



CITY OF  
**PORTLAND, OREGON**

OFFICIAL  
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **20TH DAY OF OCTOBER, 2004** AT 9:30 A.M.

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

Commissioner Saltzman arrived at 9:33 a.m.

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

Item 1213 was pulled for discussion and, on a Y-4 roll call the balanced of Consent Agenda was adopted.

<b>TIME CERTAIN</b>	<b>Disposition:</b>
<p><b>1208 TIME CERTAIN: 9:30 AM</b> – Oppose the application of Oregon Electric Utility Company, LLC to acquire Portland General Electric from Enron (Resolution introduced by Commissioner Sten)</p> <p>(Y-5)</p>	<b>36265</b>
<b>CONSENT AGENDA – NO DISCUSSION</b>	
<b>Mayor Vera Katz</b>	
<p><b>1209</b> Confirm reappointment of Erwin Bergman to the Portland International Airport Citizen Noise Advisory Committee for a term to expire November 2007 (Report)</p> <p>(Y-4)</p>	<b>CONFIRMED</b>
<p><b>*1210</b> Authorize first lien sewer revenue bonds (Ordinance)</p> <p>(Y-4)</p>	<b>178817</b>
<p><b>*1211</b> Create a new Nonrepresented classification of Community Emergency Services manager and establish a compensation rate for this classification (Ordinance)</p> <p>(Y-4)</p>	<b>178818</b>
<p><b>*1212</b> Authorize contract with Portland Business Alliance for Downtown Marketing and Promotions Services and provide for payment (Ordinance)</p> <p>(Y-4)</p>	<b>178819</b>

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<p><b>*1213</b> Authorize acquisition of property at 9827 NE Sunderland Road for the Bureau of Maintenance (Ordinance)</p> <p><b>Motion that the \$1 million listed under section one, number six be added to the bond sale amount:</b> Moved by Commissioner Francesconi and seconded by Commissioner Leonard and gaveled down by Mayor Katz after no objections.</p> <p>(Y-5)</p>	<p align="center"><b>178828</b> AS AMENDED</p>
<p><b>*1214</b> Accept a \$234,902 grant from the U.S. Department of Justice, Bureau of Justice Administration for the Gang Resistance Education and Training local program (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>178820</b></p>
<p><b>*1215</b> Accept a \$40,000 grant from the Oregon Department of Justice, Crime Assistance Section, Victims of Crime Act Project for staffing for the Crisis Response Team (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>178821</b></p>
<p><b>*1216</b> Extend contract with the Salvation Army to allow the Police Bureau Oregon Police Corps program to continue to use Camp Kuratli as a training facility until September 7, 2005 (Ordinance; amend Contract No. 33080)</p> <p>(Y-4)</p>	<p align="center"><b>178822</b></p>
<p align="center"><b>Commissioner Jim Francesconi</b></p>	
<p><b>*1217</b> Authorize agreement with the Washington Metropolitan Area Transit Authority to assign them up to four streetcar vehicle options (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>178823</b></p>
<p><b>*1218</b> Authorize payment of \$15,600 to First American Title Insurance Company of Oregon for title research services provided to the Bureau of Transportation Engineering and Development in association with the Eastside Combined Sewer Overflow project (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>178824</b></p>
<p><b>*1219</b> Amend Intergovernmental Agreement with Housing Authority of Portland for plan review and construction related services for the HOPE VI Redevelopment of Columbia Villa (Ordinance; amend Contract No. 52103)</p> <p>(Y-4)</p>	<p align="center"><b>178825</b></p>
<p><b>*1220</b> Revise ordinance for the Transportation System Plan: 2004 Technical Update to change an Emergency Response Street designation (Ordinance; amend Ordinance No. 178815)</p> <p>(Y-4)</p>	<p align="center"><b>178826</b></p>
<p align="center"><b>Commissioner Dan Saltzman</b></p>	
<p><b>*1221</b> Accept easements granted for the South Airport Basin Sanitary Trunk Sewer Project and authorize payment (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>178827</b></p>

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<p><b>1222</b> Authorize a contract with Murray, Smith &amp; Associates, Inc. for services for the Burlingame/Washington County Supply Line and Westwood Intertie Preliminary Engineering Project and provide payment (Ordinance)</p>	<p><b>PASSED TO SECOND READING OCTOBER 27, 2004 AT 9:30 AM</b></p>
<p><b>REGULAR AGENDA</b></p> <p><b>*1223</b> Authorize a Shared Use Agreement between the Woodstock Neighborhood Association, the Office of Neighborhood Involvement and the Bureau of Parks and Recreation for Woodstock Community Center (Ordinance introduced by Commissioners Francesconi and Leonard)  (Y-5)</p>	<p><b>178829</b></p>
<p><b>City Auditor Gary Blackmer</b></p> <p><b>1224</b> Assess property for sidewalk repair by the Bureau of Maintenance (Second Reading Agenda 1207; Y1052)  (Y-5)</p>	<p><b>178830</b></p>

At 11:14 a.m., Council recessed.

**October 20, 2004**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **20TH DAY OF OCTOBER, 2004** AT 6:00 P.M.

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

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

<p><b>1225</b> <b>TIME CERTAIN: 6:00 PM</b> – Amend Title 33, Planning and Zoning to clarify and improve the regulations for accessory structures including accessory dwelling units, without changing policy or intent of the original regulations (Previous Agenda 1000; Ordinance introduced by Mayor Katz; amend Title 33)</p>	<p><b>Disposition:</b></p> <p><b>CONTINUED TO NOVEMBER 3, 2004 AT 2:00 PM TIME CERTAIN</b></p>
<p><b>1226</b> <b>TIME CERTAIN: 7:00 PM</b> - Consider the proposal of Waybo Partners and the recommendation from the Hearings Officer for approval of a Comprehensive Plan Map Amendment and Zoning Map Amendment for an area located between NE 74<sup>th</sup> and NE 78<sup>th</sup> Avenues and between NE Roselawn and NE Alberta Streets (Previous Agenda 998; Hearing; LU 03-177121 CP ZC)</p> <p><b>Motion to tentatively approve the zone change as proposed in option two, subject to language to be brought back in two weeks:</b> Moved by Commissioner Sten and seconded by Commissioner Leonard. (Y-3)</p>	<p><b>TENTATIVELY APPROVE REVISED PROPOSAL CONTINGENT UPON CONDITIONS OF APPROVAL; RETURN NOVEMBER 4, 2004 AT 2:00 PM TIME CERTAIN</b></p>
<p><b>*1227</b> Amend the Comprehensive Plan Map designations and change zoning between NE 74th and NE 78th Avenues and between NE Roselawn and NE Alberta Streets at the request of Waybo Partners (Previous Agenda 999; Ordinance; LU 03-177121 CP ZC)</p>	<p><b>CONTINUED TO NOVEMBER 4, 2004 AT 2:00 PM TIME CERTAIN</b></p>

At 8:34 p.m., Council recessed.

**October 21, 2004**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,  
OREGON WAS HELD THIS **21ST DAY OF OCTOBER, 2004** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Leonard, Saltzman  
and Sten, 4.

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

<p><b>1228 TIME CERTAIN: 2:00 PM</b> – Accept the report of the Rehabilitation Code Task Force (Previous Agenda 1152; Report introduced by Commissioner Leonard)</p> <p>(Y-4)</p>	<p><b>Disposition:</b></p> <p><b>ACCEPTED</b></p>
<p><b>1229</b> Revise seismic design requirements for existing buildings (Second Reading Agenda 1153; Ordinance introduced by Commissioner Leonard; amend Chapter 24.85)</p> <p>(Y-4)</p>	<p><b>178831</b> AS AMENDED</p>
<p><b>S - *1230</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 1154; Ordinance introduced by Mayor Katz; amend Title 33)</p> <p><b>Motion to accept the Substitute:</b> Moved by Commissioner Leonard and seconded by Commissioner Saltzman and gavelled down by Mayor Katz after no objections.</p> <p><b>Motion to accept amendments 1 to 10:</b> Moved by Commissioner Leonard and seconded by Commissioner Saltzman and gavelled down by Mayor Katz after no objections.</p> <p><b>Motion to amend the ordinance by deleting directive e and add an emergency clause and vote on it today:</b> Moved by Commissioner Leonard and seconded by Commissioner Saltzman and gavelled down by Mayor Katz after no objections.</p> <p>(Y-4)</p>	<p>SUBSTITUTE <b>178832</b> AS AMENDED</p>

At 2:38 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 20, 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 20, 2004 9:30 AM**

**Katz:** Karla, please call the roll. [roll call taken]

**Katz:** All right. We don't have communications, so we'll start with consent agenda. Any items to be pulled off the consent agenda?

**Moore:** 1213.

**Katz:** 1213. Any other items to be pulled? All right. Roll call on consent agenda.

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

**Katz:** Mayor votes aye. [gavel pounded] all right. 1213.

**Item 1213.**

**Jeanne Nyquist, Maintenance Bureau:** Good morning. I'm director of the maintenance bureau. We have one direction on the ordinance. We're proposing to purchase a piece of property for our recycling program so we can expand it, and in your ordinance, if you look at the second page, section c, the purchase price of the property is \$2.3 million. And we're including a million dollars for development. So we're asking that you approve a bond funding in the amount of \$3.3 million instead of the \$2.3 million that it says in item c.

**Katz:** It's more than a minor change.

**Nyquist:** It's explained -- the \$1 million is listed under section one, number six. But just needs to be added to the bond sale amount.

