you may also hear that the hrca will conflict with public goals for

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growth. Public policy that limits sprawl and encourages more dense development can help make Portland livable as we grow, but good plans can only work if they're creatively implemented. Landmarks and historic structures over the city are in danger of being destroyed by short-sighted efforts towards development. I'm confident that creative minds will continue to find opportunities for our growth without destroying the heritage that defines us. It worked at the Kennedy school project, at the brewery blocks, and will work for the armory, for example. The hrca will help such creative opportunities blossom as the pressure for development increases.

**Katz:** Thank you.

**Czarnecki:** A friend of mine tells me that it's better to keep folks from falling into the willamette than to keep fishing them out. The historic resource code amendments will help integrate our precious inheritance into the planning of new projects.

**Katz:** Finish your sentence.

**Czarnecki:** Yes. We don't have to keep lamenting their loss and the missed opportunity of genuine value. Thank you very much. Thanks to the staff for all their work.

**Katz:** Thank you.

**Sten:** I have a question.

**Leonard:** I have two questions.

**Katz:** Go ahead.

**Leonard:** I do think it's appropriate for the city to intervene on behalf of historic buildings, but having said that I also think, along with that, comes some obligation to try to make it economically feasible for the owner of the property to do what needs to be done to maintain the building. You mentioned this package didn't involve incentives. When you describe incentives or think about incentives, what are examples of that?

**Abel:** There are a number of incentives that have been talked about. John may be able to talk about those more specifically, but, first, is the question of what standard do you need to get to in terms of adequacy of incentives. With the criterias we have now --

**Leonard:** I'm looking for bullet point examples.

**Abel:** John would be a better to answer that question. How far do you have to get that owner whole, if you will, to make those incentives work.

**Leonard:** I understand. I'm looking for the examples.

**Tess:** I think that Eric's -- commissioner Sten has introduced one thing that has to do with conditional use. I think that's very good. I like that incentive. I like things that commissioner Saltzman has brought into place. We should look at the s.d.c. Requirements. Why would one have to pay to make your building a landmark.

**Leonard:** Give me the bull points.

**Tess:** Get rid of the fees for putting in place that. The other thing is, a lot of these things have been outlined in the letter from the Portland business alliance. And I think that there's a good list of items there that could -- that will address those. I'm in concurrence with those.

**Leonard:** Thank you.

**Sten:** I was actually going to ask --

**Katz:** Whoa, whoa, commissioner Saltzman.

**Saltzman:** Steve, you heard the earlier discussion about supplemental information being required or not.

**Abel:** I did, yes.

**Saltzman:** Basically said if the information isn't submitted, it would be deemed complete, but if the applicant still chooses not to submit information, that end the completeness test. So you've changed what you said in your letter based upon what --

**Abel:** As a matter of law what happens is exactly that. There's the opportunity not to submit the requested information. There's no dispute in that circumstance. I'm not going to give you item five.

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It's proprietary. The first reason you would sit up in front of the council, or some opponent and say, they gave you all the information. Under the city's code, as a requirement, you could base your denial of the -- of the request, meaning the request for denial in that circumstance, on the basis of the fact that the person didn't give you all the required information. There's no base upon which to waive that requirement of the that's a requirement. If you decided to deny -- or allow demolition, someone could take that upon appeal, say they didn't give you all the information, therefore it's a flawed decision. I think the more rational approach is to look at that criteria and then say out of that criteria what is the -- what are the real pieces of information to are nonproprietary that you would need make that decision. If you look at that list, in fact it is so exhaustive, it's basically opening up the books and strategy of every property owner in the city as to what they value, which is their property. And what --

**Saltzman:** What about the ability of the bureau of development services to sit down with the applicant at the outset and decide which in this list may be waived and --

**Abel:** In some ways that's consistent with the criterion that the whole thing becomes an ad hoc approach. You tell us -- you know, the city staff says, you come to us, and we'll tell you what you need to tell us, and then we'll decide based on just the comprehensive plan as a whole, whether we're going to agree or not agree. I don't think that's the kind of certainty that our system is really demanding.

**Saltzman:** Ok. Thanks.

**Sten:** I was going to ask john for more detail on his idea, but I think I got it. Did you have anything else you wanted --

**Tess:** One other idea that I wanted to put forth, is that I think there is a need -- you can make a case for demolition denial with certain buildings, for instance jackson tower, u.s. Bank building, city hall, things like that. I just wonder if small residential house and garages should be treated on the same level as that. Maybe as part of this whole discussion, maybe there's a way to get to a combination of a program that can put some hierarchy to some of these things. But it's my understanding that, you know, there's going to be continued dialogue with this. And as things come out, they're being developed, you know, look forward to commenting on those thing.

**Sten:** Ok, thanks.

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

**Katz:** Go ahead, chris.

**Christopher Kopca:** Chris kopca senior vice president of real estate for downtown development group. 920 southwest sixth avenue. Dear mayor and council, downtown development group is the owner of seven historically designated buildings. We control and manage such properties as the 10-story pioneer block at morrison, the five-story crest building at fifth and morrison and the 15-story or 16-story public service building with nike town. I hope you agree that these properties are restored and managed. Also to own and control a couple of designated buildings, well run, but also one or two stories in height and should be candidates for future redevelopment. One such property is the two-story quarter block ivy press building at tenth and salmon. This property probably should become part of a larger effort to revitalize the west end. You can see our commitment to preserving Portland's heritage, but wanting to strengthen Portland in the future. Our office is on all side of the matter before you today. It is a very serious matter that in our opinion deserves more detailed discussion, consideration, in several regards. Our office has been actively involved through the p.b.a., over 20 property owners, that have met on this issue and continue to meet on this issue, and we stand behind the p.b.a. and discussions through that group and with the mayor's office and appreciate the conversations we've had to this point. I don't believe those conclusions are discussions have concluded, so we're hoping to continue to dialogue and reach a resolve in short order. There are a couple of points I would like to talk about specifically for you with regard to this matter. A lot of this proposal today is being talked about in conjunction with incentives, which is

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very important. You've heard many people testify to that. A lot of those incentives will be going away in the foreseeable future. Historic districts are expiring, tax incentive dollars have been fully allocated, and if the resources go away we'd like at least for this code to sunset so it can be a conversation about what other resources would be allocated. If we're acting today or in the future to adopt this action with the set of financial incentives that don't continue on, then the council should re consider its program. If we can find replacement, would be great. If we can't, we should review what the conditions of the ordinance would be. Our office also stands behind the question that Steve Able has raised with you about all -- all reasonable economic use. And coming up with an alternative term that is more related to this process. That process grows out of another effort on demolishing buildings or condemning property. It's really not the right standard for this kind of approach. Again, I would ask you to look at the documentation and paper that Steve Able gave you on this perspective. I think that's my three minutes.

**Katz:** All right.

**Robert Dortnac:** Robert Dortnac, 1915 Northwest 26th. I'd like to express my appreciation that the council and the mayor are taking this good sincere look. It is very heartening and we appreciate the -- your dedication. Those who own and work with historic properties do so because of a particular passion. These buildings are typically at a disadvantage and a number of reasons compared to a new building. So in that sense, then, the incentive package is an important effort to provide design and economic flexibility, so that this building can compete in the market. And as Chris mentioned, there may be a need, and there will certainly be a need for these incentives and design flexibilities to be looked at in the future and to be revised accordingly. But the situation is we need to not get hung up in all the details. We have a workable plan in place. We've been discussing it for quite a while. We know, and council knows, the general public is interested in historic preservation and their heritage. We currently -- we currently require a public meeting to review the listing of a building of the this allows the owners confirmation that they are sincere about it, that they're going to be stewards of the heritage, and allows the public to discuss it for and against. The code actually clarifies this process by likewise allowing a public meeting. If the building is to be significantly altered or demolished. Anything else is simply a breach of faith with the public. This is not a new process for Portland. I think there's a little confusion on that. We have done that in the past. We've had a review and it's gone to council. A couple examples would be, citing the Justice Center, we had a review of the neighborhood and the buildings. And at Pioneer Place. I think the mayor can remember discussion of the building there that came up and so forth. So thank you.

**Katz:** Thank you.

**Rick Michaelson:** Good morning. I'm Rick Michaelson, 906 Northwest 23rd Avenue. I'm here to support the entire package, but my comments will be about demolition review because I think that's the key. Demolition review is absolutely necessary to complete a preservation package. It provides discussion. It eliminates an anomaly where we have now where it's easier in Northwest Portland to get a permit to tear a building down than alter or remodel it. That's crazy. That's a wrong disincentive. It eliminates situations like the U.S. Steel situation where a building was torn down with the thought there would be a redevelopment on the site that's never taken place. And it would allow appropriate conditions to be put on demolitions. Unless you can say no, you can't say yes if. Demolition review is common in this country. I think you've been provided a list of over 200 cities that do this around the country. I provided you a list of a portion of those that seemed appropriate examples. When I was at the National Trust conference in Louisville last week, representing Oregon, people were shocked that Portland does not have demolition review and it's time for us to join the other cities that do. It's not particularly onerous. This is a moderate proposal. The city of Louisville, a city of only 350,000 people, over 5,000 little are protected by demolition review. The criteria before you are very similar to those in other places in the country. I provided you a copy of Louisville's hardship criteria for demolition review to take a look at. But phrased differently, as their



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structure of the code is different, but they amount to about the same thing. There were questions raised about, all these projects will be subject to luba appeals, delaying promises. Most of the projects that will be going through this process for demolition review are already subject to a luba review -- luba appeal, because they'll be in design districts, historic districts, where the new project will be subject to delays anyway. So adding this does not to sufficient -- does not add delay. You've also heard some discussion that this is a disincentive to preservation project, it might mess up the -- the ability to do projects. I went through a list of the projects that heritage investment has been involved in, that they provide on their website. A very large number of those take place in cities with demolition review today. So if it can work elsewhere, it can work here.

**Katz:** That was the question I asked, and I didn't hear any other developers respond to that question. We do business in other cities that do demolition review, are you sitting here?

**Michaelson:** Finally the issue of timeliness. This has been going on so long. It's time to get this done. Finally, in response to chris' comment about --

**Francesconi:** You've been watching the presidential debates. [laughter]

**Michaelson:** I haven't been able to bear to watch them, finally chris' comment about sunseting the program if incentives go away, they come and go. Each case will be evaluated appropriately individually based on the incentives in place at the time it takes place. I wouldn't sunset a program on the potential of one incentive going away. Thank you very much.

**Rob Mawson:** Rob mawson from heritage consulting, 1120 northwest northrup. Glad to see people are looking at our website. I was a member of the advisory committee on this project and it actually might surprise you that the advisory committee got to a very quick consensus, that consensus had five basic points. A demolition review is a fail-safe to a comprehensive preservation program, recognizing that preservation is best served by creating a pro active collaborative framework for private public partnerships where endangered buildings are identified and efforts are made to preserve them before they rot away. Sufficient and dedicated financial incentives. Citywide zoning incentives to give historic resources unique strengths in competitive real estate markets. Smart codes that allow the upper buildings -- vacant upper stories on buildings to be put into active profitable uses, and a fair, objective and predictable demolition review process, the kind of process that allows peoples of different values to reach a similar conclusion. The group offered a long list of specifics, some not precise. I would argue this package does not reflect the contents of that discussion. We were told that 300 cities have demolition powers, justification enough for Portland. These same 300 cities have comprehensive preservation programs, but we're told there's no money for that. We're told that urban renewal funds will be dedicated to historic preservation. Urban renewal cannot spend out of its 14% of the city, and the downtown districts are due to expire. There is no money for 86% of the city, and without urban renewal there's no money for preservation. We're told that the zoning package offers real incentives. I've not heard specific testimony to that fact. I will say that on behalf of nbpa, of which i'm president, this is a breath of fresh air. We're told that relaxing seismic triggers a substantial incentive, yet the goal to get active uses on upper floors of buildings, such as the scott building, and that's threshold hasn't been achieved. Adjusting the trigger is not a bad thing, but it's not the second coming. We're told we must keep demolition review flexible, to keep the council's options open, yet without some better evaluative framework, how can review be anything but a contentious nightmare? It is ironic is that the city is creating a system where by it makes more sense for a property owner to propose to demolish his national register property in order to gain the interest and attention of the city council than to preserve the building. If the property owner simply wanted to pursue rehabilitation, he likely would just be sent elsewhere. So here are 10 changes I would make to the proposal. One, demolition review can only exist within a comprehensive preservation program. We need to -- two, we need to commit citywide funding for preservation. Three, we need to make hours uniquely valuable so they're marketable, common and useful. Four, we need to adopt the amendment for

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non-conforming uses in historic buildings in a type two review. Just a couple more. Five, adopt the amendment to locate city offices in historic buildings. Clearly state the economic hardship rule as a fair economic return. Eliminate the supplemental requirements. Rewrite the policy evaluation criteria to provide a framework and create a parallel process by which a property owner of a national register property interested in rehabilitating it butting it doesn't fit within the zoning framework can get attention and get that resolved. Thank you very much.

**Katz:** You need to update your information, because a lot of these issues have been dealt with. All right. We've been in conversation with the business alliance -- Portland business alliance as well to deal with these issues.