**Katz:** Questions? Discussion? Ok. Do I hear a motion?

**Francesconi:** I move to make the change.

**Leonard:** Second.

**Katz:** Any objections? Hearing none, so ordered. [gavel pounded] anybody want to testify on this item? Thanks.

**Nyquist:** Thank you.

**Katz:** We just amended it, so we need to vote on it.

**Moore:** We can vote on it.

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

**Katz:** Mayor votes aye. [gavel pounded] all right. 1208.

**Item 1208.**

**Katz:** Commissioner Sten?

**Sten:** Thanks, mayor Katz. I'll give a few words of introduction. We'll have interesting testimony from the looks of the audience today. I think this is a good thing for us to debate. It wasn't without some actual disappointment and after quite a few years of work that I brought this resolution to the council today. I think that the questions before the public utility commission and today's resolution is simply a sense of the council in terms of giving the public utility commission our thoughts and we'll see what the council says about that today. It will be their decision whether or not to approve the application of Oregon electric utility company, which is essentially buying p.g.e. for Texas Pacific, which will be the ultimate financier and owner of this. I think it's one of the more significant and important questions that will come down the road over the last couple years and in the time to come. The last several years, I think, have been very, very tough on the Oregon economy, and if you look at where we are today, we're a state that continues to lose headquarters companies, that is struggling to find its niche in a global environment. And simply put, the notion

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of selling our electric lines and our essential infrastructure to speculators I think do not serve the Oregon economy. The idea that what this is -- is essential infrastructure, you cannot run businesses, you cannot live. People choose between food, rent and electricity, given the prices today. The community, I think, made a mistake four, five, six years ago in allowing enron to buy p.g.e. that was a mistake. I consider myself party of. I supported that acquisition. I think p.g.e. management made a mistake. I don't think there's too many people in the world, particularly large businesses like intel, blue heron paper and others, who have seen their prices go up as much as \$15 million in the case of intel who think a decision to sell to enron was a good one for this community. It didn't work out for two reasons. One reason it didn't work out is enron was dishonest and enron ripped off this community, as well as the entire nation. The other is the essential structure of saying we're going to have out of state owners own monopoly infrastructure doesn't work. The incentives aren't there. In fact, this whole saga was, I think, almost predicted almost 80 years ago, the first time, and p.g.e. Isn't bankrupt now, but when you had a situation like this, p.g.e. Went bankrupt in the 1920's. After a fight between the Morgans and others over who would own p.g.e., congress passed the public utility company holding act, which does not allow large multiinterest corporations to own regulated monopolies. The reason it doesn't, there's too much room for abuse and there are conflicts of interest. To this today nobody disputes that Texas Pacific is not capable of buying p.g.e. Directly under federal law. For that reason, at one time I used the term evade, and I've corrected that from now on at Texas Pacific's request in order to comply, Texas Pacific set up the Oregon electric company, which makes it very difficult for me at times, terrific people who have I no doubt whatsoever have nothing but good intentions for Oregon in mind. The problem is the structure itself doesn't allow them to have the control they need. I did not -- this deal was announced last november, and I want to speak to what we were doing that before that in just a second, but I wasn't sure what to think about it. In march, I began to raise serious questions. When you look at the structure being proposed, I don't believe there's enough rate credits being put forward, not much change in low-income assistance, the commitments to renewables and other things this community cares about are vague. At the end of the day, I think to some extent all of the debate about exactly how much gets put on the table in day one of this deal misses the fundamental point, which is the deal is not structured in the long run in the interest of ratepayers. The board, the esteemed board of good people at Oregon electric, does not have control over the issues. On any issue that's significant, personnel, finances, future sales, anything else, the board is subject to Texas Pacific's control and decision. There's a long history of Texas Pacific, who I think does perfectly good legal work in terms of cleaning up companies, of overruling boards that it appoints. It is common and makes perfect sense. To the extent that the ratepayers' interest ever come in conflict with Texas Pacific's, this structure does not allow the ratepayers to be properly represented. In fact, when I read carefully this morning the comments that Oregon electric sent to me about this resolution it kept saying over and over that Oregon electric couldn't sell p.g.e. Didn't say anything about Texas Pacific. I wonder if they could sell it under this proposed scheme and avoid the p.u.c. in that fashion. The proper safeguards aren't there in this deal. But at the end of the day I think what this really is about as a community is at what point does a state who's small, who's different, who's maverick, but to is right on the bad side of the forces of the international economies, at the bad side of speculative investments and other things, say to itself, "we're going to come up with a model that makes sense for things for Oregon." today's hearing is not about what model is available if this is turned around. I hope people will consist the chance to talk about that, because I intend to create forums to talk about that down the road, but this is about should this be approved. That being said, if we were to set up, for example, a public purchase, a regional utility, whether the city was the conduit financier, the basic fundamental savings are \$100 million per year forever. Local control, long-term generation, and nothing -- nothing stopping anyone who is working with that structure from simply hiring back the p.g.e. Employees who I think do a terrific job, keeping them private,

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and having them do what they do. So, for example, the difference between a public model and the Texas Pacific model is that your board would be serving the public rather than Texas Pacific. And the same employees would have long-term stability and you'd have a \$100 million running head start rather than the debate over \$43 million in possible credits over the years. So there are better structures available. The structure I prefer is not the only one available. I think we have to have the courage to say as a community at some point that the idea that something might be risky to go after isn't enough to say we're going to take a bad deal. Essentially a lot of the argument that's come forward to me -- and I wish it wasn't the case. I wish I could say regardless of differences about public vs. Public power wouldn't make a difference. But I keep getting, one of fear, if you don't say to this big guy from Texas something bad will happen to Oregon. I'd urge the council to join me in opposing this purchase through this resolution. It is unprecedented, but before the council gets into this I would also point out that there's several other unprecedented things that have happened prior to me bringing this resolution forward. We've never had an application that went this late in the p.u.c. process, where a final offer was made by an applicant, that the staff rejected, that no major intervenor, the industrial customers, Citizens Utility Board, we have a long history in this state of working together and getting to yes on many proposals that many people disagree with. It's the only case in the history of this state where every single player not vested in the financial benefit that Texas Pacific intends to get from this has said no to this. The council won't be alone, but will be taking a first step. As it turns over to staff, what I do want to say is I think at times there's been a lot of -- understandably so, and I'm not completely innocent of it, but a lot of rhetoric sort of what's around a public benefit, what isn't, and when you read the sound bites and think through these things and listen in the media you come away at times with a sense that public benefit is a matter of opinion, a matter of judgment. I don't think that's the case. We have a short presentation today I want to show to people. The state law that says whether or not a public utility acquisition should be approved says that a utility acquisition should be approved if there's net public benefit to the consumers and the customers. Net public benefit is a simple concept. It means that the risk of the transaction is less than the benefit that is being promised. And so what we've done today is taken each of the principles that the city council agreed on. Two years ago the council decided to take a look at this issue, to explore public purchase. We didn't say a private or public purchase is right, we said here are the following principles that would say to us whether a deal is good or bad. I've asked the state to rate the risk on each principle, and in my opinion it isn't a close call. When you look at it, this is not -- there is not public benefit that's equal to the risk in this deal. And so therefore I think the p.u.c. should be urged, as I'm urging them, and hope I'll be joined today, to turn down this application and ask Enron, who really is still the owner of P.G.E., to do something that benefits this community rather than telling us that what they do benefits this community. So I'll turn that over to Susan and Michael. Thank you.

**Susan Anderson, Director, Office of Sustainable Development:** Susan Anderson, director of the office of sustainable development. I want to provide you with a brief overview of the Texas Pacific proposal to buy P.G.E. and also have how that stacks up against the city's principles and priorities. As you all know, last week Texas Pacific made its final round of testimony to the Oregon Public Utility Commission. As Commissioner Sten just outlined, the p.u.c.'s responsibility in all of this is to review the proposal and determine whether it does two things. First of all, does it provide net benefit to the ratepayers, and second does it cause any harm to the general public interest. The slide in front of you outlines what Texas Pacific group asserts that they have a variety of benefits to the transaction. I'll list them for you now. These include a rate credit of up to \$43 million. Local representation on P.G.E.'s board of directors, provisions to protect P.G.E. against adverse financial events at Oregon Electric. They will be working toward renewable energy goals. There's indemnification against certain P.G.E. liabilities and a total of \$50,000 for low-income bill paying assistance. As staff, you asked us to formally intervene in the case, and assess the potential benefits



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and harms and risks of the acquisition. Last week the parties -- the various parties, the industrial customers of the northwest utilities, the citizens utility board, the association of Oregon industries, all -- and the city -- identified several areas of concern with the proposal, and we'll talk about those in a minute. So what happens next? The p.u.c. is holding formal hearings this week. The intervening parties at this point are unlikely to come up with any kind of comprehensive settlement agreement, so the lawyers really take over from here. They will be having oral arguments in early december, and then the p.u.c. will make its decision probably before the end of the year. So that's where the proceedings are. Back two years ago, in august of 2002, the city council identified several key priorities. And these are listed right here. Among those are safe and reliable service, stability, responsiveness to local priorities, long-term commitment to environmental protection, and no responsibility for enron liabilities, but more recently at the april 2004 council work session you also reiterated your concerns about these issues, and also expressed an interest in enhancing assistance to low-income families and low-income households. Then city council also specifically asked that texas pacific support the development of a modern franchise agreement between p.g.e. and the city. That work's already begun in terms of the franchise. Peggy fowler, the c.e.o. of p.g.e., and commissioner leonard held a kickoff meeting in august. We've had about a dozen meetings since then. And the discussions are moving quite well in terms of moving through each of the areas. Let me go through each of the priorities and with a little arrows going up and down you can tell which way we feel about it, if these are benefits or if these are risks to the potential purchase, and that texas pacific is proposing. Our first priority is safe and reliable service. On the positive side, texas pacific group has offered to extend certain service quality measures that are currently in place for another 10 years. However, because of Oregon electric's relatively high debt burden and texas pacific's debt objectives, there's certain concerns about the potential for harmful cost-cutting that could have serious consequences for system maintenance and other issues. Our next city priority is reasonable rates. Again, on the positive side there's an offer for up to \$43 million in rate credits. This is a step in the right direction. Unfortunately, as you read more closely through the document, it's not likely to be a true additional rate reduction. Texas pacific proposes if they cut costs and reduce rates through the traditional rate setting process, as they hope they are going to do because that's -- you know, they're an investment company and they're looking to make money on this purchase, then any of those savings will go towards meeting the \$43 million credit. So it's really -- it is \$43 million, but more of a guarantee of \$43 million over five years. The weakness in this proposal is that ratepayers would likely receive some or all of those benefits anyways. For example texas pacific estimates that it will reduce income tax obligations by \$15 million a year. As a result of those interest payments on -- as a result of the interest payments on Oregon electric's debt. So those savings will be factored into rates in the future anyways, and wipe out any sort of additional credits. The p.u.c. has said that \$43 million isn't enough, and they're asking for at least \$75 million to show a net positive benefit to the transaction. The industrial customers of the northwest utilities has said \$97 million is an appropriate level to cover the risk related to the transaction. The next priority area is stability. This is important to the city, to our residents, to our businesses, and extremely important to the industrial customers for their long-term planning and economic growth. How much stability texas pacific would bring to p.g.e. remains pretty uncertain. Texas pacific's own policies limit its investments to no more than 12 years. So that means that they have to sell in 12, and it means that it's virtually up for sale the entire time. It will sold whenever they can optimize a return on their investment. That's what they are, they're an investment company, they're good at it. So, you know, they're going to try to buy low, sell high. That's what they do. The next priority is commitment to the city's economic well-being. Unfortunately texas pacific's investment horizon and intent to sell p.g.e. doesn't line up with the long-term interests of p.g.e. ratepayers in the community. For example, investments in new power resources, new technologies and infrastructure, may not benefit texas pacific's bottom line within their investment

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horizon, but as customers and as a city, our planning horizon actually needs to grow out for decades. Investments that make sense in the long term for a healthy, economically vital utility may not make sense for a company just looking for short-term financial gain. Again, short-term financial gain is ok. In fact, it's preferred in an investment firm, but not ok for an electric utility. Traditionally private utilities, the p.g.e. that we all grew up with, had long, long-term horizons, and that's how traditionally utilities were run, public and private. This proposal here doesn't allow for that kind of long-term planning. The city's next goal is responsiveness to local priorities. Texas pacific says they're being responsive and have proposed to a point at least five people with Oregon ties to the board, to p.g.e.'s board. However the proposal is written in a way that it excludes -- that includes extensive consent rights. That means that major financial and other decisions must be approved by texas pacific. And if the federal public utility holding act is repealed, all decisions will be made by texas pacific. So you can see why the industrial customers, the citizens utility board and others, we've all had trouble with this one, because the potential for repeal, for puhca, the public company utility holding act, is there. The city's next priority is protection of local employees. There's no commitments to protecting local employees in the proposal, other than expressing an intent to raise peggy fowler -- or retain peggy fowler as c.e.o., which may be a great thing, but so far they've not said they would cut anyone, or keep anyone. So we'd like something more specific, some kind of reassurance in the proposal. Next concern is related to enron's liabilities. This is a positive point in the proposal. It provides assurances that would likely protect ratepayers from liabilities related to enron. So that's a good thing. However, it's important to note that the p.u.c. Would have probably done that, and done what was necessary to shield ratepayers from these costs anyways, but we're still very glad they've made these assurances in the proposal. The final two priority areas are related to texas pacific's long-term commitment to environmental protection and to long-term income customers. At first blush staff was very excited to see what seemed like a very supportive role for renewable resources. They promised to work vigorously to increase p.g.e.'s use of wind and solar and other renewable energy resources. The increase would be from where they are now at about 2% or 3% up to 10% renewables by 2012. The problem with the proposal is that there's no teeth in it. It's only a broad statement of intent. They say they will work vigorously to get there. If they don't reach their goal, there's no penalties, if they don't get there. They basically just said they would work hard. Originally the trade associations and others that have -- that support renewables were very positive about this until we looked at it more closely and found that there really wasn't much there. If they work hard, but don't get anywhere there's no penalty. Finally, in terms of assistance to low-income families for paying their electric bills, there's about 100,000 households right now in p.g.e.'s territory that are eligible for assistance. Texas pacific has offered to increase funding by a total of \$50,000. That equals about four cents a month for each household. These are families that have average bills of about \$1,000 a year. This is one of the most disappointing features. It was something they could have done pretty easily, to show some concern and interest for something that was a priority for the city, but they didn't go there in any way, shape or form. So in summery, as staff we don't see very benefits to the deal. There's nothing, or almost nothing, for renewable resources or low-income families. The rate credits are low, both by the -- the height of the rates set by the public utilities commission, what they would like to see, their staff, but also by the industrial customers and by others. And the level also could be nonexistent if there are other rate cuts. Finally there's sort of a complete disconnect between texas pacific's goals, which are admirable for an investment firm, but there's a complete and kind of major disconnect between their goals to optimize their investments and our long-term goals of stable ownership, reasonable rates and maintaining quality of service. I want to remind council that, you know, we've done this before. We've intervened in several utility mergers. We didn't oppose sierra pacific and didn't oppose scottish power. I think this is a different kind of deal. Thank you.

**Katz:** Thank you. Do you want to add anything?

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**Anderson:** He's here for the tough questions.

**Katz:** Thank you, susan. Questions?

**Saltzman:** Did we, in our previous interventions, request that there be no work force reductions? Sierra pacific, scottish power.

**Michael Armstrong, Office of Sustainable Development:** I don't recall that the city identified that specific of a priority.

**Anderson:** At that time.

**Saltzman:** Why is it a --

**Anderson:** Why is it a priority now and not then?

**Saltzman:** I understand it's an important issue obviously, but why does that rise to our level of a basis for opposition when it was never even flagged as an issue in the prior two acquisitions?

**Anderson:** Let me just say one reason up front is that the interest in -- interest by council in terms of evaluating and looking at the utility deals in general has enhanced compared to sierra pacific and scottish power. And we had not as a council clearly articulated the priorities at that time. So there was a general discussion in each of those cases about environmental protection, about the need for a franchise, and about the need for rate credits and low-income protection. And those were the four areas in the past ones. In this case we were asked to include that as a priority to look at in terms of how we looked at items.

**Saltzman:** So if we're, on the one hand, trying to say there should be more rate reductions, on the other hand recognizing this isn't a merger of two utilities, this is basically an acquisition of an existing utility, it wouldn't seem that the only place to go for significant rate reductions are going to somehow be in work force reductions. I mean, how do you get the 10% rate reductions that we've identified as net benefit without eliminating people?

**Armstrong:** Well, I think there are -- I think that's a question actually for the texas pacific group, because their investment objectives suggest they intend to find ways to intend costs. To go back just for a second to the question of local employees --

**Saltzman:** We're sort of presupposing making cut costs more than they've identified. Are we saying there should be work force reductions?

**Armstrong:** Let me try to characterize that here. With protecting local jobs, they're kind of two issues. One is, local jobs for residents and contributions to the local economy, and it's important to protect those to the extent that makes sense. And I think you're flagging an important point, which is that reducing costs may involve work force reductions. And when you're looking at a utility, obviously we do want to keep costs low. There's a question of prudent cost-cutting versus harmful cost-cutting. So one of the concerns, the industrial customers, the residential customers, you know, all the various customer groups, are very interested in identifying ways to reduce rates, and that means looking for operational efficiencies or other ways to reduce costs, but there's a difference between reducing costs and improving efficiencies and cutting costs in potentially harmful ways in order to meet financial projections or achieve the investors' investment objectives. We've heard from Oregon electric and texas pacific, you know, they're pointing at that same -- it's sort of an irony of we all are interested in reducing costs, but want to do it prudently and carefully both with respect to service quality and stable service as well as protecting local jobs. So I think you're hitting on an important issue. It's a delicate balance.

**Saltzman:** Have the other -- what other groups have formally come out in opposition to the p.u.c.'s approval of this deal, t.p.g.?

**Armstrong:** The current phase, you know, like today and tomorrow, for the rest of the week, there are hearings going on at the p.u.c. about this proposal. And society parties that are involved at the -- at the p.u.c., in their formal testimony, which was in september for the intervenors, all of the major parties were as opposed. Industrial customers of northwest utilities, association of Oregon industries, citizens utility board, the staff of the public utility commission, the renewable groups,

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the low-income advocates, across the board, there's no support for this. This process does continue, but at this point no one has come out in support of it. And because that process is still in place, I think you won't see parties taking a stand beyond what they've said in their testimony until the hearings are complete.

**Sten:** Commissioner, if I could just briefly, I think that it was a mistake in earlier times for the council not to have any language about employee issues. It's not just jobs. You'll recall that hundreds, if not thousands, of employees lost their entire pensions to enron. So I think the issue is how are the employees going to be treated, what kind of assurances there. I think the burden is also on the applicant to show those assurances and it's an issue that needs to be raised.

**Saltzman:** Have we -- there's a provision that texas pacific will basically indemnify ratepayers from about \$1.2 in potential liabilities and certainly if this deal doesn't go through, those liabilities to ratepayers remain, although you say that the p.u.c. may not pass those liabilities, but that's a may, they may not. So isn't indeed from a strict ratepayer point of view one being shielded from \$1.2 billion from potential rate hikes, isn't that a potential benefit to this offer that isn't deniable?

**Armstrong:** It's a little bit tricky, because there are several different categories of potential liabilities. The \$1.25 billion category is liabilities related to enron. It would be highly unlikely that those would flow through to p.g.e. ratepayers under any circumstances. There's a category of p.g.e. liabilities, and the amount there is \$94 million. I think that is something that we believe that the p.u.c. is obliged to protect ratepayers from liabilities that were the result of any kind of imprudent actions or wrongdoing on the part of p.g.e. and so we're fairly confident that -- that the p.u.c. would protect ratepayers. I think this offer from texas pacific adds a little bit to that certainty, but we're fairly confident already, though I think it's not nothing, but I don't believe it can be taken at face value for the full amount of what they've suggested.