**Mawson:** I understand. I only see what I read, what's issued.

**Katz:** Ok. That's scary.

**Mawson:** Yeah. [laughter]

**Paul Schlesinger:** Paul schlesinger, 610 southwest alder, 97205. Oregon national building, what used to be calling the selling building, which is a historic resource. Madame mayor, commissioners, I appreciate the time we all are spending for Portland's historic resources. I thank the mayor's office for dedicating staff to discuss this issue with building owners, developers, members of Portland business association. There are further ways to help preserve historic buildings in Portland. We've had two meetings these past 10 days. Helpful in dealing with issues brought up by both sides. We are moving further ahead with the face-to-face dialogue. We've been sent yesterday the planning bureau documents which show promise of moving this issue to becoming code. I would hope that these face-to-face discussions do continue to make the code that's in front of you a better code for all involved. We're a company that has been involved in building ownership and development since the mid 1930's. We've taken ownership of historical buildings, even back in the 1930's when it was totally unknown to do that. Revitalizing these resources for ourselves and for the city, adding new life to them. We've also, as owners, come to the conclusions that buildings in our ownership have outlived the useful lives and we have demolished them and developed new buildings in their place. The key example being the city center marriott and retail parking garage, multiuse project. Again, a key example of a better economic return, not just for ourselves, but for the city also. Demolition denial is being discussed, but I prefer the word preservation and reviewing planning bureau's document I think there are ways to ensure the city's needs for preservation and also a developer's option to possibly redevelop. A week ago mayor Katz announced the midtown block renovation plan of renewal and redevelopment. A public/private partnership to ensure the vitality of a key portion of downtown Portland that is so exciting about this plan is viewing the multiple city agencies working together for the preservation of key downtown blocks and streets. Also providing incentives for building owners to continue the life of buildings in these -- in this district and also hopefully others. Again, showing the public arena, working in tandem with private developers and p.b.a., this type of plan can and does work.

**Katz:** Your time is up.

**Schlesinger:** One sentence.

**Katz:** Go ahead.

**Schlesinger:** It does put older historic building first, and also proving that old and new development can coexist. Thank you.

**Katz:** Thank you.

**Rex K. Loy:** I'm rex k. lloyd, 2828 southwest vista. On behalf of first christian church, which owns the entire city block of downtown Portland, it's essential for me to voice our concern --

**Katz:** I need to interrupt you. You and I have a meeting. I hope there will be time.

**Loy:** Me too.

**Katz:** You got to promise me you don't put a demolition permit in until you and I have a meeting.

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**Loy:** What time is that? [laughter] no, we have not.

**Katz:** First you and me, and then a SWAT team since we can't move fast enough.

**Leonard:** Which SWAT team are you going to use on him? [laughter]

**Katz:** All right. Go ahead.

**Loy:** It is essential for me to voice our concern by opposing these amendments, specifically the city's desire to have the power to deny demolition. I applaud the city's desire to preserve and protect our historic buildings, but expanding governmental power while eliminating property rights is not the appropriate path for Portland. The mayor's staff has consistently pointed to over 200 other cities that currently have the power to deny demolition, but we are not those other cities, we are the city that works. Where other cities restrict the rights of its people, we protect them, because we're the city that works. Where other cities roll up their sidewalks at 5:00 p.m., we boast a vibrant nightlife because we're the city that works. Where other cities turn abandoned churches into barbecue restaurants, we have many remaining downtown churches, because we're the city that works. I personally did not choose to live in Portland because it was like every other city. I chose to live here because it's not like every other city. Remaining a vital downtown church has become increasingly difficult, especially in Portland, limited parking and street closures due to races and festivals have severely limited church attendance and programming. To survive, we have to make maximum use of our resources, not the least of which is our land, which we consider to be a sacred trust. We are rooted in the land and our roots run deep. We are aware of the historic status of the Ladd carriage house, and like everyone else would hate to see it demolished. In fact, we would gladly give the Ladd carriage house to the city if it would take it from our land and place it on your land. We are open to creative solutions and to shared solutions. But we cannot abide by the notion that saving the carriage house is our responsibility alone. We are not a historical society. We can neither afford nor justify maintaining a historic structure. We're in the business of saving souls, not of saving buildings. It is the intent -- if the intention of denial is to motivate property owners toward working with the city to discern viable options to demolition, then the city must be prepared to offer such solutions as we stand ready to work with you. We are not blithely proposing to demolish historic resources, but its preservation and continued operation is a public benefit that the church cannot simply afford on its own.

**Katz:** Oh, is this going to be a tough meeting. [laughter] by the way, this testimony probably is a -- is real serious public policy conversation. The issues that you raised are -- go beyond the technical issues that the developers raised. You raised very important public policy that hopefully somebody ought to have a debate on it or discussion on it.

**Francesconi:** Speaking of that, I have to leave for something else. I support the amendments offered by the commissioners here. Two, the time to act is now. Three, is we need appropriate incentives. And I've been very impressed. It would be nice to have more incentives. We need more. But the seismic upgrades, nonconforming use, the work P.D.C. is doing, we're moving on the right track in terms of incentives. Three, we need a fair process here. I'm not convinced on the answer I heard Jeff Joslin give to Commissioner Sten that that's in fact the code in terms of developers, if they choose not to submit financial information, then that's their choice, and I think the two-track process to me makes more sense than the answer I got back on the process side. The other process question I have is, it would be nice to have a record develop before it's presented to us. Maybe that's not possible. That's the process question I have. But finally, given the incentives, given the time to act, we do need demolition denial.

**Katz:** Ok. Thank you. Let's move on with testimony.

**Cathy Galbraite:** Good morning I'm Cathy Galbraite. I'm the executive director of the Boston Milligan Foundation which is a nonprofit historic preservation, education organization. In late January we will open the Architectural Heritage Center at 701 Se Grand Avenue in the National Register listed building and historic district. After a great deal of discussion and debate my board reached a

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consensus to support a program for demolition denial along with a strong incentives package as a good first step to revitalizing the city's historic preservation program. I want to make some comments about some of my observations over time, and in the testimony that I have heard. Several years ago the city started off trying to fix a clerical error. The infamous and/or clause in the ordinance. And what that and/or debate it simple me prevented the city from putting into place what its intent had been so in, almost three years, we have discussed what we ought to do to actually return to the city's initial intent. And I think that today is the day to resolve it. Demolition is forever. We can do all kinds of ridiculous and undignified things to wonderful historic buildings and most of them can be reversed but when we tear down a building, it's erased and we really cannot bring it back. I want to ask you to think about two buildings. Think about a building that used to stand in the city of Portland that you greatly miss. And chances are, in one of our two warehouses at the foundation we have some artifacts from that building and that's all we have. We don't have the building. And our artifacts collections really are evidence of our city's failure to preserve our architectural heritage. Secondly, think about the building that's still stands in the city of Portland that you greatly love and ask yourself the question, is it safe? And if we do not even have the process to consider the question of whether we ought to stop for a minute before we allow the demolition of a national register building, our nation's most, our nation's highest listing of buildings for their historic significance, if we don't even have that ability nothing is really going to be safe, not going to be able to answer yes to that question. There are really no bad guys out there. Everybody here I think wants the same thing. We want a reasonable process. We want a good incentives package. Everybody would like to have certainty. The incentives really are important. You provide the city provides all kinds of incentives for all kinds of things. We don't tax improvements for 10 years for transit oriented developments, for example. And I think that the incentives that we have in place are a good first step but I think all of us really think of these incentives as the first step and we know they are going to take some work. Finally, I want to show you a picture of the richard knapp house on the cover of fred dewolf's book, "heritage lost." it was built on a full black in 1882 and in 1951, as its demolition was being moving forward -- I might say one more statement. John yeon said in 1951, he was inviting members of the art museum to come see the building from its demolition proceeded. And he said "there is no other house of comp able age or interest surviving on its original site in Portland. We are losing it not because of fire or earthquake or enemy bombs but only because of community indifference." and I really hope we don't have to feel the same way about the ladded carriage building or the william temple house or many other buildings. Thank you.

**Tim Holmes:** Madam mayor, city council members my name is tim holmes. I live in Portland, the Oregon macaroni manufacturing company building. Accelerating 105 years. I am the vice president of central east side industrial council and the co-chair of land use committee, and I am filling in for peter stark, mike and wayne kingsley. I am all kind of befuddled because they all kind of dumped on me here so excuse me. We have three concerns with the code amendment. One is the demolition denial, which, with so much testimony going on, I am going to leave that to the side and I have submitted the letter we have sent to mayor Katz and everyone else has received. Second, issue that we have is the code amendments are, we feel should, are a fantastic idea, are a great idea. A very viable vehicle. We question why it is not a city wide amendment. It's only in the c.e. i.d., we feel that it should be city wide. A perfect example of that is the building at the foot of st. Johns bridge, just a glorious old building with would be perfectly suited for this code. And the last issue is the making the amendments conditional use. Central east side is concerned with the gentrification, of course, of the central east side, and the concern with the code the way it's written allowing office use to a building of historical significance, the concern is not with a true historical building. We feel that this code works wonderfully for a building of true historic significance. The concern is buildings of minimal historic significance. Taking advantage of the change of zoning

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into an office building, buying industrial land, going through the motions of making it historical, and developing it into an office. The concern with that being that most of our buildings are one or two stories. The building now is in the middle of the block. Most block development is done in block sections. So that entire block is now limited to any kind of growth, and the concern would be that the central east side would become a plethora of one and two-story buildings. We feel one way to avoid that is to make the conditional use or the amendment a conditional use with public review.

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

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

**Katz:** Let me ask a question. How do you feel -- I have been hearing the one or two-story argument. One or two-story, the value of the property is much greater. How do you respond to that?

**Galbraite:** I think as long as we tax land at its potential use rather than its actual use, we have a disincentive for preservation. There are a number of multi-story, low-level, all over the city. Whether they are on the national register or not that are underutilized because of code issues primarily and that code issue for second and third, fourth story use is a very legitimate concern. It's a tough one. It's a tough one right in the central east side for some of my neighbors over there. When we have a system that taxes improvements and then also taxes properties for what their potential uses, we have a problem with modest scale buildings in areas that allow much greater development. And I think that those are some of the reasons that we are seeing tear-downs for rowhouses around the neighborhoods, tear-downs in kings hill for larger condo developments. I think it's a real issue.

**Katz:** Ok. Thank you. Let's go.

**Steve Unger:** Hello. My name is steve unger and I live at 1810 s.e. 18th avenue. I am the owner and reside at the line in the rose bed and breakfast. 1906 victorian in an r.h. Zone and I talked to you previously about their, the revision of the Bed and breakfast ordinance and we are flashing a picture up here. I don't know how easy it is to see but we are call would the gateway to irvington. I think one of the reasons we are called the gateway to irvington is that in the 1960's block after block of victorian homes were ripped down and replaced with lloyd center and garden court apartments. And the guests that we have every day love to walk through irvington and look at the historic homes, and sometimes we comment that, you know, there used to be scores of other blocks that were filled with homes from, according to my understanding. So we think that the we are here to support the historic incentives and the demolition review process. We think it's appropriate for Portland. We represent a small business working hard to make a historic property financially viable. And the initiatives complete the process. We started with the ordinance review by allowing us to apply for limited events, using a type 2 conditional use review. And I am not an expert in city planning but in listening to this it sounds like this is a needed first step, and it may not be perfect in all ways. But over the years ahead you will have the opportunity to refine and work this through. So to me this sounds like the type of needed, first step to protect historic properties such as ours and hope owners of those properties make them financially viable. Thank you.

**Katz:** Beautiful.

**John Bartell:** Good morning. My name is john bartell. 1100 broadway. Thank you for the opportunity to speak. We are one of the developers who develops around the country and in many of the cities, I am sure, that have demolition denial. We don't develop historic buildings but we appreciated what they contribute to the communities in which we do business. Just as there have been significant developments in these cities where there is demolition denial, there has been a significant amount of preservation in Portland in the absence of demolition denial. I noted don mazziotti, john tess all provided impressive lists of projects that were completed in the absence of demolition denial so I believe that's an argument that does cut both ways. One of the disadvantages

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of being late in the program is that most of the material has already been covered that I have had included. As a developer of primarily new product, economics timing and the predictability of the development is a critical factor in pursuing a project. And I believe that the uncertainty surrounding the demolition denial that as written will discourage developers from pursuing projects that ultimately help the city achieve its goals for housing and jobs and economic development. And so I would encourage as many of the other people have encouraged tightening up any language that might exist on demolition denial to improve the predictability of that process. I am somewhat discouraged by the emphasis on demolition denial as it is a reactive rather than a proactive process, and I would encourage as many others have the city to proactively go out and identify those buildings that need to be saved and put a plan in place to save them. Waiting for somebody to come in with a demolition permit is not the time to approach the preservation of a building. I think the emphasis or the onus, I guess onerous is in the eye of the beholder as much as beauty is the emphasis is misplaced in this argument where, whether it's supplemental materials or proving economic, the absence of economic value, putting that burden on the property owner in a demolition application is misplaced. If the city wants to deny an application, deny a property right then I believe the onus should be on the city to prove the economic use rather than to have the property owner prove that there isn't any economic use. I think that emphasis is misplaced and reversed. Finally, I believe that, as one of the other people mentioned that denying a property owner the right to demolish his property is something that should be done only after all other alternatives have been exhausted and I don't believe that's been the case here.

**Katz:** Ok.

**\*\*\*\*\*:** Madam mayor, members of the council, forgive the hoarse voice but I seem to have come down with what a lot of other people are suffering with this month. First I would like to say something for in behalf of John Bradley who had to leave. Don't take this off my time, please.

**Moore:** State your flame for the record.

**Jerry Powell:** My name is Jerry Powell. And I represent the Goose Hollow Foothills League as its planning chair. And by default I represent the Kings Hill Historic District because nobody seems to maintain a list of who represents historic districts in this city, even though that's a requirement under the Secretary of the Interior's guidelines. John Bradley represents the Northwest District Association as its planning chair and also by default the Alphabet District. John's testimony would be that he supports the amendments fully. Would request that the historic preservation office is set up now so that in a reasonable period of time, let's say, 18 months, whatever, its effects can be evaluated. There's a certain element of unforeseen circumstance that can creep into this kind of a policy change or policy initiation. Districts such as the Alphabet District which are very diverse are particularly subject to those kinds of unforeseen circumstances. With respect to my own, my own representation of Goose Hollow, we have similar concerns. However, I would like to point out with respect to demolition denial that within 200 feet of my home, two historic structures were torn down about 15 years ago with little more than the issuance of a permit. Those structures sat on land that is now still 15 years later vacant lots. That's needless and certainly an action that denies the public the opportunity to experience some of those historic structures. About six years ago, there was a proposal for a six-story apartment house on the corner of 20th and Madison in Goose Hollow. Within the Kings Hill Historic District. That proposal was made possible by the fact that there's a severe disjoint between the underlying zoning and the presence of a historic district. The underlying zoning existed because when it was put in place, almost 30 years ago, the only way to preserve many old historic homes was to allow them to be turned into offices. And that happened. What has happened now is that those homes are now being reclaimed for residential use. The underlying zoning, however, has changed due to code changes, not due to map changes. And the code no longer permits office use but paradoxically incentivizes the removal of those historic structures and their replacement with more housing.

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**Katz:** Your time is up.

**Powell:** Ok.

**John Beardsley:** Madam mayor, commissioners, my name's John Beardsley. It's kind of a dichotomy, I think. As you know I am trying to preserve an asset that you own that is scheduled for the wrecking ball in centennial mill property. And I am first and foremost a preservationist. I have owned and restored approximately 20 buildings in Portland over the last nearly 40 years. I own the U.S. Bank building, the Blagen block, the New Market Theater, the B&O Commerce Center. I think I know what I am talking about. Portland is a unique city in that it has small blocks. And we have got 40,000-foot blocks and they are comprised of eight 5,000-foot lots. Downtown already suffers from a number of buildings being removed for surface parking, and the remainder of the vestiges remaining on those blocks are small but historic buildings. Most of them in the contributing category but some of them that are, in fact, historic landmarks. If downtown is going to be rejuvenated, then those blocks are going to lead that rejuvenation process and it's my concern that those small one and two-story buildings on 5,000-foot lots, some of them on 2500-foot blocks are going to hold the rest of the blocks hostage. And all of the incentives that you have offered are welcome, but a practical look at each and every asset I think is necessary. And I think this reform is too sweeping. I think it ought to be packaged together with a total understanding of what properties are being affected. I can tell you that owning historic buildings, they have to have economic justification. You can't own an -- own a historic building as a museum. And they have to be used and appreciated and loved. I have done that. I have never torn down a building that I have ever owned. But practically, you do have to address those buildings whose economic life has expired.

**Katz:** Thank you.

**Linda Nettekoven:** Mayor Katz, commissioners, for the record my name is Linda Nettekoven. I live on Southeast Ladd Avenue. I am here this morning on behalf of the Hosford-Abernethy Neighborhood Association and mostly on behalf of the Southeast Uplift Neighborhood Coalition. Both groups have sent you letters supporting these historic code amendments and especially the demolition delay review and delay process. We believe that adding the ability to deny or condition the approval of a demolition request is crucial if Portland is going to be an effective steward of our built environment and while the current process allows for some dialogue, too often the result can be demolition. We are strongly in favor of creating the ability to deny or condition the approval of a demolition permit as we believe this will result in better preservation outcomes throughout the city and we are seeing this as a last resort. We are hoping the fact this exists will get people having conversations earlier on and that neighborhoods can work together with property owners and business districts to help some more creative solutions emerge so it's against something we are seeing as that last resort sort of situation. Many Southeast Portland neighborhoods are home to historic resources and two of our neighborhoods, Brooklyn and Reed, are currently seeking historic designations as a means to protect their unique architectural heritages. Demolition review will help insure that all our neighborhoods are able to maintain and protect the buildings that give them their unique character and sense of place. We are urging you to create the proposed demolition review type 4 process. We are concerned again about having the opportunity to testify and be part of hearings earlier on the process so that, again, concerns can be raised and good ideas can be shared. And it was already has been indicated I believe that the Landmarks Commission will be taking public testimony as part of their deliberations and we would want to be included in that. I am just a personal level I spent most of my adult life living in Eugene before we came to Portland and there we have a clock on a tower which is all that's left ever our pioneer courthouse down there and Eugene is a city that really lost its downtown to urban renewal in the 1960's and I am hoping this can be a way for Portland to preserve a role in preservation. Thank you.

**Katz:** Nicholas, we didn't decide on type 4. Type 3? I just keep that in mind. Ok.

**Moore:** Jackie Peter son and Cascade Anderson Geller.

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**Katz:** That's it. And John, come on up.

**Cascade Anderson Geller:** I'm Cascade Anderson Geller. I live on Southeast 56th Avenue. I live in an old craftsman home built in 1912. I am here to thank all of you for working on this and moving it along. I was very happy to receive the enclosures and the email the day before yesterday. I think that those are very important enclosures. I signed up last time we met two weeks ago, and my speaking would have been very different if I hadn't have read those amendments. So I think that they really strengthen it. Today I am here as a voice of the public. I wanted to just tell you as a novice into historic preservation that most, most of our citizens don't know that there is not a way to save historic or preserve our historic resources. And as another person said, when we discuss this in our communities at neighborhood associations and so forth, we are shocked to find out that we don't have that ability. So I think the demolition denial is very important, and I also understand the very controversial affects of that. Without that, though, I don't think we can stand in the foot steps of being the leader in urban planning that we have the reputation around the world of being.

Because urban planning does mean saying no carefully looking at things but being able to say that something is of value to the community. I am also here as a voice of the east side because, in reviewing the historic, the things that have been reviewed that are historic in the city the east side is lacking and we need more address, more attention to that side. So I really like to encourage that SWAT team to get going. I think it's a very good concept, get things identified in these various neighborhoods around the whole city and, of course, I am looking at the new buildings that are in the 30's in Belmont, on the Belmont Street and Hawthorne Boulevard which are not fitting with that community. And I would hate to see more of that happen. We really need to have good, you know, really good planning. Those are my main areas of concern. And let me see if there was -- oh. I was very concerned about the type 4 -- the new type 4 land use review. Because I wasn't in favor of cutting out the landmarks commission but today has been very educational for me to understand that allows more public involvement so that's my last statement that we really need more public involvement in these decisions before a sign goes up and then people get all contentious. So, and lastly, one of the main important points I wanted to make was the public resources, the importance of finding ways to have incentives up to preserve public resources and I think you have addressed that in the amendment, the new amendments. So thank you very much.

**Katz:** Thank you.

**John Russell:** Madam Mayor, members of council, I am John Russell. 200 S.W. Market Street. I have passed out booklets showing the historic buildings that I have owned over the years. I actually would like to believe that my Pac-West Center developed in the early 1980's and 200 Market building that I redeveloped in the early 1990's would be landmark buildings in the future. I would like to urge you to vote in favor of these code amendments and for the updated seismic requirements that are coupled to these amendments. But not to think of them as panaceas for the larger preservation issues. I speak today as a historic preservationist. I first served on the landmark commission in 1973. Three of us, George McMath, Tom Vaughn -- actually Tom Vaughn -- and I were responsible for the passage by the legislature then of what I am told was America's first historic property tax freeze. That single change in the early 1970's sparked a surge of renovation of historic properties to the point where now there are very few unrestored landmark buildings. That was the issue then. I don't believe that that's the issue now. Our commission then created historic districts starting first with the Skidmore Old Town district, and continuing with the Yamhill historic district. It's particularly sad to me that our ambitions for those districts have been largely unrealized, even after some 30 years. We envisioned the infill buildings would be built where there were then and are still now asphalt parking lots. So that those districts would become viable commercial and/or residential neighborhoods. Virtually no infill buildings have been constructed even over this 30-year period and those asphalt lots continue to be granted continued renewed continuous uses. Conditional uses. Sorry. The Skidmore district is not a vital neighborhood. It's still half vacant. It's



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nothing more than a collection of important historic buildings. The second disappointment is virtually nothing has been done to address the seismic retrofitting of the unreinforced masonry in Portland's historic districts. P.d.c. has sponsored loan programs but those programs have had few takers. Because the reality is that a building's value is not enhanced by seismic upgrades. And therefore a loan that needs to be repaid is only a liability to the building owner. The truth is that seismic safety is a public issue and p.d.c. should provide selective grants to cause seismic upgrades.

I know from my time as chair of p.d.c. that our budget includes expenditures for a number of categories which the council and the commission have deemed to be public needs and seismic safety ought certainly to be no exception. Notwithstanding these two disappointments about work yet to be done these amendments steps in the right direction and I urge you to support them.

**Katz:** Thank you, john. Ok, everybody. Staff, come on up. Thank you, everybody, for being patient with us and waiting for two more weeks. We will probably have to extend this because there are still amendments we have to take from council members and I need to know in all fairness if there's anything else the council wants to do. So let's take, let's try to move pretty quickly through it but let's not rush it, if it needs conversation. Let's take -- let's go back to reinforced concrete and the seismic task force.

**Leonard:** Unreinforced. Unreinforced.

**Saltzman:** This is amendments on both sides--

**Katz:** We can do --

**Leonard:** I have unfortunately buried my amendments and handouts.

**Katz:** Oh, I think I have it. Here.

**Leonard:** I have got it. Thank you. This after we had discussions last time, I felt that it was important to, just somewhat consistent with what john just testified to, to try to identify which buildings in the city are constructed of unreinforced masonry, plain concrete and other older building types so the only amendment I am going to be proposing would be to direct the bureau of development services to undertake that analysis to determine and do an inventory of buildings in the city that are of unreinforced masonry or plain concrete.

**Sten:** Just a study?

**Leonard:** It's not so much a study as an identification. Actually going out and doing an inventory of what buildings those are because it's hard to just look at them and identify which are unreinforced unless some analysis is done. So we are proposing a seismic safety committee that will undertake identifying those buildings and make recommendations back to us no later than january 1, 2006. With respect to those.

**Katz:** How do you want to handle that? As an amendment?

**Gil Kelley, Director, Planning Bureau:** I think it's a directive from council. It doesn't require code amendment as far as I understand the proposal.

**Katz:** That all right?

**Leonard:** That's fine.

**Katz:** Any objections? Ok. We have taken care of that. Thank you. The next one. You don't need -- actually, you don't need to do anything on the seismic because that was the recommendation.

**Leonard:** Correct. After testimony and talking with a number of folks, I believe that the recommendations from the task force make sense.

**Katz:** Ok. So if I am correct, there's no action needed on that. All right. Commissioner Sten, let's take yours and then we will take commissioner Saltzman.

**Sten:** I would just move it as proposed by the planning bureau.

**Katz:** Ok. You want to reiterate?

**Kelley:** Yes. The amendment which we forwarded to you nicholas can describe in detail but it goes to the issue of nonconforming uses in buildings that are eligible buildings.

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**Katz:** Nicholas, we will come back in two weeks with language and we will, the council sees fit we will adopt that language and then move on. All right? Commissioner Saltzman?

**Saltzman:** You want me to start with the seismic?

**Katz:** Go ahead.

**Saltzman:** I have two amendments related to the seismic code. Both of them deal with making sure that ecoroofs or green roofs and storm water improvements on site do not necessarily trigger a seismic upgrade or the asce 31 evaluation as required. I think, that's exactly what my amendment does is exempt from the cost calculation improvements for storm water or ecoroofs for the threshold to trigger an asce 31 seismic evaluation or to exempt site improvements in ecoroofs from a, from the trigger, calculation that figures the trigger threshold for seismic upgrades. I believe that if an ecoroof, in fact, does pose a substantial load such that it will, I mean, there's other ways to require a seismic upgrade but it shouldn't because we are a city trying to encourage green roofs, ecoroofs for environmental purposes, storm water control, there should be, this shouldn't be a penalty for pursuing an ecoroof under the seismic code, unless the load of the ecoroof indeed requires it. So those are two amendments.

**Katz:** Objections? Amendment is adopted. Conceptually I just don't want to delay further because of these amendments. We have language? Do you have language? Forget it.

**Saltzman:** I think you have copies.

**Katz:** Go ahead. Adopt it.

**Saltzman:** And then the last two amendments deal with further incentives to preserve historic resources. And those are, as has been talked about, I think by planning as well as other people that I will read the first one. Historic buildings subject to demolition review will be given priority for the location of city offices and operations that are to be located in privately owned facilities. The criteria for this policy will be referenced in the auditor's policy book. So in other words there will be established preference when city is looking for office space that's not publicly owned space. It's own publicly owned space that they would look preferentially towards historic buildings that are indeed subject to demolition review or could be. In other words, on the list. And the second incentive is simply to clarify that, and I will read it, historic structure renovations that meet the design and performance criteria established by the city's green investment fund will be eligible to apply for financial assistance from the green investment fund. So anybody doing a historic renovation, the ecotrust building is a great example. Historic warehouse renovated to an office building. It received a gold lead standard. So anybody undertaking those types of developments where they are going to not only renovate historic resource but do it in an environmentally energy efficient state of the art mode could be potentially eligible for assistance from the green investment fund. And I think those would be added under the list of incentives you have on several places throughout the report.

**Starin:** Yes.

**Saltzman:** The policy incentives one.

**Starin:** Yes, we could list those in the report but that, for instance, the change to the loan program is an actual change to the criteria so we would need to follow through with the loan program requirements or is it just a clarification?