**Saltzman:** My last question, do we support the p.u.c. staff approval recommendations if p.g.e. were to adopt those? Would they support this deal, everything that the p.u.c. staff has recommended?

**Armstrong:** The p.u.c. staff has dealt with its proposal, a lot of the financial provisions, comes to protect ratepayers, and certainly looking for rate credits as well. On those issues, I think their proposed acquisition suggestions make sense and quite compelling. There are several others, though, that of interest to us and certain other public interest groups that the staff isn't necessarily advocating, although I think they're receptive to that, and that includes renewables, low-income assistance, and also concerns about what we call the endgame, what happens next if this deal is approve what other owner that identifies itself as being interim, and we no certainty about what comes next or in what time frame. And so we're quite interested in finding a way to try to pin down what happens next. Maybe it's an option to purchase. Or a public entity, maybe it's a sort of incentives around what happens next. But otherwise we're simply -- we have a utility that's speculative investment, and they're looking to make a significant capital gain. So that's another issue that staff is less concerned about, but for reasons of long-term stability it's a real priority for the city. So I think those three I would pull out as staff is I think quite good on the issues they've addressed, but there are a handful that have fallen outside of that.

**Saltzman:** Ok.

**Katz:** Further questions? Ok.

**Francesconi:** Is there any one criteria that would trump the other? Let's say offered \$100 million in rate relief. Given the instability question you just raised, would that be enough to oppose it?

**Anderson:** I think one of the issues is really that it's something that the citizens utility board put forth in their testimony, was because there's risk around this purchase, because we know it's going to turn again, they're going to flip it, whether it's in five years or seven years or it's 12 years, that they're interested in what happens, you know, when that sale happens. If there were some assurances in there besides whatever the rate credit was, there were some assurances in there that

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the city had a first right to purchase or that the -- that there was an option for a public purchase in there, that was what the citizens utility board put forward as making it a guarantee.

**Francesconi:** See, that's what i'm trying to get it. Is our goal rate relief or public purchase by the city of this utility?

**Anderson:** Oh, at this point it's the combination of rate relief, low-income support, renewables, the whole package.

**Francesconi:** Ok.

**Armstrong:** I think it's quite difficult to -- there's a universe of possible packages that would be acceptable. I mean, I think your question is an interesting one. You know, if you turn all of these other things to zero, and just look at rate credit, what would it take to make it possible. We haven't done that specific analysis, because we think some of these other issues are very important -- renewables, low-income, and to be swept off the table simply by a large rate credit, but I think that's a legitimate question to ask.

**Katz:** Let me just respond. I think if you asked each individual one of us that same question, you'd probably get different answers.

**Sten:** But it's the council's call what would be acceptable.

**Francesconi:** Well, at the moment it's the p.u.c.'s call.

**Saltzman:** Did we suggest in our testimony a specific renewable target, and also a low-income target? What were those?

**Armstrong:** On the renewables, the texas pacific proposal it's to vigorously pursue, those specific words, to vigorously pursue a target of 10% of peak capacity by 2012. As susan said on first blush, that looks good, we like that 10% number. Once you push past it and look at the technical side of it, it's got some real concerns. First of all --

**Saltzman:** No, I know, i'm saying, what did we suggest? What was our suggestion, our language?

**Armstrong:** Our language is actually not so different from theirs as you read it, but quite different in what it means. Our language would be to commit to achieving a 10% renewable supply on an energy basis, so a different measure, and then have a couple of interim targets. Because what they've offered is simply a goal by 2012. I'm not all that confident they'll be around in 2012 to be held accountable for it. We're interested in stair steps toward that. Our language would be, I don't have the numbers in front of me, but 6% by 2009, stepping up from there, something like that, so we have a sense we're making progress.

**Saltzman:** What about on low-income assistance? What did we suggest on that?

**Armstrong:** We've worked closely with the community action director's of Oregon, the Oregon energy coordinators association and also Multnomah county. All of whom are directly involved in low income issues. They have specific proposals specific proposals. We have let them make specific representations about what's appropriate. And we are supportive of those. But I think we recognize - - they have proposed assistance in the range of millions of dollars a year to try to make a real difference in terms of low income building assistance. So their a magnitude apart from what the company has proposed.

**Saltzman:** We believe that's a realistic objective or is that -- I mean, are we just -- I mean, these are advocates that are low-income energy advocates, they're going to want to try to get as much as they can.

**Armstrong:** That's right.

**Saltzman:** They can come up with a millions of dollars figure, is that a realistic figure in the scope of this transaction, saying, texas pacific, big investment firm, billions of dollars, they must have the money.

**Armstrong:** Right. Again, it's in the details very quickly, but when -- when a utility shifts money into low-income bill-paying assistance, it's not simply money out of their pockets, but it's money that comes back in the other pocket. Maybe not 100% of it, but much of it. So when you start

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proposing large, you know, large multimillion dollar figures, it sounds like a huge amount, but the actual impact to the company's bottom line is vastly smaller than that. And so -- yeah, from a staff perspective, those proposals are reasonable and would make an absolute difference in the lives of a lot of households in our community.

**Saltzman:** Thanks.

**Katz:** Thanks. Ok, karla.

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

**Sylvia Zingesser:** I'm an ordinary citizen here in the city of Portland. I just want to make you aware that as a citizen of the city of Portland, I really do not want to see texas pacific group buying this utility. I want the utility that serves this city to belong to the people and be for the people. I don't want to see another 27% hike in our electric bills. And so as a citizen, i've come down here to let you know that I disapprove of this in any way, shape or form. It has to be about the people. If it's not about the ordinary people of this -- of this city, then it's not in our best interest. Thank you.

**Katz:** Thank you.

**Jay Waldron:** Good morning, mayor Katz. Again, along with everyone else I continue to admire your courage and working so hard under these circumstances.

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

**Waldron:** And commissioner leonard, commissioner Francesconi, commissioner Saltzman and commissioner Sten, there was a lot of discussion prior to this morning -- a lot of discussion this morning, as well as quite a lengthy resolution, and tom and I would request that we have approximately nine or 10 minutes together to respond, if that would be acceptable.

**Katz:** Do you have somebody else?

**Moore:** No.

**Sten:** Is anybody from texas pacific here?

**Waldron:** I am. I'm counsel for Oregon electric utility company.

**Katz:** You are the two main testifiers?

**Sten:** You represent texas pacific or Oregon electric? Both.

**Katz:** I'll give you 10 minutes.

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

**Katz:** Not you. Alone. The two of you. You were going to take it and leave tom without saying --

**Waldron:** That's what lawyers do. And all of you know tom, and you know that he's an investor, as well as a member of the board of directors of Oregon electric utility. If this deal is approved, you know that he'll replace someone on the board from houston or new york or mississippi. I've been involved with this issue since 1980. As some of you know, I represented a number of publicly-owned utilities when Portland first decided to form a public utility in 1980. As you all know, most of public power, all of public power, was against that, because of what the effect it would have on the bonnevillle power allocation, and I don't know if that's changed, but that's when I started. I also became involved as enron started floundering and things started to occur in this region representing some people, not texas pacific, who were looking at the potential purchase of enron. When I saw that city a cannot really legally purchase p.g.e., as you know, and b the unbelievable financial estimates, even if there was some legislation or something passed to enable it, where you take on potentially billions of dollars in liabilities, and I know you backed away when you realized that, I got involved with texas pacific. When this started, there were 100 entities that looked at buying p.g.e. Many of the utilities around the country, investors and so forth, probably many local utilities. 37 of them signed confidentiality agreements. One, one, had the sophistication and the wherewithal to make a bid. One had the ability to negotiate \$1.25 billion in insurance-type protection against enron's liabilities. That alone is a substantial benefit. I want to talk about -- we

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submitted a statement to you, and perhaps I should -- when i'm completed I will bring it up. Would you mind? Thank you very much. As you're handing that, we respect the city of Portland's right to decide whether to support or oppose approval by the Oregon public utility commission of our proposed acquisition of Portland general electric. What we believe the council and the citizens of Portland deserve to hear some truth about Oregon electric's proposal. The proposed resolution, fair and square, for a resolution that expresses substantive issues, that resolution looks like it was drafted by lawyers as a brief. The proposal contains numerous errors i'll point out, misleading statements, in an effort to have the city council oppose a change in p.g.e.'s ownership that would -- that would take real and meaningful benefits away from the city. I feel very strongly about that. I've read a lot of documents. It doesn't look like a thoughtful, succinct resolution from this council.