**Saltzman:** It doesn't require any changes to the green investment fund. I will take care of it if it does. I think we want to make sure these incentives are clearly stated in the right places in this report.

**Katz:** Any objections? Hearing none so order. [gavel pounded] As I am listening to commissioner Saltzman I predicted this passes, that the council just the way he constantly is looking to find incentives for the green buildings and for storm water and we will be finding other incentives that perhaps are not in front of us now to assist in the preservation of these buildings.

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Ok. Anything else before I check in with all of you? Anything else you want us to review? Further review? Type 4.

**Kelley:** Yeah. Are you looking at us now?

**Katz:** Let me look at them first.

**Saltzman:** Again, the testimony from the central east side industrial council about a condition e, I guess I am not -- I would like some further clarification on what it is they are proposing. And whether that is something. I thought the issue sounded like an interesting issue.

**Kelley:** Yeah. I only had a chance to read their letter just now. I am not sure I completely follow the logic of it. But let me just say as a threshold issue, we did apply this flexibility in the criteria for the central east side particularly since it wasn't a regionally significant industrial area. That's a designation that metro has recently made and with the concurrence of the ceid we did not want to have it regionally designated because for the very reason we would like some continued flexibility in that district for uses. So it means with its current zoning pattern under the city and as an ongoing discussion with central east side about what additional changes we might make in the zoning but we felt that it was opportune to allow some further flexibility for historic preservation in that industrial district that wouldn't apply as a blanket issue throughout the city because of the regionally significant implications for other districts.

**Saltzman:** So there would be some additional review if a building was historically industrial was suddenly being proposed in the c.e.i.d. 2?

**Kelley:** What we have done is allow additional flexibility for those buildings. I think what they are saying is that presumably that's still of interest to them but they would like to make sure that new uses don't displace industrial uses and that's -- if the council's interested in us following it by saying on the one hand, yes, but on the other hand don't go too far, we need to look at their proposal and do some more thinking about that issue. Because it's, it has the the potential to make a very complex set of findings there.

**Saltzman:** Well, maybe --

**Kelley:** Through the work that we are doing on the central east side plan with the zoning ordinance.

**Saltzman:** I would be interested in getting more background about it between now and --

**Katz:** Make sure you spend a little bit of time on that. Anything else? All right. You three, anything else we need to go back and review that you think?

**Starin:** Just clarify that -- well, we actually, yes, we did want some -- for the commissioner Sten's amendment, creating the nonconforming -- historic buildings.

**Katz:** Right, right.

\*\*\*\*\*: We had wanted to have a discussion with the council about whether you wanted to have That type 2 process.

**Katz:** Right.

\*\*\*\*\*: Or a type 3 process.

**Katz:** Somebody mentioned type 4.

**Kelley:** Type 4 is really about the application for demolition of a building. This type 2 versus type 3 is really about the rezone --

**Katz:** All right. Please think about that. Nicholas or gil or steve, as you walk around just to check in with the offices, go over that. I don't have a recommendation on that yet. So you will have to spend a little bit of time with me. Kathryn, I probably shouldn't raise this, but a lot of issues came on return on investment and -- is there a percent we use? You did a little bit of work on that.

**Kathryn Beaumont, Office of the City Attorney:** I have had some discussions with staff. Basically, the standard that is in the approval criteria now represents the constitutional floor. That is, if we deny a property owner all reasonable economic use of their property we have effectively taken their property and are constitutionally required to pay them compensation. So what we put in

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there was the constitutional floor. The council could, if it so desired, make a policy choice to set a threshold that was higher and you have heard various formulations offered by people who have testified. It's really a policy choice for the council as to whether you want to keep what's been recommended or whether you want to go to a different formulation.

**Katz:** It's --

**Kelley:** If I could help a little bit here. Because I think it really is not a legal issue. Once we have secured the threshold it's really a policy choice. And I actually wanted to respond to that as well as those other points.

**Katz:** I'm sorry. Finish up.

**Kelley:** Steve is someone I had a lot of respect for and friendship with, and we were not able to speak before the hearing, no fault of his. It's my schedule that's at fault but he did raise three important issues that I thought we should give you a response on and that was the first of them. I think the proposal to ship first of all the reasonable economic return gives the Council the broadest discretion to make the decision without having pegging it to any certain of any number of ways you could calculate return. Fair market turn sounds deceptively simple and certain in a process like this.

And I say deceptive because you can't really calculate that without mocking up a development project. It may or may not be one that they have considered. You need to sort of understand the full potential and variables on the property for reuse as well as demolition as well as sort of adaptive reuse of some of the structure that's there. Fair market is also a changing target. It's not fixed. And jurisdictions which, and there are a few that have actually elected to put a percentage of return in ordinance language so it's fixed forever have regretted that because it does change with the market over time. So we think that the reasonable standard along with the information that's submitted which gets into us into the second issue, actually allows the best balancing process and it's an open discussion with you, and I think that you are hearing some testimony from local interest that are coming from a place of fear about that uncertainty and that's understandable. I can say having worked with one of these ordinances in California, the more general standard actually makes for a much more thoughtful process and deliberation on the part of the council and the part of staff. Going to the second issue, sometimes you need information, which they may consider proprietary coming into this process to make the case. I think Steve was agreeing, I think, with what Commissioner Sten was saying which is the understanding is that the applicant can refuse to give that information. It doesn't mean these instances that staff would turn away the information. We would forward it with whatever information they have chosen to make their case with to the council. That does leave the council the option of just saying, it's not complete. We are not going to approve this because it doesn't have -- and while that is true, in my experience, that hasn't happened. What's happened is you get into a very thoughtful discourse about options for the property, including demolition. And I have seen a number of cases where demolition has been approved. Those are some of the cards you have to put on the table in a procession like that and I don't think we should pretend that it won't. The other piece that he raised had to do with whether we can avoid this being a land use action and I would simply say we can't. It's clearly a decision about land and buildings. It is clearly a discretionary, highly discretionary act on the part of the city. It looks like a duck. It walks like a duck. It talks like a duck. It's a duck. This is a land use process and there's no way around that. So I think we should just all understand that going into it.

**Leonard:** If I can just throw something out here, I don't think this is an either/or set of -- you have identified either/or issues with Steve Abel. I don't see any reason why we can't have proprietary information shared with staff that sign a confidentiality agreement and we as a council support and understand that they've done an analysis of the economics of a building. But that only, I think that only gets us so far. I mean, if you get to the point, analyzing whether or not to deny the demolition of a building, we may determine that it isn't economically viable in its current condition so we need to have tools, economic tools to offer. Because I am persuaded that this is part of our obligation as

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a community to not just preserve them but not also do it on the backs of the property owner. We need to contribute as well. So this idea of waving s.d.c.'s, permit fees in general, not just for seismic upgrade, any kind of tools that are reasonable that we can use I think we need to have as part of this package when we are doing a fiscal analysis of a structure. I am not persuaded that it's not a land use decision. I think that it clearly is but I do think that there are some things we can do to help preserve some of these structures that we don't have as tools now. The ladd carriage house, the testimony was that the church was in the business of saving souls and not buildings. I happen to be one who believes that historic buildings are part of the soul of a community. Very much so. And so I think -- but having said that the onus shouldn't be on them and them alone to bear the burden of maintaining a structure that doesn't, that isn't producing the kinds of revenue that they need to exist. So I think, I mean at a minimum I am ok with throwing s.d.c.'s out here for discussion. Building permit fees in general, not just seismic upgrades and any other ideas that you might have.

**Kelley:** I think what we would like to do in the next couple weeks is take a look at the fee issue. There are two ways to approach it. One is by looking at waving specific fees of a number of types for specific application as one way to approach the gap analysis, that is the financial feasibility.

**Leonard:** I'm glad you said that. I am not saying that as a carte blanche.

**Kelley:** That's the second way.

**Leonard:** Some buildings are economically viable in and of themselves, we should have it as a tool after we get the analysis.

**Katz:** Remove the legal -- to the extent you can remove the legal barriers from using those. Some of them you can't.

**Leonard:** Well, I have learned around here the impossible just takes two days instead of a day to figure out.

**Katz:** You have got -- all right.

**Leonard:** There's always a solution. But if we have the will. But my point being that after you do an economic analysis and you find that there is, in fact, a gap and you confirm there's a gap and this is assuming that we do sign confidentiality agreements so there shouldn't be a quarrel over them sharing proprietary information with us that we have these various tools available to make up that gap and that wouldn't necessarily apply to each and every historic property where we thought that was necessary in order to make it economically viable.

**Kelley:** So I just want to clarify you are not suggesting that we would bring back in two weeks sort blanket fee waivers or requirements for this class of buildings but we would use it as an individual-

**Leonard:** Yes.

**Kelley:** Individual case.

**Leonard:** In order to make up that gap.

**Katz:** That's the way we do when we meet as an S-Dot team and figure out the gap.

**Leonard:** That and when we do property tax abatements. It's that same kind of process that's used that are not given to all properties and all development. Only those that they have shown through some analysis requires some help to get over their internal rate return.

**Kelley:** Understood. The second issue raised I want to cover.

**Katz:** Nicholas having a fit here. What's your problem? [laughter]

**Starin:** I have some concern about the confidentiality agreement and how that would work. I think there's some legal implications for that.

**Leonard:** We do it now on with the bureau of licenses for proprietary information that comes in with respect to returns on income so I am not sure why.

**Kelley:** I think what we need to do is consult with kathryn. I think nicholas has talked with her before. It was a technique I employed in california where I designated a staff person who knew pro

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formas and certain information was submitted to him and essentially we rested on his opinion. That may or may not work under Oregon land use law because this is a land use decision and so I think that we need to have that conversation again with Kathryn.

**Beaumont:** I think we can explore that with staff. There are two things we need to look at. The Oregon public records law and what it allows us to do and not do, and also consider the notion that these are going to result in land use decisions and if they are appealed we get to be able to supply a record to luba, how we go about doing that. We can look at those issues during the interim but I do want to flag that is an area of concern and I will consult with staff on that.

**Kelley:** I understand the intent, though.

**Leonard:** I would rather us be out on the edge of the law than to be too conservative and not employ a tool that can help us save buildings.

**Beaumont:** Understood.

**Leonard:** That's kind of my general philosophy.

**Katz:** Yes. Thanks god on this issue. Nicholas.

**Starin:** I just wanted to make one minor clarification about something that's steve abel said and that gil reiterated that I think is not quite right. If someone, if the applicant refuses to submit some required materials in writing, that applicant, that application will be deemed complete and it will be reviewed based on that information, but the review criteria are the same review criteria. The council would not be within its discretion to refuse it because it's incomplete. Because it has been deemed complete. So if the information is needed to make the decision is not there, can't make the finding.

**Katz:** The council will reject it. Either that or talk the applicant into putting, giving us the information.

**Leonard:** I guess i'm wondering how much of that can we infer from the marketplace? Without having something submitted to us. We know --

**Saltzman:** The burden of proof is on the applicant.

**Kelley:** That's essentially what it is. They need to submit whatever information helps them make their case and we'll certainly look at the -- can we seal it in a box and have an analysis done that's -- that we can bring forward independent of the applicant?

**Katz:** Remember, we are putting forward millions and millions of dollars on the table. And probably even more than what we anticipated. So with that comes the balance and the responsibility.

**Kelley:** We customarily do this.

**Leonard:** Sometimes partnerships to work, you can't just commit to giving 50%. You have to be willing to give 60 or 70%, I have learned. I am just suggesting that anything that we can do that's in the public domain to help us reach some conclusion as to the economic viability of a building we should do and not just turn a blind eye to somebody who doesn't want to submit something. We should try our level best to fill in the gaps where we can.

**Katz:** And there are other incentives that aren't even on here.

**Leonard:** That's right.

**Katz:** That we use.

**Leonard:** That's my suggestion we think about that, what is there from your experience, gil, in dealing with this in other locales we aren't considering that maybe we could?

**Katz:** Ok. Again, enough instructions. Two weeks. We can't vote on it in two weeks because -- no? We're all right. We took care of everything. We're all right.

**Beaumont:** Mayor Katz, if you have some amendment language that will come back to you in two weeks you will -- you will need to continue it on a vote.

**Katz:** It's commissioner Sten's amended language maybe the only thing that comes back.

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**Saltzman:** I did ask for more information about this central east side industrial. I am not sure that's able to transform into an amendment.

**Katz:** We will monitor that, kathryn. Ok. Thank you.

**Kelley:** The date in two weeks is a public hearing.

**Katz:** Only be a public hearing on new amendments and will not be a public hearing on anything we have covered that doesn't come in as an amendment. We got to get to closure. All right. Thank you, everybody. Thank you for being patient with us. I just want to remind everybody, we had this issue resolved for a short period of time. 1171.

**Item 1171.**

**Katz:** Anybody want to testify?

**Moore:** They're coming up.

**Katz:** You have been waiting all this time? Come on up, come on up.

**Diane Betcher, Office of the City Auditor:** Good afternoon. I'm diane betcher.

**Katz:** Go ahead.

**Betcher:** This is our city archivist, diana banning. Would you like diana to read the proclamation?

**Katz:** I'll read it. You are my worst nightmare because I don't know what to save and what not to save. But you do good work.