The \$43 million rate credit is real when you talk about cents on a dollar. The cents on the dollar would also apply to the \$75 million suggested by the staff. It is clear from the testimony of staff today that they would oppose it no matter what the rate credit was suggested. I question whether you can call it cents on a dollar to business. This will mean tens of thousands of dollars in savings, and you'll take that away from those businesses by your suggestions. I also point out that the enron, as commissioner Saltzman was inquiring, proposed \$36 million. This is \$43 million. Sierra pacific was in a different economic time and they ran out of money to make the purchase. There's also a tension here between rate relief, thoughtful management and the amount of rate credit that is offered. They had pretty damn good new york lawyers that got billions of dollars in protection. Maybe the p.u.c. Could achieve something like that. I don't think any of you would bet on that. They're very skilled at p.u.c. This protection is real, vital, and an actual benefit that protects not only the ratepayers, but think about p.g.e. Itself if this type of -- if any of these liabilities from some of enron's activities in owning p.g.e. came home to roost. The third benefit that I want to point out is that there's been a commitment to capital reinvestment. When you talk long-term/short-term, what's happened? What are the facts? Well, Oregon electric has committed to port westward, to a \$285 million to \$300 million investment. The next thing on the horizon is going to alter p.g.e. between generation-owned and generation-purchased on the market. It's a significant step. It's real and it's been done. It's not rhetoric. Also in that area, there's been a commitment to investing \$1.2 billion in p.g.e. over the next five years. Goodness gracious, I know this is a private sector, but \$1.2 billion is a substantial investment, even in the private sector. Finally one of the benefits I want to highlight that wasn't mentioned up there, is there's a commitment from Oregon electric to become an Oregon taxpayer, for p.g.e. to be an Oregon taxpayer again. That's money for schools. That's money in your pocket for services. Eventually as our tax system works. And they've committed to do that. You're not getting any money from enron right now. That's a definite benefit that you're going to forego. I'll pick one whereas that I think is just basically false. There's a comment in there that cub has documented job reduction. That is not true. They looked at memc corporation and said there was a reduction in jobs. It turns out that was before texas pacific owned. Texas pacific has bought 40 companies. There's a track record. Cub claimed when they took over j. Crew they decreased jobs. Turns out they increased them by the thousands. They claimed when they took over continental airlines that they reduced jobs. The opposite is true. And you want to talk about track records. How about continental airlines? Continental airlines is the worst, most underfunded, most undercapitalized, most problematic airline in the united states in 1993. By 1998, it was winning awards as the best airline after texas pacific stepped in, provided the capital to revitalize that airline and provided the management staff to lead that airline. You want to look at a track record. Think of continental airlines when you're looking at the -- all the airlines today. And that is the big leagues. That's multi, multi-billion dollar world. I'm going to ask you not to vote for this resolution. I know it wouldn't be proposed unless there had been substantial discussion with staff, and as there has been this morning. I think that voting for this resolution is going to deny millions of dollars in benefits if this has any effect on the p.u.c. It's going to deny millions of dollars in

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benefits to city of Portland residents. I think that's irrefutable. And it's going to determine that there's going to be continued ownership by enron. I think staff made it very clear that staff is simply as opposed to this when the questions were asked. Staff would not accept, according to what was just said, the conditions that were imposed by the Oregon p.u.c. staff. Staff wants more. They want this to become public power. Unfortunately you don't have legal ability to do that, among other things, let alone the billions of dollars that it would take and the potential liabilities. And then one last comment. Out of state ownership. Well, does that mean that a vista or cascade natural gas or pacificorp should not serve ratepayers in Oregon? Because they're all out of state ownership. Thank you. Tom?

**Katz:** You have 25 seconds.

**Tom Walsh:** Oh, goodness.

**Katz:** He took care of you.

**Waldron:** I apologize, madame mayor.

**Walsh:** A year ago I agreed to join this effort for the same reason that over 30 years i've served on numerous public boards in this state. It was in my judgment what was the most feasible way to put an end to the enron era, to restore it to local control, an constitution which is fundamentally important to 50% of the Oregon economy.

**Katz:** Keep going. I'll give you a minute.

**Walsh:** Let me make a few comment about the board. You all know peter kohler, but think about kirby, a 25-year career at intel, head of intel capital, brings enormous independence as the nice vice-chair of the Oregon board of education. Jerry whose affection for Oregon goes to senator hatfield days. Duane mcdougal, an instrumental force in willamette industries, one of the premier companies in the northwest. Lee pelton, the aggressive, dynamic president of willamette university, last and by no means last, bob miller, former president of fred meyer, currently the head of rite aid, one of the absolute gems in the Oregon constellation. This is the composition if this transaction is approved of the board of directors of Oregon electric and p.g.e. I ask a simple question there. If you can find a board of a dozen people that will trump this one, I ask you to do it.

**Katz:** Thank you, tom. Ok, thank you.

**Sten:** I had a couple questions.

**Katz:** Go ahead. One second. Did you want to leave? Go ahead.

**Sten:** I was just curious, do you have a sense of, given the argument we're going to cost businesses thousands of dollars, why the industrial customers are adamantly as opposed to this? Are they wrong about their own self-interest?

**Waldron:** No. It's self-interest. I've represented industrial customers. They have challenged publicly-owned utilities. They've challenged privately-owned utilities throughout Oregon and Washington. Their agenda, rightfully, so is rate relief, but rate relief, who does it come from, the residential customers, the commercial customers, or does it come from long-term, thoughtful investing in generation, and that's what i'm talking about port westward. The rate relief that they seek, there's no quick fix. You don't just pull money from another customer group. You can't just do operational efficiencies tomorrow. What you need to do is have a capable board, like tom described, that does thoughtful, long-term investing, like nike does, like intel does, like other corporations do, and that is what's going to bring the rate relief to the industrial customers. I respect their opinions, but they want rate relief from every single utility in the northwest in every single state, and that is their standard argument and they're pushing on that and they're not going to change.

**Sten:** One follow-up. I maybe have read it wrong, but i've read they're arguments, and I don't think you're doing it justice. I think they're concerned about a lot of things in addition to rate relief, in addition to your structure. Are they wrong on that as well?



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**Waldron:** Again, i'm not a part of the p.u.c. process, but I know from other instances they've raised a structure about -- about how this is going to be financed, like everybody should. And what happened, the p.u.c. devised an economic stress test, ran the stress test, and is confident that this buyout is not too highly leveraged, just the opposite. It's going to work and be good for the citizens of Portland.

**Sten:** Is it your position that protections put in place on the enron purchase were successful?

**Waldron:** I can't really comment on that. I don't know -- you know, all I can comment is what -- I know how hard the Oregon p.u.c. worked on that, and I know in the press there's been discussion that they've been generally successful.

**Sten:** Well, I was wrong in supporting it. I'm curious, this is the first time that i've had you be the spokesperson of texas pacific. How long have you represented texas pacific?

**Waldron:** Well, since sometime prior to the public announcement.

**Sten:** Can you share how long?

**Waldron:** I don't recall what it is.

**Sten:** I think we met in august of 2003. Where you representing texas pacific at that time?

**Waldron:** Boy, I don't remember.

**Sten:** When you scheduled a meeting with me, you didn't know who you were representing?

**Waldron:** I don't -- I don't -- well now wait a minute. You scheduled several meetings with me, so i'm not -- i'm just blurring. I'd be happy to talk with you about it, but --

**Sten:** That's a fair question. You called for a meeting, and came over, said you wanted to talk about the p.g.e. situation in my office.

**Waldron:** And i'd have to look back and see whether I was involved with someone else or whether I was involved with texas pacific at that time.

**Sten:** Could you check that and let me know privately?

**Waldron:** Sure.

**Sten:** Where you involved in formulating the board for Oregon electric?

**Waldron:** I -- it wouldn't be ethical for me to answer that.

**Sten:** Ok.

**Waldron:** I can't -- I can't talk about any discussions as an attorney, you know that, it would be -- I don't want to get myself in trouble with the ethical rules of the Oregon state bar.

**Sten:** Could you ask your client for permission to share that with me privately?

**Waldron:** Sure, i'd be delighted.

**Sten:** Appreciate it. And could you also give me a sense of why no one from texas pacific thought this hearing was important enough to attend?

**Waldron:** First of all, you have tom walsh, an investor and member of the board of directors. Secondly and more importantly you have a hearing going on in salem today in which all of the texas pacific members are either witnesses or are involved in preparation for the hearing. And as you all five of you know very well, that's where the decision is being made. And they had to be there. I apologize if I didn't begin with my comments, perhaps I should have, that calvin davis and carrie wheeler and the representatives that you've dealt with of texas pacific are in salem today because of the hearings on this topic.

**Sten:** I just thought it was important to get that on the record, because I wouldn't want the audience to think that texas pacific didn't want to come here.

**Waldron:** No. We may disagree with the whereases and the lawyer rhetoric, but we're always very happy to talk with all five of you, and we think it's very important if this teal is approved, we're going to be to your partners for a long time.

**Sten:** Just one last question. It's kind of fun. You're aware i'm not a lawyer?

**Waldron:** I couldn't tell it from the way you act. I didn't realize that.

**Sten:** That was my resolution you're calling -- [laughter]

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**Walsh:** I always assumed, eric, that you had a law degree.

**Sten:** Well, I don't know how to answer that. Thank you. Mr. Walsh, just one question. It really is -- well, it's kind of tough, but at the heart of where I stand today. You and I had a great conversation the day before this was announced, and that was the first I knew about this proposal and at the time I think if I recall, i'm going to ask you two questions, one is please -- you know, am I recalling this conversation correctly, because if i'm not I very much don't want to be wrong on putting this into the record, and secondly the question is going to be what happened along the way. I basically -- we had a good conversation. I didn't know anything about texas pacific. They were represented by you, I believe, to be accurately, what I still believe to be the case today, a talented buyout firm that does turnarounds, and in this case, you know, as an aside I guess where I differ with mr. Waldron's argument, I don't think p.g.e. needs a turnaround, I think it needs a new owner. I think the company is functioning just fine. I had said to you, I want to work on this, I had some disappointment, because I thought there were better models, but I said I think to, you know, really make this work, we're going to need to come up with some conditions that -- that -- that the different sides can take out to the public and say, ok, here's some ways this works. I suggested, for example, what if we worked on some sort of option, not necessarily for the city, but somehow for the public to buy it down the road, if the public had a first option to buy it at the fair price in five or six years. My recollection is you said you thought those were good ideas and ought to be achievable with the players we're talking about. Fast-forwarding 11 months and literally none of the things we talked about are evident in texas pacific's proposal. So what happened along the way in terms of your sense on what was possible with this deal?

**Walsh:** Good questions, commissioner Sten. Everything is ultimately possible, and negotiations didn't produce those kind of outcomes. I share some responsibility for that.

**Sten:** And -- ok. It's not because you misread the principal's point of view?

**Walsh:** Not at all.

**Sten:** Ok, thank you.

**Walsh:** Thank you very much.

**Francesconi:** I have a few questions now. Back on the public benefit side, and some issues that have been raised, I have questions about. How far can -- I don't know tom, jay, which one of you wants to respond. How far can you go on protecting local employees? I know what you've told the history, that jobs have actually grown, but what statements can you say to these p.g.e. employees that have been buffeted about here in terms of their employment status?

**Walsh:** Well, let me take that on. Three bits of history, my own company, tri-met, my devotion and affection for p.g.e. employees, I have never in 40 years, in the public and private sector, seen an institution thrive other than by two things -- motivating its employees and satisfying its customers. The head choppers always fail. So it is our rule as a board of directors to support peggy fowler and her leadership team, and then turn, continue to motivate and reward employees who have been through hell with enron, that's the intent. What's the intent of that, the purpose of it, is to bring real satisfaction from the customer base. It's not a head-chopping exercise. Are we going to look with peggy and others at what are the internal needs, what are the things they've felt have been neglected because enron hasn't paid the attention to them since the date of the acquisition? Yeah, we will, and we'll do that with them, not for them.

**Sten:** Ok. The second area is in the low-income assistance. You know, the staff report, is this more than p.g.e.'s doing now or --

**Walsh:** Yes. It's a doubling of what p.g.e. is doing today. And it's done out of shareholder equity, not the rate base.

**Francesconi:** And how does that compare to what pacificorp did? I mean, scottish power.

**Walsh:** I don't know the answer to that. But I should point out that, you know, there is \$5 million in the Oregon energy trust, too, and some of that is also devoted to low-income. There are other

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avenues. What texas pacific and Oregon electric utility proposed was to double what was required of enron or sierra pacific or others.

**Francesconi:** Ok. And the l.a. question, and it's on the renewable energy side. Your statement says, the fact is we've expressly committed to vigorously pursue a goal of 10%. There's nothing vague about that and it's a verifiable commitment. I am a lawyer, and this verifiable commitment on vigorously pursue is a little -- i'm not sure that's a -- vigorously pursue is a legal term or legal standard.

**Walsh:** Well, it provides good faith in some -- and something for the Oregon p.u.c. to regulate towards, number one. So it's a little different. This is a regulatory environment when you make that type of commitment. It's not like a loose commitment like might be made in a public meeting. It's a direct commitment to the Oregon p.u.c. It says that -- that there's going to be a commitment that's probably going to be five times -- five times what is currently being done by Portland general electric. And the achieving the 10% energy, and the only holdback will be if it's not cost effective. We're talking about rate relief. They're committed to that. They're committed to making it fivefold, but the Oregon p.u.c. is not going to let them do it if it's going to raise rates in any dramatic fashion. And we don't know what's on the horizon about tax credits for renewables, about what's going on in -- as to how the grid interacts with the hydro system. But we're making that commitment. As you know, pacificorp has made a large commitment, and part of our commitment is to prod p.g.e. And to head for that 10%. 10% of the generation of p.g.e --

**Francesconi:** But what's the standard that that's been achieved or not that the p.u.c. would apply?

**Waldron:** It will be their interpretation of that standard. There will be, every year, as our future plans are reviewed by the p.u.c., they will be looking at how far we've gone. I mean, that's their job. Remember, this is a regulatory -- this is a regulatory community. And when you say something to the p.u.c., and you put it as a condition, they have the ability to enforce it. And the only caveat being, and i'm sorry to sound like a lawyer, is that you don't want to raise rates while you're pursuing renewables to any degree. You want a thoughtful way to integrate them into or system, without having an effect on rates. That's what we're headed for.

**Francesconi:** Thank you.

**Katz:** Any further questions?

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

**Katz:** Who wants to start?

**Jeff Cropp:** I'm jeff cropp from the central Portland people's utility campaign. And I just want to point out a lot of things that we've learned from talking to the community on working through these various campaigns. We've done a lot of forums, met with a lot of people, and identified really four major benefits that ratepayers want to see and deserve to have. Those include local control, lower rates, long-term stability, and increased reliability. In terms of local control, we've already seen how effective it is to have a local utility owned by someone from texas. It just did not work. And a lot of our local citizens are really unhappy with having any kind of nonlocal control for our utility. In terms of lower rates, the amount of rate relief offered by texas pacific is obviously too low. There's no genuine rate relief there for residents or for businesses. In terms of long-term stability, staff has already mentioned that texas pacific will flip this over again in 12 years at the very latest. And that's really not good enough for our local ratepayers. They need that long-term stability to know what their energy future is going to be looking like. In terms of increased reliability, a utility has to put a lot of money into infrastructure. A lot of long-term investments in order to maintain their reliability. If texas pacific's only going to be owning this utility for a very short period of time, then they have a strong disincentive to maintain those investments to maintain the reliability. P.g.e. has been declining for the last four years in terms of the average amount of outage for a customer. We're probably going to see a utility with a very degraded infrastructure when that is flipped over within whatever period of years. You know, it's important to recognize that texas

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pacific's probably not the next enron, but as long as it is in private hands it's a question of when and not if the next enron is going to occur. It could be the company after texas pacific or the one after that. You know, right now texas pacific cannot provide any of the principal benefits that we've heard ratepayers say they want. We believe that there are a lot of other considerations that could provide that. We encourage you to oppose this sale. Thank you.

**Katz:** Thank you.

**Steve Buckstein:** I've steve buckstein, founding president, cascade policy institute and I don't have firsthand knowledge about the competence of Oregon electric or texas pacific to manage Oregon's largest electric utility, but I do believe that they or any private owner would have better incentives than the public sector, a p.u.d. or any other public utility. I want to talk about just two concerns that I have. The first was just mentioned, that these guys are from texas and somehow that's bad because other texans did bad things to Oregonians. I don't think it matters. When you really think bit, it doesn't matter where the investors live, whether they're Oregonians or not Oregonians, it really doesn't matter. Oregon residents make millions of purchases every week from companies that are controlled by non-oregonians. Ask yourself if you go shopping at fred meyer or safeway, is every product produced in Oregon, made by Oregonians, distributed by Oregonians? Of course not, of course not. There are people all over the world. We're in a global economy, as commissioner Sten said, and we have to realize that. Many more purchases are now made over the internet. Those products almost certainly were not manufactured here, owned by Oregonians, but Oregonians are making those purchases. If those purchases were bad for Oregonians, they'd stop doing them. But they're not bad for Oregonians. And most people don't care who the owners are, what they care about is that they're getting a good deal, good service, or good product at a fair price. The same goes for electricity. I'm not sure how far back you have to go, if there is any far back enough, to find the time when all the owners of p.g.e. Or pacificorp, pacific power, were Oregonians. Again, it doesn't matter. Bad things can happen, whoever the owners are, but generally that's irrelevant. My second concern is more significant in this context, and that's the message that you'll be sending with this resolution. I think that the local business community is watching. The world business community in effect is watching what happens in Portland. We just heard from a previous testifier that there were 100 companies that looked at buying p.g.e. And only one actually bid. I think -- I think there's an additional reason than just it was a complex or expensive deal. I think what's going on in Portland played a part. Mayor Katz has called Portland's anti-business climate an urban myth, but most myths have basis in fact. I think if the city council opposes the private purchase of p.g.e. And then goes ahead and tries to make it a public entity, the local business community will take that as a message, the world business community will take it as a message, and I think it's the wrong message. Thank you.

**Matt Wingard:** For the record, my name is matt winger, executive director of Oregonian for jobs in power. With more than 60 members in the willamette valley and more than 20 members in the city of Portland, many of them businesses. We've as opposed the city's efforts to take over Portland general electric for more than two years ago. I realize this position is not made us very popular within this chamber. I'd like to take my brief allotment of time to read and react to a short quote from an article on this issue in the sunday "the Oregonian" dated october 17, 2004. The quote is "they're arrogant, he said. There's a condescending tone to their whole argument. They think because they have access to a whole ton of money that they shouldn't be questioned. There's a complete lack of understanding of the culture of this state." that quote was attributed to commissioner Sten. He was in fact talking about texas pacific group. However it has been experience that that quote could just as accurately sometimes describe the Portland city council. We agree that companies that are thinking about doing business in this state had better understand the culture that's developed. This city council is presiding over a citywide unemployment rate of 8%. Of the 51 metropolitan areas in the united states with over 1 million residents, Portland is

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number one in unemployment. This is not a distinction to celebrate. These unemployment rates are not a mistake and they're not an accident. They are a direct result of the anti-business decisions, like the one you are discussing today, that are making companies feel unwelcome here in Portland. This Saturday one of our Portland members will hold a fire sale to liquidate his office equipment and close his 51-year-old Portland company. Shortly after the sale, the last of his 140 employees will be let go. This is the direct result of the culture you are fostering both in the city and the state. I urge you to vote no on this resolution.

**Sten:** Question, matt. Where you able to share your list of members and relative funding of your group with us today?

**Wingard:** We are not a particularly well-funded group. We operate with basically me as the staff. I do always bring with me a list of our members, which i'm happy to share with you. And as for -- I assume what you're after is the contribution levels, that kind of thing. We've always been clear that we -- we actually proposed this a year and a half ago, that we'd be happy to share our funding level when the city also is forthcoming with how it spends all of its money on the p.g.e. purchase. We actually made that offer a year ago and nothing came out of it, so --

**Sten:** Thank you.

**Katz:** Mark, I probably need with more new cost and companies that are looking to expand and cost that are looking to relocate. And let me tell you two things. Your rhetoric and your consistent rhetoric in this chamber with many of your colleagues has done more harm in terms of our efforts and the work that we do to bring new companies or to help cost expand, a. B, I can point to you companies who are absolutely thrilled coming to the city of Portland and can say only good things about this community and the citizens. I can't tell you whether they are going to say good things about the city council, but about this community. So be careful on what you say, because it becomes, or it has become, a self fulfilling prophecy.