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

**Katz:** All right. Let me go. Let me find it. I got it. Whereas the records of the city of Portland, the state of Oregon, the pacific northwest, and the nation are crucial to our understanding of the past, and in planning for own common future and whereas arrest archival institutions have a responsibility to provide the public with access to their records, and it is a goal of these institutions to increase public awareness of the vital role that play and safeguard knowledge of our intellectual, cultural, social governmental heritage in providing a forum for insuring accountability to the citizenry, and whereas archiveal records document stiff tease as citizens, business, governments, organizations and private context to our history and evidence of our common individual rights and obligations, and whereas during archives week we celebrate the value of the city of Portland's written record, publicizing the many ways archiveal records enrich our lives and recognizing those who maintain our communities archiveal records, now therefore I vera Katz, mayor of the city of Portland, do here by proclaim october 9 through the 16th as archives week in Portland and encourage all citizens to discover the diverse documentary resources maintained by the varied archiveal institutions in the city of Portland and to explore the relationship to community and cultural memory. And how appropriate to do it today.

**Leonard:** If I am not mistaken, I have a firefighter in the back to remind me if I am accurate but I think this coincides with fire prevention week. No small amount of irony.

**Katz:** Go ahead.

**Betcher:** Diana just has a few words.

**Diana Banning, City Archivist:** I am also here as a representative of the Oregon archives week planning committee and we would like to thank the mayor and the commissioners in recognizing the state's first archives week.

**Katz:** Oh.

**Banning:** Archives week was first celebrated by new york state in 1989, and as of this year, there are 34 states planning celebrations. Archives week is a time to focus on the importance of archives and archiveal material and to enhance public recognition for the people and programs responsible for maintaining our communities' vital historical records. The city of Portland's own archives which began in 1976, the same year we celebrated the country's bicentennial, is now widely used by city employees and citizens. Researchers come from as far away as japan and as near as the school down the road to use the collections which so richly document the city's policies, practices, and

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projects. The archives collection dates back to 1851 and currently holds nearly 4,000 cubic feet of preserved and cataloged city records including close to a quarter million photographs. These records have been the basis for numerous dissertations, aided city bureaus with current projects, been cited in a variety of publications, and provided citizens both young, old and in the middle with an opportunity to access records vital to their cultural heritage. So thank you very much for your part in helping the citizens of our city and state and appreciating and understanding the value of these important historical assets.

**Katz:** Thank you. Anybody else want to testify? Thank you. 1172.

**Item 1172.**

**Katz:** I am going to ask to have this item pulled back in the mayor's offices. We are in negotiations on that. Ok. Any objections? Hearing none so order. Let's keep going.

**Item 1173.**

**Katz:** Don't do a power point on this.

**Ron Bergman:** We are going to be very quick. Ron bergman, general services director. I can get the machine to come on.

**Katz:** Your time's up. [laughter]

**\*\*\*\*\*:** All right:

**Bermgan:** The item before you is a name change from vehicle services to city fleet. This is in honor of some work that has been done over the last two years in cooperation with our customer bureaus and the staff of fleet to essentially deconstruct and then renovate the whole organization in the way that we approach doing our business. This was an initiated really through some concerns that were raised by our customer bureaus. We brought in some consultants to help identify what the issues were and what some of the options were. We have worked through that with our customers in a very collaborative and cooperative way. And what we have done, moving to a full advisory board on a regular ongoing basis, what we really wanted to do is just highlight some of the items that we have accomplished and that we will be going forward with. Let me move to the final item here. The three things that basic areas we have done have accumulated savings for the city, efficiencies for the city, and made improvements in service without raising costs to the city. In terms of those savings we are converting with the cooperation of the police bureau some of the lease vehicle that is we have to the purchase of new or used vehicles that will then be rotated into other uses for the city that will save when fully implemented over a flee-year period close to several hundred thousand dollars a year of savings to the city. We are fighting savings in the way that we are disposing of used vehicles by looking at alternative ways to the historical city auction that we have had and we have had great success in that. We are moving to direct bill. In fact, we implemented it this year for the service work that we do back to the individual bureaus. The consultant has indicated that other cities that have moved in this direction have seen savings when fully implemented over a three to four-year period between 10 to 30% of the cost of maintenance just by having more scrutiny over the work that's actually being done. We are changing the way that we are funding replacements that give more flexibility to bureaus and reduce the cost to the city for that replacement. We are downsizing the motor pool and we are doing that by looking at when the motor pool is actually being used. Downsizing to our lowest level which are typically the winter months and then moving on to supplementing the pool in the summer months so we're reducing --

**Katz:** You are doing a wonderful job.

**Bergman:** Almost done here. We have closed the interstate garage. We have as you can see from the screen had efficiencies and improvements. I wanted to introduce bruce cross, our new city fleet manager that's really done a great job working with our customer bureaus and I think we have a customer, couple of customer bureaus that wanted to just comment on the process.

**Katz:** Go ahead, sir. Welcome.



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**Bruce Cross:** Thank you very much. It's been my privilege to work for the city of Portland.

**Marco Benetti:** And I will be brief. I'm captain marco benetti from Portland fire and I'm the fleet coordinator. All I want to say is the strategic improvement process undergone the last two years was fabulous. All the bureaus in the the city got together. We agreed on a whole bunch of changes and with the leadership of ron and bruce, it's worked out fabulously. And I would like to see a similar process be undertaken by some of the other bureaus in the city to kind of streamline things and make stuff more efficient and there's I got a letter from the police bureau and I won't read it because they said kudos, thanks a lot, and also from Portland transportation, patricia bugas-schramm and she basically said the same thing. Just wonderful --

**Leonard:** The fire bureau likes it.

**Benetti:** Fire bureau is having a wonderful time. We are working great with city fleet now and they are giving us all the information that we desire and kind of working with us to get anything that is required to do our job.

**Katz:** This is all of you very excited with the change from vehicle services to city fleet.

**Benetti:** We love it.

**Leonard:** They are doing a lot more. I had a briefing. A lot more than that.

**Katz:** I am being facetious.

**Saltzman:** Water bureau and environmental services are very happy too.

**Katz:** We're very happy. Good work, ron. All right. Anybody want to testify? Roll call.

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

**Katz:** Mayor votes aye. 1174.

**Item 1174.**

**Matt Brown:** Good afternoon. Matt brown with Portland transportation. I will try to keep this to about an hour. The briefly --

**Leonard:** No.

**Brown:** No. Just very, very briefly. We are, we have a preconstruction agreement in front of you today with kiewit-pacific. We went through a process as you recall to select our contractor for the Portland aerial tram not through a typical low-bid process but through what we call cmgc, construction manager. General contractor process where we looked at experience and qualifications, safety, the proposed management approach, and the proposed fee structure as some of the primary criteria to select the contractor. And kiewit presented us with a very good proposal and I think they bring a lot of experience to the table. And I want to highlight two things to you before we move on with the side. Kiewit was selected on the basis of two primary elements that kind of set them apart from the other competitors. First was their experience and qualifications in building complex, especially civil and heavy structural projects like this. They just finished the santiago calatrava design bridge in redding, california, you may have seen, a pedestrian bridge. They also did the crooked river bridge on u.s. 26 over the crooked river. They actually built a temporary tram to help them put that in place. They have some experience with this kind of work. Second their fee proposal was outstanding compared to the next in line. Essentially, \$12,000 fee for preconstruction based on about \$120,000 worth of actual work their going to do for us. As well as a 4% contractor's fee the next closest contractor was a 10% fee. So I think they gave us a very good proposal on those two fronts and we are really pretty excited to work with them on this project. There's our recommendation.

**Katz:** Unless fred leeson is ready to testify were ready to move on.

**Sten:** I'd like to hear fred. [laughter]

**Katz:** Thank you. Roll call.

**Leonard:** Aye. **Saltzman:** Eye. **Sten:** Eye.

**Katz:** Mayor votes aye. 1175.

**Item 1175.**

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**Katz:** Nobody's here. All right. It passes to second. 1176.

**Item 1176.**

**Katz:** Roll call.

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

**Sten:** I am going to vote for this because I think its good government on the auditor's part. But I want to say to susan I enjoyed being the only person on the ballot. I am going to miss that. Aye.

**Katz:** Mayor votes aye.

**Sten:** Should I ever be lucky enough.

**Katz:** Tomorrow, I am sorry. Today this afternoon, 1177 is on the calendar. However, it's been rescheduled to november 10. Ok. So you are free for this afternoon. You have got to come back -- you do need to come back.

**Leonard:** I will not be here.

**Katz:** And I won't.

**Leonard:** And I checked with Commissioner Francesconi he will.

**Katz:** He will?

**Leonard:** There will be a quorum.

**Katz:** It will take a second.

**Saltzman:** Francesconi will be here?

**Leonard:** He will. I checked with him.

**Katz:** Good. We stand adjourned until tomorrow.

At 1:17 p.m., Council recessed.

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**Closed Caption Transcript of Portland City Council Meeting**

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

Key: \*\*\*\*\* means unidentified speaker.

**OCTOBER 7, 2004                      2:00 PM**

[ Roll call ]

**Saltzman:** The mayor is absent. Could you read our first item?

**Item 1178.**

**Saltzman:** So good afternoon to everybody. As indicated, mayor Katz and commissioner Francesconi can't be here this afternoon, but the mayor did ask me to thank all the people who have been involved in this effort, and she supports the council's adoption of this intergovernmental agreement with the port and the city. I just wanted to go back a little bit in history, remind people why we're here today. The airport is a vital part of our community and our economy. The council recognizes that value, but also must recognize the impacts of airport operations have on our constituents. When I was in charge of the office of neighborhood involvement, I heard this loud and clear from many of the neighborhoods that surround the airport. I convened the airport issues round table to create an independent forum about airport issues and to give this city council a more informed citizen perspective on these complicated issues. This agreement with the port is the most recent culmination of our citizens' efforts to engage the port of Portland in a cooperative manner. So with that, are we going to have a staff report? From jay? And bob clay? I guess bob and jay will start off and we'll invite testimony.

**Bob Clay, Bureau of Planning:** Good afternoon, commissioners. Bob clay with the city of Portland, bureau of planning. With me is jay sugnet, also with the bureau of planning. Gil kelley may be here and join us as well. This is -- has been a lengthy process, a very collaborative process that began with a series of meetings in the fall of 2001 which culminated first in a resolution to city council that formed the basis for the first resolution. At that time council directed staff to develop an intergovernmental agreement with the port of Portland and several affected citizens and stakeholders. At that time, we also then later came back with the first intergovernmental agreement that laid out a framework to have us move forward and work cooperatively in a fashion that would have us developing a cooperative long range land use plan together with the port. This work with some recognition on the part of both the city and the port, as well as stakeholders and citizens that the current land use review process, which is a conditional use master plan for the port, may not be the best tool. And at that time we did a background report memo to council identifying a number of pros and cons to the current land use approval process that we have and came to the conclusion that we needed to look at doing the land use approval process in a different manner. As a result of that report, that led us to the resolution, the first intergovernmental agreement, and today to the second intergovernmental agreement. We're hoping as a result of this agreement then we'll have both a collaborative process and somewhat seamless process between what the city undertakes today in its land use approval process and a review of Portland international airport together with the port's own approval process with its master plan. So that when the port goes ahead and makes decisions with respect to future uses and development activities, that that would be done jointly together with the city. As part of the agreement also here today before you, we've identified a series of work tasks, time lines, expected products, and a funding mechanic millenium to meet niece objectives under a new legislative process. And part of the agreement the port has agreed to fund the senior planner position with the bureau during the early stages for the joint planning process, we'll relay out a work program and also look at retention of a consultant in that hiring process. So we're very excited to be

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here today to have reached this milestone. Those conclude my comments, and what i'd like to do is turn it over to jay to walk through some of the highlights of the intergovernmental agreement.

**Jay Sugnet, Bureau of Planning:** Jay sugnet with the bureau of planning. I have two slides, and bob really covered quite a bit of this, but I wanted to highlight sort of the fact that this has been going on over the past four years. There was initial internal discussions at the city that recognized that the airport is an extremely complex situation and that the conditional use process really is insufficient. The port was also finding it a very cumbersome process to have to come back to the city to get approval, and they did really a survey of airports and found that Portland international airport was an anomaly. The fact it's a conditional use is extremely rare in this country. In 2001 as bob mentioned, there was the council work session, and the work session was really to initiate this legislative process and directed staff to prepare the first i.g.a. 2002, it was pretty extensively had the office of neighborhood involvement, and we had the office of transportation, bureau of development services, environmental services, the air traffic issues round table, and other citizens, and I think you'll hear from some of them today. As well as the city attorney's office. And this group spent many months hammering out this first i.g.a. It was a collaborative effort, and what came out of that first i.g.a., we needed to do a second one. So that's why we're here today, is to put a little more specificity into the i.g.a. and to really focus on clarifying the process and really -- the main goal was to create a framework for a collaborative planning process between the port, city, and citizens of the region. We wanted to acknowledge the role -- important role the airport plays, but also examine creative approaches to addressing potential impacts of p.d.x. Operating an urban community. So that's why we have the second i.g.a. The second i.g.a. goes from -- covers the master planning, joint planning process between the port and the city that's going to happen between 2005 and 2009. This is a significant city effort, as well as port effort, and what I wanted to do was just explain briefly what's in the i.g.a., it's a -- the majority of it is a work program, it's 21 pages long, it has what the port is going to be doing from the studies through the master plan process, it has what the city's going to do in a typical legislative process, it also talks -- the third section is about public involvement. We created this chart, flow chart to help explain this process, because we found that just listing out what everyone is going to be doing didn't really capture the collaborative spirit of this effort, and the fact that the port is doing their process, which is listed along the top going from 2005 to 2009, and at the bottom is the city of Portland, their process going from 2005 to 2009. What binds that together is this joint city and port advisory committee. And this is going to be the committee that's -- we've used the city products, the port products, really integrates the entire planning process. And I won't go into the whole -- a lot of the details here. I just wanted to highlight that the -- the i.g.a. Does include language on compensation. The port has agreed to pay all reasonable costs associated with the city's legislative planning process over this time period. It's also agreed to hire -- allow the city to hire consultants is to do peer review, and marquam hill plan is a good example, where we hired consultants to do peer review of ohsu's studies. And it also enables us to hire a senior planner to develop a detailed work program and -- which will come back to council in the form of -- we didn't want to say third i.g.a., but it will be an addendum to the second i.g.a. So that's all I have.

**Saltzman:** Gil, did you want to say something?

**Gil Kelley, Director, Bureau of Planning:** Real quickly. I agree with everything that's been said so far in terms of summary, and it's been a very collaborative process. I think this is something along the lines of the marquam hill plan and its -- in its nature and scope, and therefore will require management focus from the bureau, and we're prepared to do that. So I think the agreement with the port to help fund some staffing consultant time is important. I think we'll also be putting in management time on this one to make sure that the process is steered through to completion. I also wanted to acknowledge that bill wyatt, the executive director of the port is here, and you'll probably want to hear from him as well.

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**Saltzman:** We'll invite him up after we finish with you. Are there questions of our planning bureau? I guess I did want to ask about the joint city port citizens committee. How will that be selected, or is there a compositional description of that in the agreement?

**Sugnet:** Yeah. Everything that's on the flow chart basically has a description in the text. We have a pretty lengthy list of potential stakeholders. I would say it's almost exhausted. It's on page 13. It also talks about what are the goals of the committee and the public government process. It goes on to talk about committee formation, committee structure and management, we even went into detail on the chair and the subcommittees. Coordinating committee, that's going to be an important aspect as Gil mentioned, management of the entire process. So we're going to have city and port staff together with a consultant team managing the overall project. And also talking about facilitators.

**Saltzman:** This will be operating in accordance with the city of Portland principles --

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

**Saltzman:** Ok. Any other questions? Why don't we have the port executive director, Bill Wyatt. If you have anybody else you'd like to bring up, please do.

**Bill Wyatt, Executive Director, Port of Portland:** With me is Steve Schreiber, our aviation director. I'll just make some brief comments, and first add my great thanks to the council and to the city staff for really an extraordinary effort over the past year. It's hard to believe it takes a year to develop an agreement of this nature, but the reality is that something as substantial and major as the airport is a huge organism, living, complex organism, and so developing the means by which we characterize it -- the future is a challenge. I think characterizing my own comments, when I started at the port, one of the many discoveries I made that I thought was curious was that the airport was operating under a conditional use. Because it's not really a conditional activity. It is the only facility of its kind in the state, really. We're not likely to have another one, and the collective -- in the collective life times of any of us in this room. And so I think creating a mechanism which governs land use choices related to the airport makes a great deal of sense. So that -- all of the decisions related to the facility can be made in a more holistic fashion as opposed to one condition at a time, one conditional permit at a time, conditional use permit at a time. So I think it makes a great deal of sense to proceed in this fashion. I should also point out that this is a facility which exists basically to serve an industry which is itself in the midst of enormous stress. Our fourth largest carrier is in bankruptcy, and while they're paying their bills, I think it goes without saying that it's hard to pick up the paper this town's paper, any other, without seeing some major piece of news related to the financial health of the industry which forms the backbone, if you will, of the operations of PDX. Things have changed in a very significant way. It's difficult to know where things are headed, but I would leave you with this story. When we went down, Steve and I and others went down to approach Lufthansa with our first serious business, it was in conjunction with a meeting they were having, sales meeting, and also a major conference, national conference that occurs every year on sort of what's happening in the airline business. And so there were a panel of C.E.O.'s of major airlines, and there were a couple of airports represented, and fancy consultants and so forth, and they were surmising about the future of the industry in the post 9-11 environment. And to a person they all suggested that really this was the death, we were about to see the death of point-to-point service in favor of major hub development in the world of airports, particularly in the United States. And that's humbling when you look at the -- when you look at the collective expertise of the people on the panel and you look at the result three years later. Precisely the opposite is occurring. Hubs are disintegrating, point-to-point service is increasingly in vogue, United Airlines in their most recent bid to stay alive has announced they're going to increase their international service where they can make money, and decreasing their domestic service presumably in favor of low-cost carriers who will move in and fill those voids. Delta Airlines just closed their hub in Dallas-Fort Worth, and I think you'll see a lot of this activity. The point is that it's hard to look way down the road and be at all accurate, because this is a very fluid rapidly changing environment for

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this industry. Having said that, this is a facility that is enormously important to our region. I think the last time we were up here talking about the conditional use permit we went through some of the economic values associated with the airport. It's enormous. It's a small city, it employs about 10,000 people. It has an annual economic impact in total for our region of around \$4.5 billion. So it's a big operation, very important to our future. I think this is a very sensible way to consider both the economic value and importance, the land use implications, and also candidly, the impacts. You can't have a facility of this size, this magnitude, without leaving a foot print behind in the community. And I think that this i.g.a. recognizes the importance of addressing those issues and creates a sensible process for doing so. So my congratulations to all of those who have been involved in this. I think this is a good first step.

**Saltzman:** Steve?

**Steve Schreiber, Port of Portland:** I just had a few comments to bill's first, again, I think this is an important agreement between the city, the port, and the citizens. I think we recognize historically, we've not necessarily had the great -- a great track record of being transparent in our planning process and working closely with the city and working with citizens to do our long-raping planning, so this is an opportunity for us to take a different approach to the planning process I think, involve -- closely involve the city, closely involve citizens who are interested in that that process. I'd like to take a brief moment and thank some of the citizens who have been deeply involved in this process, and I think some of them are with us here today. Bonnie mcknight, I didn't see bonnie here earlier. Erwin bergman, john wygant, linda robinson. They've all put tremendous amount of time into this. This is complicated stuff to get your head around, and we appreciate the fact they've really pitched in kind of stuck with us through this process and helped put this i.g.a. Together. So we appreciate that. We also understand a lot of the concern about the airport and growth in the future, potential growth in the future, centers around the noise issue. And I think as you know, we're in the midst of a noise study at p.d.x. I think we were before you back in the may time frame to talk about the noise study that's currently underway. I want to just emphasize with you that while we're looking primarily at noise impact and where we think that will go over the next five years or so, we also plan to look at the potential noise impact of a developed p.d.x. Over time, up to and including a potential or proposed third runway. So we will do that analysis, we will look at what the impacts of that would be on residents in this community. So we're committed to doing that. I'd also like to just take a minute to talk about some of the things we promised to do, and I think we've followed through on many of the promises we've made. Some of those promises came out of the 2000 master plan we did. One was to conduct a strategic environmental evaluation that looks at air quality, water quality issues, natural resource issues, and we're into that process already. We're already working on that, developing data. We've completed actually a military siting study to look at the potential of relocating the military to some other airport within a close radius of p.d.x. We're also working with the f.a.a. And with other airports to look at things we can do to enhance capacity or to preserve the capacity. We want to try to squeeze every drop of capacity and efficiency we can out of the current facilities before we have to build more, and that goes back somewhat to what bill was talking about as the carriers right now don't have a lot of money to spend on anything, including wages for their employees. So for a lot of reasons, we want to get the most out of the facilities we have before we build anything new. As I mentioned, we're in the midst of a part 150 noise study. We expect that to be complete in april of next year. We also made promises to you, the city council coming out of the 2003 conditional use permit process. One of those was to form a land use advisory committee, which we've done, put together. It's been operating out of the course of the last year. I think we've had at least five meetings. That will evolve into an advisory committee for the next master plan update process. We also promised to be more actively involved with the carriers when there are valid noise complaints we receive to make sure we're getting letters to the carriers, putting them on notice that somebody has flown potentially in a place they should

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than be flying, doing something they shouldn't do. We've been active in that, I think we've sent out about 15 letters I believe commissioner Saltzman, your office is being copied on all of those. So again, trying to make sure we're following up and doing what we've promised you we would do. In closing, I guess we were looking forward to going through this proper planning process with you. I think it's a good opportunity for the city and the citizens to work together to come up with a development plan we're all comfortable with going forward. And with that, we're happy to answer questions.

**Saltzman:** Questions? Ok. Thanks. Now we'll invite public testimony.

**Saltzman:** We will -- I know you're all members of the airport issues round table, and members of cnac. I think we'll give you four minutes each in recognition of your tremendous involvement.

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

**Saltzman:** State your name.

\*\*\*\*\*: I'll go first because i'm the most handsome and have the least hair.

**Saltzman:** Give us your name for the record.

**Fred Stovel, Chair, Air Traffic Issues Roundtable:** Fred stovel, chair of the air traffic issues roundtable. At live at 3125 northeast 52nd avenue in Portland. You should have a copy of my written remarks. We too thank the port for its cooperation and openness in this undertaking. But on the negative side, we real lies that at this venture, at this point of the venture there's still many cultural differences in the way citizens, the city, and the port see the issues. Some of the big ones mr. Bergman will cover in the considerations of nepa that mr. Sugnet pointed out in his october 1 memo to the council member staff on the issues, the big issues that are left hanging. Recently in the -- the port held a meeting on the need for an environmental assessment for the Portland international center. A subject that will come before the council before the end of the year in which you will be asked to change the city code for the planned district for the Portland international center. A very legitimate approach to things, but the question that odot member of that panel had was why an e.a., an environmental assessment should follow the city's changing the code to approve what the environmental assessment is supposed to look at. Or to judge the effects of the thing. And the answer that the port has was, well, the f.a.a. doesn't want to undertake a project that they know will be disapproved by the body that has land use jurisdiction. Which is a reasonable approach, except that under environmental assessments you're looking to do more than just approve, you're looking to examine whether the project is necessary, whether there are alternatives, whether the alternatives have been considered, including a do nothing or no build stance. Also, under most environmental type reviews or planning reviews, including nepa, we seek to avoid, minimize, and mitigate things we can either avoid or minimize. And mr. Wyatt kind of pointed to those things that with a project of this size or an organization like -- or entity like an airport within the urban environment, it seems like the way that we have -- that we've approached this before was mitigate. Assuming that nothing can be avoided or minimized. And we hope that in the process of developing the legislative document, plan district, whatever you want to call it, that we look more toward the nepa approach, because even though none of us may be living when replacement or another -- the transportation system changes in regard to p.d.x., of course commissioner Sten will probably still be alive to see high-speed rail down the valley and a few other things that were suggested at that Portland state symposium on the transportation demands of the region, there may be even bigger changes than we can imagine. And it's up to a large group, it's up to the city, it's up to inputs from the state and southwest Washington to do that. And we also know -- is that time?

**Saltzman:** Yeah.

**Stovel:** Ok.

**Saltzman:** We've got your statement in front of us.

**Stovel:** Ok. That's the question on the part 150 that mr. Sugnet pointed out was a difficulty. Thank you.

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**Saltzman:** Erwin?

**Erwin Bergman:** 5330 northeast holman. I am one of the representatives from cnap on the part 150 noise compatibility study. I believe that the collaborative process identified in the i.g.a. is a good one. I think we should pursue it, however it has one major short coming, and I think that must be corrected. And i'm addressing that the port is unwilling and has been unwilling to embark on an environmental impact statement review. It could be the follow-up of an assessment. And they present the argument why they are not going to do it in a -- it outlines in a letter that was written just recently by the port and they make argument that's do not have validity and I may be hard saying they're dead wrong, they say that p.d.x., environmental assessment has only a shelf life of three years. And they present that as a cold hard fact and they base it on the f.a.a. order, 150, the f.a.a. environmental handbook, and instead of a cold hard fact, it says that it assumes, and then by reading through further on, it clearly says that it does not have, and it should be basically correlate and compared with the nepa document by prepared by c.e.q. and basically the rule of the land, and clearly states that an e.i.s., an e.a. does not have a finite life span, that it should only be reviewed after five years if nothing has happened, and then to assure both the project hasn't changed where it would cause totally different or significantly different impacts and basically the regulatory framework has not changed that might have caused new imposition of new requirements on the airport. And certainly the first one is totally under the control of the airport. The second one is not, but I don't believe that there is going to be substantial regulatory changes that will affect the reparation and invalidate an environmental impact statement, and if changes do occur, a supplemental e.a.s. may be prepared that is considerably a minute portion of an e.a. or an e.i.s. And basically requires relatively little effort. The other argument that the port uses is that -- we're not talking about a plan, a master plan and all this is not a plan, it is only a concept. And such is a concept is not subject to nepa review. Well, the 2000 master plan identified three phases, and what they -- the port is saying that we will make -- we don't believe the first two phases require any major environmental review, while the third phase, namely the third one will. So we will do an e.i.s. When it comes to the third phase, the third runway. By that time if all the support facilities are in place, there is no -- there is no -- no remedy left of the third runway, thus you violate the very spirit of nepa that you close all option and you justify a preconceived notion. And I -- and if I could just add that the part 150 is not going to address the noise issue, and that is something that the nepa addresses, the human quality of life, or the human environment. And they eliminate that and that it's a violation of nepa. Thank you very much for listening.