**Wingard:** I respect that, I do. I think that for our membership, and i'm in contact constantly with our membership, it is a difficult balancing act, because a lot of them do feel that there are a lot of anti-business decisions made, and the question we constantly have to ask ourselves is, do we talk about it, do we try to address it, do we try to be honest with the city council and other politicians in the state about where we think the problems are and where we think this -- you know, this anti-business climate is coming from, or do we not contribute.

**Katz:** You're not honest, because you also aren't talking about the things that we corrected when we saw that they were going in the right direction. That's all i'm going to say. Thank you.

**\*\*\*\*\*:** Madame mayor, gentlemen, commissioners. Madame mayor, i'd like to say it's great seeing you in council.

**Katz:** Thank you. Good to see you.

**Chris Mongrain:** Thank you. What I wanted to come ask -- excuse me. Chris mongrain. I wanted to come as a small businessman in saying we're looking for some stability in supply of power. And we think that with the acquisition of p.g.e. by texas pacific group, that we'll get some of that. We're looking at, if we -- when you take a look at texas pacific group, and I don't have a stake, I don't work for them, but they are a company that has had 40 acquisitions, of which 33 companies they still retain. The other thing is when we do acquire a company, they've retained a board, the board makes a decision, the day-to-day process is directed by the executive officers and the board, and their involvement has not been as more of an overseer. I believe the Oregon public utility commission has the experience to craft the appropriate rules and regulation that will benefit the Oregon ratepayers, and texas and also put texas pacific group in the right position that we're perhaps looking for. I think that right now with all the testimony that's going on at the p.u.c., that we'll end up with a product that I think we'll all be happy with. And I ask that you not approve commissioner Sten's resolution.

**Katz:** Thank you.

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**Jim Abrahamson:** Good morning. My name is jim abrahamson, employed by the community action directors of Oregon. We're a statewide association of the 17 community action agencies in the state of Oregon. Let me state first it's great to be back here in front of Portland city council, and mayor Katz, wonderful to see you.

**Katz:** Thank you.

**Abrahamson:** We're active interveners in the acquisition of p.g.e. on behalf of p.g.e.'s low-income customers. We join with others who are in opposition to texas pacific's application to acquire p.g.e. upon the terms and conditions submitted by the applicants on october 11, 2004. Their offer to increase funding for low-income bill payment assistance over current levels by only \$50,000 annually is insufficient. In testimony we've referred to this figure as inadequate. We've been steadfast in calling for the creation of tangible benefits to p.g.e.'s low-income customers in the form of a significant increase in the amount of funding for energy assistance. Since p.g.e.'s rates are amongst the highest in the region, we felt it was appropriate to ask investors rather than ratepayers to provide this increased funding, particularly since ratepayers already pay a significant amount, both in terms of rates and taxes to support energy assistance. Federal taxpayers and p.g.e. ratepayers currently provide over \$10 million annually to support low-income programs in p.g.e.'s service territory, and that only scratches the surface of the total need. Only with 1/4 of p.g.e.'s households have qualified for low-income energy assistance actually receive such assistance before the funds run out. Texas pacific's investment in Portland general electric is transitory, as referred to in the resolution, and we agree this, it's a commodity investment. As such we've been compelled to ask those who stand to profit handsomely from this investment to shoulder the burden of providing assistance to those customers most vulnerable to the high cost of energy during the time they control p.g.e. Finally for the record, let me state that we've not taken a formal position on our preferred endgame scenario as it relates to the future of p.g.e.

**Katz:** Thank you.

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

**Katz:** Grab the mike.

**\*\*\*\*\*:** Can we switch chairs?

**Katz:** Fine.

**Bill Parish:** My name is bill parish. Appreciate the opportunity to make a couple comments. Regarding texas pacific, they are a spectacular on p.r. spin. Of course, they run blind investment pools in which the primary source is public pensions. They provide no disclosure. They self-evaluate their investments. And it's conceivable they're in a crash crunch and that's why they want p.g.e. They've got a lot of related companies in the natural gas field, so there could be some potential conflicts of interest there. Their specialty is fleecing firms. As far as their judgment, having peter kohler as chair, a public employee and participant in pers, what does that say about their judgment? The biggest financier, credit suisse? They're the number one financier behind the deal. As far as the alternative, one thing I have a lot of respect for tom walsh, but one thing he never highlights is that there's an alternative in terms of private management. If the city orchestrates a purchase, privately managed, that would be great. As far as cost savings, dan's observation, anyone familiar know that great savings can be achieved from better operations at p.g.e., but the place to begin is at the top. Gary canyon at u.s. bank, he started at the top, completely revitalized that organization, a huge success. Sadly he had to sell out. You start at the top, not the bottom. An interesting question might be if neil goldschmidt were here, 35 years old, sitting on that council, what would he do? My sense is he'd find us a very exciting opportunity for the city to do great benefit for businesses and consumers. Regarding jim's question, is this rate relief or purchase, my sense is it's rate relief, but to get that you got to oppose t.p.g. Mr. Waldron doesn't like to highlight one of their largest clients as a private electric co-op, a huge success. As far as Oregon electric providing tax benefits, that's a ridiculous observation. One thing also not

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highlighted is a lot of t.p.g.'s investments go through bankruptcies. Steve buckstein made an interesting comment. Why only one bidder? Any smart person would like lou at the council and say it's an extraordinary opportunity. As far as protection of enron's liabilities, i'd send a birthday card, thank him, like "give me shelter" by the rolling stones. My final comment related to what jim said.

Jim said "how about the workers?" again, t.p.g. is great at executive compensation on the backs of workers. Haven't we had enough that? They're not a competent-run utility, we need rate relief. I encourage you to step up on behalf of businesses and consumers and oppose this t.p.g. proposal. Thank you.

**Katz:** Thank you.

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

**Katz:** Good morning.

**Liz Trojan:** Mayor, commissioners, the Oregon -- my name is liz trojan, with the Oregon public power coalition. The Oregon public power coalition opposes the proposed buyout of p.g.e. by texas pacific group and we urge the city commissioners to vote for today's resolution opposing the buyout. Thus far they've shown that they're not only unaccustomed to dealing with government entities, but resistant to more open sharing of information expected by government entities. The Oregon public power coalition does not see any net benefit to ratepayers from a proposed buyout. In fact, we expect under texas pacific group ownership that ratepayers would continue to get soaked on phony taxes and inflated rates. Under texas pacific group, we can also look forward to being sold off once again when they're done with us. We need to get off this buy and sell carousel. Public ownership has two important benefits for ratepayers -- local control and lower rates. We'll have neither with texas pacific group. We need both. We ask you to vote yes on this resolution today, opposing the texas pacific buyout. Thank you for the opportunity to speak on this matter.

**Katz:** Thank you. Anybody else? Somebody want to get commissioner leonard?

**Katz:** Anybody have any questions? Roll call.

**Francesconi:** First, maybe this is more of a personal note, but we have great opportunities and great challenges in our community. And it really saddens me to continue to see on the most pressing questions where people on both sides attack the other sides' motives. That has got to stop. The quality of our public discussion, where we such thing as honest or dishonest or ascribe motives to the other side, that's not the issue, and that's got to end. The issue is, is the public benefit sufficient? When I view this issue, it starts with where commissioner Sten -- and ends -- where commissioner Sten started this discussion. What's the best for Portland ratepayers? Now Portland ratepayers have been buffeted. They've been buffeted by the uncertainty over power rates. They've been buffeted by enron's behavior. They've been buffeted by our own water billing fiasco. So the question is what's best for the Portland ratepayers? There are circumstances. Los angeles is an example where public power, when there's enough power generation, makes sense. There's other circumstances like seattle that has higher power rates than p.g.e. It makes no sense. But that's not the issue before us. The issue before us is is there enough public benefit, frankly in another forum, who has the decision-making, not us, on this question. It's actually close from my perspective. When you look at the benefits here, there are some real benefits. And they're alluded to in the staff report. We have an end to enron finally. We have local headquarters that remain. We have service quality and safe reliable service. At least we have local headquarters for a while. We have capital reinvestment. We have an Oregon taxpayer. And above all else, we have protection against enron-related and other liabilities. The counter to that, there is two fundamental issues for me. And that is the rates, the amount of rate relief. And then related to that the amount of rate relief especially for low-income people that are suffering so much during this economy. So because I believe that there's not sufficient rate relief in this current proposal, especially for low-income, but in general on a very close call, i'm going to support this motion. Now having said that, if this was an attempt -- and I hope staff wasn't really serious about it -- in order to have this be the city purchase, including even

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condemnation of p.g.e., which does send a message to investors at a time that we have the highest unemployment rate, i'm not there. And the reason is there's not enough power generation in p.g.e. And we would be out at a time of putting our citizens at \$2.2 billion worth of risk investing in more power generation capability, and then setting the rates for salem and other places at a time that we can't even deal with the focus of what we've got? So I want to be clear in this as a message to the p.u.c., I guess, as to what I think, but it's not a step in the city getting into another risky utility venture that would not benefit Portland's ratepayers alone with the city purchase. Aye.