**Saltzman:** John?

**John Weigant:** My name is john weigant. I live on northeast marine drive. I'll skip through my comments because I have more than four minutes here. But I testified before you today as a former professional planner. This is an i.g.a. related to planning. And we have asked for it because we trust the city's planning process. As a member of the committee that crafted this i.g.a., I ask you to approve it. But we also ask you to track the process very carefully. We may come before you at some future time to request a moratorium on construction projects at p.d.x. If they side step their own conditional use permit, and if they violate their own plans. We'll keep you posted on that process, and warn you if progress along this plan is unacceptable. Two high principles have guided our efforts throughout this process. The first is the essence of democracy. Democracy is less about the will of the people than it is about protecting the rights of minorities. The port sees itself as a business serving its customers. Airlines and air freighters. Secondary customers, travelers and shippers, comprise a majority of the population, yet a large minority of residents are adversely affected by the noise and congestion created by the port. Their rights are not being protected. The port tends to say, gee, there's little we can do for free to simultaneously cut noise, manage congestion and still expand services as much as possible. Since the port won't protect those damages, we have to call on our general purpose government to step in and ensure the port does



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what it should using ordinary processes. That is, planning. Our second high principle is that we citizens are asking for nothing but ordinary process done well. All we want is good planning. Which has three basic elements -- first, you protect some -- project some sense of need at some time in the future. The port's projections of need were not real when they did them, and they remain even less real today. We would accuse them then of bad work in the first step. Second, you evaluate the options to meet that need and select best. The port selected the third parallel runway and the second terminal, a \$4.5 billion project. As soon as the port's consultant put it on the table, the port's own planning advisory committee said, bad idea. The port back pedaled, saying it was a concept and would likely never happen, but today, their plan includes the third runway and has been adopted by the f.a.a. The third major step in planning as you account for potential impacts and avoid reduce or mitigate for them where possible. The \$4.5 billion budgeted project does nothing to buy up housing made unlivable or insulation, or to compensate for property value reduction or any other mitigation. Steps two and three may need to be repeated until an acceptable and affordable solution can be found. They're what nepa is all about and step three remains undone. So in short, I claim that the port planning process is bad. If this were an exception, we citizens might say they'll overcome the problems and eventually get it right. But the port has a history of poor planning. Remind -- we remind you of the coal terminal, the maintenance hangar, the air cargo terminal, swan island shopping center, the west hayden island grain terminal, the largest floating dry dock in the western hemisphere that would use the columbia river to repair broken super tankers --

**Saltzman:** Your time is up and we have your letter.

**Weigant:** Thank you. I apologize for the anger embedded in my comments, but it's been a long and frustrating process, and we are hoping that this process or the city takes a substantial role in the future planning to help protect citizens.

**Bergman:** May I second that.

**Saltzman:** You may.

**Saltzman:** Thank you very much. Anybody else wish to testify on the i.g.a.? Any further questions of council? I guess we'll have to wait for commissioner leonard to come back. This is a nonemergency, right?

**Moore:** It is.

**Saltzman:** So it goes to a second reading.

**Moore:** We'd like to bring it back wednesday morning.

**Saltzman:** Ok. Would I just like to say at this time, since when it comes back probably none of you will be here, thank you very much for the work here. I intend to support this agreement. I know that our city and port staff have worked diligently as have many citizens over the past years to get us to this point, and I know we have many dedicated citizen that's will ensure this legislative product is a good one. I'm very cognizant of the pressures that both port and the city are under and it's a testament to bill's leadership at the port and mayor Katz's leadership in the planning bureau that we have a strong agreement before us that will produce tangible results for this community. And I want to give a special thank you to the port for its commitment to fund a professional city planner for these efforts. When I formed the airport issues round table, I knew then that the energy existed in our community to work with the port on creating real partnerships that can sustain themselves in the years ahead. And you've just seen some of that energy right now. And I urge all these people to keep working together and I specifically want to thank our citizen volunteers, linda lobbies, fred stovall, irwin bergman, john wygant and bonnie mcknight. From the port, brian campbell, steve twohay and people in the city that have helped make this work. Bob clay, jay, amy, steve geringer, sylvia kate, katherine beaumont and from my office, matt grumm. I'm sure i've missed some folks, and my apologies, but it was a huge effort for all involved and let's continue this

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cooperation and begin the hard work of creating a sustainable land use process for our airport. We're moving it to second reading, but if you have objections--.

**Leonard:** No.

**Saltzman:** Thank you all. We'll vote on this next week. Next item, please, karla.

**Moore:** That's a 2:45 time certain.

**Saltzman:** I think we have everybody here. Ok. We'll take a three-minute break.

At 2:40 p.m., Council recessed.

At 2:45 p.m., Council reconvened.

**Saltzman:** Karla, will you read the item before us?

**Item 1179.**

**Saltzman:** Mr. Cole, do you want to update us on where things stand?

**John Cole, Bureau of Planning:** Commissioner Saltzman, you may recall this is a commission hearing to consider a request for an appeal by the reed neighborhood association asking the commission to overturn the decision by the hearings official that approved a rezone and a land division on a piece of property in the reed neighborhood at 3407 southeast steele street. The council, the commission had heard this particular item initially on september 23. You had continued this particular item for the preparation of findings and conclusions. At a meeting last week, you voted to continue this item for one week to allow some communications to occur between staff and the neighborhood association and allow them to be brought up to speed as to the potential council reconsideration. I believe that you will have each received a letter dated october 6 from a roger alfred, who represents the applicant, the andresen and the welshes in this particular application. In this letter the applicants are requesting an additional 30-day continuance to allow them an opportunity to attend the reed neighborhood association meeting on the 21st and attempt to reach an agreement with the neighborhood association so that they can come back before this body in the future with an endorsement by the neighborhood association. So I think that might be the first order of business, that you might want to consider today. I know that the attorney, mr. Alfred, is in the audience today, and available to answer any questions, and I do know that the president of the neighborhood association, cameron mcredie is also here and available to answer any questions that you may have.

**Saltzman:** Ok. Do either mr. Alfred or mr. Mcredie wish to address us on this matter? We have your letter.

**Leonard:** I guess I need to know that this is a sincere attempt to come to some agreement, or i'm prepared to vote now.

**Roger Alfred, Perkins Coie:** Good afternoon, members of the council. I'm roger Alfred of perkins coie, 1120 northwest couch street, Portland, Oregon, here on behalf of the applicant, who I think it is safe to say got off on the wrong foot with the neighborhood association in this matter and hasn't fully recovered. But at this point i'm here to try to help and what I would like to help to do is move this to a resolution that is going to allow all of the parties to come away with something that works for them. And what the applicant is proposing to do is go back to the neighbors, establish a dialogue with them, talk about their proposal, and attend a neighborhood meeting, which is on october 21, and try to come up with some resolution that will work for everyone. And I think that we could --

**Leonard:** Are you going to talk about crime statistics during the neighborhood meeting?

**Alfred:** If the neighbors would like to. I unfortunately haven't been involved in this up until now, so I wasn't aware crime is one of the issues --

**Leonard:** One wouldn't think.

**Alfred:** So if --

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**Leonard:** My point being it's been proven to be fairly unsuccessful until now the kinds of things that are being communicated. My interest in -- there are two other people who may not share my interest, is that the boundaries that are being proposed change. I am not going to be agreeing to any compromise that doesn't adjust the boundaries that are being proposed and that frankly some earnest attempt to come up with an agreement with the neighborhood in mind, that they just be played.

**Alfred:** That's what we're proposing, commissioner Leonard.

**Saltzman:** Ok.

**Sten:** I would move for the continuance and to wish you both the best of luck in this conversation and hope to see an agreement.

**Alfred:** Thank you.

**Saltzman:** Is there -- do we need to vote on that? Ok. We need a second? Mr. McCreddie, did you want to address us?

**Cameron McCreddie, President, Reed Neighborhood Association:** Please.

**Saltzman:** Why don't we get the motion on the table. You're not ready?

**Leonard:** Second.

**Saltzman:** Oh. The motion is on the floor. Ok. Now we'll invite the neighborhood association.

**McCreddie:** How much time do I have?

**Saltzman:** This is really on the motion to continue this for 30 days. That's -- we're not getting into the subject. I guess you can argue against the motion to continue and have us approve our --

**McCreddie:** So why am I here?

**Saltzman:** You're here because it's a public testimony. Could you give us your name too?

**McCreddie:** I'm sorry. Cameron McCreddie. Reed neighborhood association president.

**Saltzman:** Last time we denied -- we upheld your appeal. And I think you're aware of what's happened in the intervening time. We have a 120-day clock that requires us at this point to either make a decision today on our previous decision, a final decision, or as has been requested by the applicant, to give us an additional 30 days to make a final decision and in that ensuing time, to attend the October 21 Reed neighborhood association.

**McCreddie:** So I'm here to --

**Saltzman:** Now there's been a motion to continue this, make a final decision no later than 30 days from now.

**McCreddie:** I would argue that we make a decision today. I would argue that we've already made a decision. I would argue that we've already tried to meet with Mr. Welsh on several occasions, and that we -- and he came once because the city told him to come. And provide a preapplication form for him to fill out. For us to fill out. He didn't want us to have that form. He wanted to fill it out himself, ask us the questions and leave with that document in his hand. And that's all we ever heard from him. We said no, leave the document with us, we'll fill it out, in a reasonable fashion, and return it. He didn't like what he saw on that form, we invited him back to the next board meeting to discuss his plans, which were at that time very sketchy. We put him on our agenda, he refused to show up. We called him, we said, why didn't you come to the meeting? You were invited, you said you were going to come. He said, I forgot about it. I was busy with my kids, couldn't do it. So we said, ok, we'll have an emergency board meeting at your convenience, please come. And we can discuss this. We never even got to the point of any kind of dialogue with him. Whatsoever. Instead of coming to us, he was busy harassing neighbors. Sorry.

**Saltzman:** We --

**McCreddie:** No. Let me continue.

**Saltzman:** You made your point clear. You would like us to vote today.

**McCreddie:** Yes, please. I don't know what this end run he's doing. Contacting a staff member with his attorney after the fact, and wanting to somehow manipulate the application. He had his chance. He had his chance for the last 11 months to provide a reasonable application. But --

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**Saltzman:** Ok.

**McCredie:** -- he didn't. So the city attorney comes before the city council and says the applicant has recognized his mistakes and has learned some lessons. That does not a technical clarification, that is advocating for the applicant.

**Saltzman:** That's clear. I don't think that's what our city attorney said.

**McCredie:** No, it's a direct quote.

**Saltzman:** Did you wish to say something, sir? We're not going to revisit the issues here. We've already --

**McCredie:** I want to explain why i'm opposed to extending the time line.

**Saltzman:** I think you've done that. Did you want to add anything, sir?

**David Kimmel:** The decision you're attempting to make -- i'm david kimmell, I was at the last meeting. The decision the council is contemplating at this point is whether to extend this an additional time frame to allow the applicant to --

**Saltzman:** Rather than make a final decision today, to make it within the next 30 days.

**Kimmel:** I would submit that the applicant has been so disingenuous during the entire 120-day process, that this is the first time anybody had heard that he even wanted to meet with the neighborhood association since the last hearing. So I would argue -- agree with cameron, that we believe the decision is most appropriately be made now, the applicant is essentially changing his mind as things don't happen to go his way. Now he changes his mind.

**Saltzman:** Ok. Thank you. Any questions?

**Leonard:** I do have a question for the city attorney.

**Saltzman:** Thank you both.

**Leonard:** What is the impact of this motion not passing today? The motion that's on the table, what is the result of a failure of that motion?

**Kathryn Beaumont, Sr. Deputy City Attorney:** If this motion doesn't pass today, we still have a letter from the applicant extending the 120-daytime period 30 days. The council can make a final decision today, the council can continue it for less than 30 days and direct staff and our office to work on whatever kind of findings the council would like. Basically the council has a fair amount of discretion.

**Leonard:** Because I just -- I guess I need to project-- probably you could tell from my earlier comments, i'm not enamored with this proposal, to extend the time line. But i'd like to know the impact of the failure of the motion. I mean, obviously what's on the table is we either affirm our findings, and if we don't do that, what happens?

**Beaumont:** If the motion fails, you can choose to make a final decision today, you can choose -- what you have before you are two alternate sets of findings. One set is consistent with the tentative decision you made three weeks ago, which was to deny the zone change, deny the land division and deny the adjustment.

**Leonard:** Tell me what happens if we affirm that.

**Beaumont:** If you adopt that? That would be your final decision for today -- that would be your final decision on this appeal, and the applicant would have 21 days to appeal to luba if they choose to do that. If -- and we have received some intimation that's a possibility.

**Leonard:** Does the applicant have the opportunity to refile and ask for another division?

**Beaumont:** Sure. The applicant can appeal and reapply for --

**Leonard:** And start over again?

**Beaumont:** Start over again. The other set of findings you have before you, it would -- is it was a provisional set of findings that would approve the zone change and it had presumed that potentially the land division application and the adjustment application would be withdrawn. They have not been withdrawn at this point in time. Your other alternative would be to -- I don't know, make another motion as to how you want to dispose of the zone change, the land division, and the

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adjustment, and if we don't have a set of findings available today that conforms with your tentative decision, to continue it for a week or two for us to prepare findings that conform with that tentative decision.

**Saltzman:** We need three votes to pass anything?

**Beaumont:** You do.

**Saltzman:** Therein lies the difficulty. Ok. We'll open it up for decision. Thank you. You can take your seats now.

**McCredie:** I have so much more to say.

**Saltzman:** You may have another day to say that.

**Sten:** Do you have a couple things you want to say? Briefly.

**McCredie:** Well, I understand -- I appreciate the good nature -- the good intentions of all here, I don't mean to criticize or be angry about it. But I appreciate the effort that you are trying to offer here for us to work this out. And we've already tried that. Honestly we've already tried that.

**Sten:** Ok.

**McCredie:** Sometimes there's an impasse.

**Sten:** Ok. Thank you. Council discussion? I guess I'll say this to both sides, I guess I would vote to continue it even though I understand it will cause the neighborhood to do something they don't want to do at this point, just because I believe it's going to go to luba and I believe it's got enough -- I think the council's decision could very well stand up. I think we could also be back into another round of things, and if there was a possibility to get to something that both sides could agree to, I think there's enough different legal arguments this is going to go back around a couple of times. On the other hand, if the neighborhood is saying, you know, we'll take our chances on that, I understand that.

**McCredie:** May I respond?

**Sten:** It's up to the president.

**Saltzman:** Sure. Quickly.

**McCredie:** We certainly welcome putting this to an end, and if he wants to come back with another proposal, we're willing to do it over again. But I'd like to stick to the procedure. I really would. We've got bylaws to abide by too.

**Saltzman:** Ok.

**Leonard:** I suppose under discussion that reflects where I'm at. If there's an opportunity for the applicant to reapply, come back put something that makes sense and try this again, I'd certainly look at a new application based on the context of what they did from that point forward, but I think I am persuaded that we had a forum, they made their best arguments and it was not persuasive.

**Saltzman:** I find myself with commissioner Sten, I believe that the applicant now has a counsel on board, and I think based on the words of their counsel is going to make a good faith effort. I also believe our tentative decision may particularly with the zone change, may not be in accord with the basis of our decision in terms of solar access ordinance, and I think the applicant may have a very good case of luba. So I'm trying to figure out a way to perhaps give the applicant one more shot to solve this before going to luba. Mr. Alfred, did you want to say something? You can take your seats now.

**Alfred:** Yes, thank you. I appreciate commissioner Leonard's concerns. I guess what I would like to do is provide a little more detail about what we are currently contemplating and what our proposal is. I think this was referenced in the first letter that I sent in, but under the circumstances, it seems like it would be appropriate given the fact that this is sort of unique in that the zone change proposal is simply to put the zone in conformance with what the comprehensive plan designation currently is. So the assumption under these circumstances is that an R5 designation is actually the correct designation for the property. R5 is the comprehensive plan designation. So recognizing that the zone change application will only further what the comprehensive planning goals of the city

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are by putting the zone in conformance, what we'd like to do when we go back and talk with the city is agree to withdraw the other aspects of our application. We can withdraw the land division and withdraw the adjustment, and go forward with the zone change, which would all least allow our client to go home with something out of this process. We could then have conversations with the neighbors about what exactly could happen going forward with an r.5 zone on the property. And the issue for the city is, as has been correctly identified by commissioner Sten, I didn't come here to threaten suits or anything, but the fact is if the zone change goes up to luba, it's definitely coming back. So it seems like --

**Leonard:** But how does that help you even if we're to grant the zone change if he wants the boundaries to be as they have been presented to us now?

**Alfred:** I think we're willing to talk about the boundaries. What it allows -- what it allows our client, i'll be frank, this isn't a big developer client. These are some people who own some property and they're just trying to rezone it and do something different with it. The application fee for a zone change is around \$10,000. And that's money that they've spent and they would just as soon not lose. We would also assume the city would be interested in not wasting the resources associated with going up to luba and back when all we're trying to do is put the zone in conformance with the comp plan. So it seems to me that --

**Leonard:** What would your next step be after the approval of a zone change?

**Alfred:** That's part of what we're asking to have an additional 30 days to talk about. Because we haven't really had the time to flesh those issues out yet. So I don't know what exactly would be authorized under an r5 zone that would be any different than an r7 given the size of the lot, but it seems maybe there are other option that's could occur without needing a land division, or perhaps other options that would involve coming back with an application under the r5 zone with a land division application that proposed different boundaries, if that's -- I understand that to be commissioner leonard's concern. So I guess the beauty of what I think we're proposing is that it's a win for everyone. It's a win for our client in that he ends up not wasting \$10,000 on his own change that -- on a zone change that he should get because it's what the comp plan calls for. The city doesn't have to go up to luba and back, we don't have to go to luba and back and the neighbors have the opportunity to have a dialogue with us about what's going to happen on the property.

**Leonard:** And you're appreciate -- I appreciate that's your perspective, and you weren't here last time, but what we have heard is that the well has been poisoned, and it's hard to go back and drink from it now. Frankly the presentation heard here confirmed what we might otherwise have thought of as anecdotal information.

**Sten:** I guess i'd say a couple things. I see what you're trying to do in good faith, and I appreciate that. I don't mean to be knocking on that at all. I guess my concept of the neighborhood meeting was a little different than what was being said. My concept was that I was looking to see if through the course of this conversation the neighborhood could get in agreement on what was going to be built there. And frankly, I do -- what i'm saying to the neighborhood is I think a luba appeal is best to be avoided if possible, but i'm not conceding that the council can't interpret it in terms of, there are some criteria you have to meet to get the comp plan, and I don't think I made a -- so kind of the idea of saying, put on a really poor performance at the council, you didn't treat this neighborhood right, but we're going to give you a whole bunch of it and you're not going to give the neighborhood anything, I -- I thought we were talking about coming back and getting a development proposal. The only way you can use an r.5 zone is to knock something down. Because there's not enough empty land on there to put another piece. The whole argument I was making is that the intention of neither the comp plan nor the land division code was to argue for shaving off garages and popping in homes. So I think you have quite a bit a matter of intent that's going to have to be looked at in terms of -- so I want to be clear, since we're on the record, that i'm not saying I think the zone change decision by the council was wrong, I just think it's going to be argued, and it's going to be

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expensive on both sides. Fixing that, and you may agree, I don't know, fixing just that piece doesn't make sense to me. So I thought you were making a different proposition.

**Alfred:** No. I don't want to be misunderstood, commissioner Sten. And again, unfortunately I have come to this fairly late in the game.

**Sten:** I understand.

**Alfred:** So I -- I don't want to give you the wrong impression. We want to have a full dialogue with the neighbors about what can happen on the property, what could be built on the property, my point in discussing the zone change was that this is something that is -- the zone that is the correct one for the comp plan. So it makes sense to have that moving forward and then still have a conversation with the neighbors about what's going to happen on the property with that in place.

**Sten:** You hear what i'm saying. I'm saying, and then i'll stop, if you have an adversarial situation, it either makes sense from where I sit to give neither side a big help in it, particularly the side you don't agree with, which is what you're asking me to do, unless it's part of getting to a solution. And what I hear you saying is my client wants to establish a beach head and go into the neighborhood and make the next argument. And i'm not interested in helping you do that.

**Alfred:** I'm sorry. No, commissioner Sten, I don't -- I do fear that maybe you misunderstood me on that point. Our interest at this point is to work with the neighbors. We would prefer to have this be in an r5 zone, I guess part of why i'm asking for an additional 30 days is so that I can get involved and play a role in these discussions, which may be would help diffuse some of the bitterness I understand has occurred. I mean, I think there is an opportunity to work together and come up with something that will work for all parties.

**Sten:** An actual development proposal?

**Alfred:** Correct.

**Saltzman:** Your client has indicated he wishes to address us. I'll defer to you if -- go ahead.

**Leonard:** I was just beginning to waiver, so i'm not sure that's a -- [laughter]

**Alfred:** Why don't you wait John.

**Saltzman:** You might want to --

**\*\*\*\*\*:** I'm -- I just --

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

**John Welsh:** John welsh. I have the property at 3407 southeast steele. You know, I just -- i'm just asking the council to give me another chance to give get -- to get back together with the neighborhood association, because the neighborhood association and me's relationship is wrong for lots of reasons. And it isn't all fair to put it all on me, the reason that it went south. It's not the neighborhood association, it's not me, and it's some of the city's responsibility on how things are processed and how things are presented on how to go about things. And I honestly received a lot of bad advice from too many people, and I agree that the neighborhood community and my relationship wasn't as good as it could have been or should have been. But I don't think that should stand in the way of us trying to come to a compromise on this project, because there's a lot of quality to this project and there's problems with it, like with mr. Leonard saying that he would like to see the new plan. Well, by not denying this and allowing us the zone, or allowing us an extension the steps, we can go back to the neighbors and say, ok, we didn't communicate very well in the first go around, so obviously we all kind of messed up. And so we need to sit down and try to come up with something that would work. I mean, everyone in this -- in the neighborhood committee has pictures in their head of what I was doing with the land, and the truth is that the criteria never called for that, so there is no picture of what was really going to be done. Everything was done to meet criteria. Not -- there wasn't a specific development plan. There's no 25-foot house planned, there's no -- the way it ends up, the land could sit empty for three years before we even execute a plan, it could sit empty for another 10 years after that. There hasn't been a solid plan, and it hasn't been discussed. I'm not against working with the neighborhood committee, the

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council, in redesigning the development that would suit the neighborhood, that would -- i'm -- we're happy to go beyond criteria and beyond the recommendations of the land division application and develop an acceptable plan that could be tied to the decision so that everybody, you know, so that they're not getting this 30-foot house that's shading -- which is legally by criteria, sort of. Anyway, we ask that we would consider this as -- we'd love to go back to the neighborhood and try to reestablish a working relationship.

**Leonard:** Can I ask one more question of the city attorney? If we were to affirm the findings that we tentatively adopted last time, is there an opportunity to reconsider those at some point? Could we, like, in three weeks come back and reconsider those findings?

**Beaumont:** Once you adopt the findings and make a final decision, that's the end of it.

**Leonard:** Ok.

**Saltzman:** Ok. We have a motion on the floor. Mr. Mccredie, do you want to address us one more time?

**McCredie:** I appreciate it. The r5 zone change would -- it seems that we're in a bit of a limbo here. The decision has been made, there's already been a vote. We won. To allow this manipulation of the application after the fact and to allow the applicant to then have his r5 zone separate from a lot split or setback, places this property into a nonconforming state.

**Sten:** At this point i'm not considering granting the decision to split the two off. I'm considering continuing the deal for 30 days. I'm not even contemplating --

**McCredie:** 30 days is not enough time for the neighborhood association. We asked for an extension before the original hearing, and we weren't granted that. We didn't have enough time to make a proper presentation or get enough neighbors here. We still won, but we had plans to make more solid presentation.

**Leonard:** Is there any interest on the part of the neighborhood association understanding that at some point this could be potentially rezoned and this could happen at some point down the road, to have some amount of time to sit down and see if you can negotiate what ends up on the parcel?

**McCredie:** We would make a good faith effort to do that.

**Leonard:** Would you be -- would you support the notion that we continue this on the condition that kind of a discussion occurred and we would come back to listen to how that process went, see how you felt and the neighborhood felt about that process, and then we could take the vote -- understanding that you're probably in a pretty good negotiating position right now?

**McCredie:** We can make it really clear, I would prefer if there is one finding and that we still hold -- consider that the original vote stands.

**Leonard:** We would be in recess from when we had the last vote and we would be prepared to vote just as we are now, but we would give both sides some time to see if you could come up with a development plan that you all can live with.

**Saltzman:** Have you made a tentative decision that --

**McCredie:** We have wanted it all along. Does that mean then that when we come back and if we are at an impasse, do we then have to organize the neighborhood and make another presentation?

**Leonard:** I can tell for me you won't have to.

**McCredie:** What is it we need to do?

**Leonard:** I'm suggesting that you might be in a position at this point if we were to continue it, stronger position to decide the fate of that parcel than if we were to affirm our findings and it goes through the process, and in the unlikely event we were to lose, you might be in a weaker position at that point than what you are now to actually help determine what ends up on the parcel.

**McCredie:** I understand. And I want you to know, commissioner Leonard, that after the vote two weeks ago, I went directly to Mr. Welsh to shake his hand and say, now will you come to the table? The answer was no.

**Leonard:** But that was then. This is I think --



**October 7, 2004**

**McCredie:** We're -- we will make a good faith effort.

**Leonard:** I'm asking you, would you support us continuing this and not doing our final vote today and give you, what, 30 or 45 days, how many days do you think --

**McCredie:** I'd say 60 days. And it really depends on -- first of all, we need to have something a little more concrete than what we've --

**Leonard:** We're --

**McCredie:** And how much time he needs to present that to us has to be incorporated --

**Leonard:** I'm asking if you would support that, if you got that, would you be willing to work in the next 60 days --

**McCredie:** If we could get that to us in, say, 30 days, to give us a chance to review it --

**Leonard:** I'm willing to go with the 60 days, and you both sides figure out how you do things. As long as the respondents are --

**Alfred:** 60 days would be fine with us.

**McCredie:** We will give it our best shot.

**Leonard:** I hope the other side gets how this is going, and that you earnestly try to come up with something that you all -- both sides could live with.

**Saltzman:** Ok.

**Alfred:** We're agreeable to that. We're looking forward to that.

**Saltzman:** I guess if you withdraw your second -- commissioner Sten can make a new motion.

**Sten:** I would move for a 60-day continuance.

**Leonard:** Second.

**Saltzman:** Ok. Further discussion? All in favor -- karla, please call the roll.

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

**Saltzman:** Anything else we need to say?

**Beaumont:** We have a motion passed to continue this for 60 days with the applicant's agreement. Karla, are you able to figure out when this might come back to council so we can announce a date and time?

**Moore:** We get into the holiday season, so I believe december 2 would be around 60 days. The 9th would go over sixty days. If you want it under the 60 days, it would probably be safe to do it on the second of -- 2nd of december.

**Beaumont:** A wednesday or thursday?

**Moore:** A thursday.

**Beaumont:** At 2:00?

**Moore:** At 2.

**Saltzman:** Does this band of brothers know we'll be here december 2? It's up to the three of us on this one.

**Sten:** We'll be here. I'll be here.

**Saltzman:** Great. We'll postpone this -- reschedule this on december 2 at 2:00. We stand -- no other business, we stand adjourned.

At 3:18 p.m., Council adjourned.