**Leonard:** The issue for me now is the same as it has been since the spectacular collapse and subsequent revelations of the business practices of enron. And since I have first been asked about the issue of public acquisition versus private acquisition of p.g.e. From enron, beginning in my first campaign for this position, i've listed three concerns. They were and are what would the impact be on low-income ratepayers in a private versus public acquisition. I have since coming here to address that concern come to the conclusion that there would be at least a 10% rate reduction in a public acquisition. I also note that the current rates for p.g.e. Customers would be -- the industrial or residential customers -- are about a third higher than what they are at pp&l. A significant concern that has been addressed here today, in my second stated concern, is what would the impact be on the workers in a private versus public acquisition. I have observed probably no more exploitation of workers and their security than has occurred under the ownership of enron as it has particularly applied to the line workers who maintain our system, delivering electricity for p.g.e. customers. I have come to the conclusion after analyzing that concern that the workers would find themselves in a much more stable employment atmosphere under a public acquisition than they would in a -- than staying in the private sector. And finally, what would be the impact on local and state government revenues in a private versus public acquisition? My concern there being that I did not want to do anything that would negatively impact the tax base by which the city delivers its fundamental services. I again note that there's a huge disparity in the rates charged in -- at p.g.e. for not just residential customer uses, but industrial customer use who provide our jobs. When the rates are as high as they are, it becomes more difficult for them to stay in business in p.g.e. territory. Therefore, we have seen this very unusual phenomenon of many private sector, large industrial users, quietly, if not publicly, supporting a public acquisition of p.g.e. that affects, in my view, job creation, which affects who pays taxes, which affects how we fund fundamental services that both we, the city and the state provide, not to mention the county. Now, i'm one who will tell you there's absolutely nothing wrong with each of the various parties promoting their own best interest in this debate. There's nothing wrong with that. Anybody that would question that is somewhat naive. I get that and appreciate that. But that's not my role. It is to promote a particular point of view. It is to balance those views and come up with, in my view, what I think is the larger public interest. I view that as my fundamental sacred duty as a person that represents the citizens in this city. And I want to make it clear also, so that there is no ambiguity, that for me this is not a close call. This is not a close call. This is for me an issue of assuring the residents of the city that they have a reliable, efficient, and affordable source of energy. This is an issue for me that the residents of this city and the providers of jobs in this city have a reliable, as cheap as possible, source of energy with which they can run their businesses and provide jobs. I am convinced that the acquisition, the public acquisition, of p.g.e. is in the long-term best interest of our business community and our taxpayers. Aye.

**Saltzman:** Well, i'm going to look at this resolution very narrowly for what it is, and that is to say whether we think the t.p.g. offer does provide, on balance enough benefit to ratepayers. In that regard, I do find it lacking. I think there's not enough rate relief being offered. I think the low-income provisions are inadequate. I'd like to see more specific mechanisms along the line of what the city suggested for renewable commitment. In having said that, and so I will support this resolution, my preference would have been for us to be urging the p.u.c. to include these -- all these



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matters in their conditions of approval. Again, this is not the forum for public ownership discussions, but -- and I guess I find what is the ultimate irony of us taking this position is by -- in essence we're back to saying, we're ok with enron, whereas two years ago, all of our efforts to acquire enron were we don't enron. Now by taking this position, we're saying I guess we're ok with enron, I guess we're ok to being subject to \$1.25 billion in potential liability for our ratepayers. The whims of the bankruptcy court, shareholders, creditors, enron management, doing what they will with p.g.e. I know there are those that think public ownership will happen, and maybe that will -- maybe that's a viable option, but there's no consequences on the city council at this point to pursue that, but nor do I know whether there's any interested seller on enron's part. They obviously rebuffed once before. I don't know what will change that dynamic. I don't fault texas pacific for making a profit, that's what this business is about, and I think they've done a lot of good things in their proposal, but it doesn't go far enough. I think they can do better. I want to see the p.u.c. step up to the plate and put on conditions after approval. Until I see that, until that package is something tangible, I can't support their present proposal, but I do regret the irony that we're in essence saying, enron's not so bad after all. Aye.

**Sten:** If we're saying enron's not so bad, that says volumes. I don't think that's what we're saying today. This is a very substantively important and politically-charged issue. For whatever set of circumstances and personal inclination and passion have become a self-appointed lightning rod on it. I've been hit many times and expect to be -- lightning will strike me again probably this afternoon. I know a lot about what people say publicly and privately about this deal. And people have private conversations about with me that I can't share, but I don't think it's a coincidence that there's not anyone who's a third-party supporting this deal down at the p.u.c. And the primary arguments coming from texas pacific are essentially that we should fear something worse happening. I want to say -- and i'll be brief because i've spoken a lot -- when you find your economy going the wrong way, and the world has changed, what I think you have to do is two things. One is look at history and then aspire to something better. And as I see the history right now, the history of this state includes a very robust -- and i'm talking about the state, not just the Portland area where investor-owned utilities have than the norm -- a robust, and pragmatic and substantive discussion about whether a public utility or private utility is a good thing. I'm more agnostic on that question than people might think from how this has played out over the last few years. What characterizes that debate, however, and not always the cases always a local-owned investor utility, always a group of people from the community, shareholders from the community, and you knew it was going to happen and it was very stable. I think given those two models, a public utility versus an investor-owned utility, very smart people can fall on both sides. Frankly it comes down to how they're run in my opinion. At this point what's changed in the world is that the local investor-owned utility is becoming a bit of a dinosaur nationwide. I don't think you're going to see a lot of them in 10 or 20 years and doesn't exist in this community anymore and has not since pacific -- certainly northwest natural gas is still here, and that's good. Historical record, this council supported northwest natural gas's acquisition of p.g.e. Informally. We didn't take a vote. The model people are arguing for doesn't exist anymore. We're faced what I think is a choice of do we aspire to a model that's permanent, that is cheaper, nobody argues that the financing on a public acquisition wouldn't be 10% cheaper. There's not been a reputable person that says it's not true. Then do we say, ok, let's look at history, say, yeah, there's places like seattle that don't work well, places that work better. How do we set up a model that really works? How don't we recruit a board and give them a mission and focus to serve this state rather than texas pacific? Those are the kind of things that are available. I agree, and want to respect very much my colleagues who are not at this point interested in public power. This is not a vote on that. And when I make the case for a different model, I will make it much more conclusively and aggressively than i'm doing today. I'm talking specifically today about texas pacific's model. And this community cannot aspire to

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anything better if it settles for this. And so the message today is let's not settle for this. Oregon has a strong history of being aggressive, independent, smart, and simply put this model doesn't come close to living up to Oregon's history. I believe at the end of the day this will turn over very quickly. I don't think we'll see long-term investment. I hope I'm wrong, but I would not want to be the employees under this deal compared to some of the other ones that are being talked about, because the incentives aren't there. Not because Texas Pacific is a bad group of people, not because there's anything wrong with buying companies and cleaning them up, but the basic underlying fundamental incentives in this deal are not in line with the incentives that Oregonians need. So my -- the reason, although this is not about those other models I addressed quickly and I think with respect, I hope so, to my other colleagues' opinions, is that I think the p.u.c. Has to understand that they should not take what Texas Pacific is saying both privately and publicly to people who are following this as the truth, which is that no other option is available. If you deal deeply into what Texas Pacific is arguing, they're dealing from a sense of fear, fear we're going to get worse and fear we cannot do better. We can do better. We don't have to settle for this. We don't have to get worse. We should aspire to something better, and now is the time to do it. If we don't, we don't have anybody to blame but ourselves. This is nothing to sneeze at, the kind of savings that have been brought to our businesses. I've spoken with just about all of the top industrial customers, as well as ratepayers, and there's the will to aspire to something better, and you'll see in the months to come if the p.u.c. has the courage to do what is right for Oregon. Aye.

**Katz:** Let me say this city council, especially commissioner Sten, has taken a real restraint approach on this issue. We've had citizens come to us and tell us, condemn, buy, do whatever you can, and in all fairness we spent two years analyzing this issue and trying to figure out whether we in fact can make it work as a city and whether we ought to do something today or we ought to wait, give p.g.e. Opportunities, give the Oregon electric utility company opportunity to have show what they're going to offer. I predict if we had a vote today on city ownership, three votes would be here today. Maybe tomorrow it will be four. But today there are three. We're not doing that. What we're doing, as everybody said, is sending a message to the p.u.c., this is not good enough, period. I also predict that if we go ahead and a private owner continues to play a major role, there will be cuts in the work force, rates will go up, and p.g.e. will be sold again. This is a natural progression on these kinds of deals. And so I think the message that we're sending as a city is the right one. We still have more work ahead of us to further analyze the situation and see at what point can we really truly step in. Aye. [gavel pounded] ok, 1223.

**Item 1223.**

**Katz:** Roll call there's nobody here to testify on that.

**Francesconi:** Congratulations. This was hard to get to, but we got there.

**Katz:** She's calling your name for the roll.

**Francesconi:** I heard her. Aye.

**Leonard:** Well, there have been some internal discussion as to whether or not this was ready to come today. My message to those that weren't ready is to figure it out, get it done. This is an important asset in the Woodstock community. This community center. And I appreciate commissioner Francesconi's work with me on this. And I appreciate the help of the Woodstock neighborhood association in making this happen. Aye.

**Saltzman:** Aye.

**Sten:** I really didn't like what we had as choices in the budget hearing. Nobody's fault, the reality of the budget. I think it's an important piece. Aye.

**Katz:** Mayor votes aye. 1224.

**Item 1224.**

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

**Katz:** Mayor votes aye. [gavel pounded] we stand adjourned until 6:00. [gavel pounded]

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At 11:14 a.m., Council recessed.

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6:00 PM

**Item 1225.**

[ Roll call ]

**Saltzman:** Did you want to introduce this? Were you planning to introduce this?

**Leonard:** I think we have staff that are here to give us a report.

**Saltzman:** Let's just go to the staff report and then we'll open it up for public testimony. This is a first reading.

**Susan Hartnett, Bureau of Planning:** For the record, i'm susan hartnett. I'm going to give you just a brief report with some background on these amendments, and I also have a power point presentation. I want to start by giving a little bit of history on this and to remind you how this is the third and final piece of this year's code maintenance package, the code maintenance 2004. You had several pieces prior that you heard. They were called part 1a, part 1b and part 2. We did decide to call this accessory structures, since that gets to the heart of what's in here. The planning commission held hearings on the entire package back in february and march of this year. They did vote to move forward two council the rest of the package except for these two items. And the two items that they held back are some changes to the regulations on accessory structures within the side and rear setbacks, and the application of design standards to accessory dwelling units. And they specifically held those back because they had heard from a number of testifiers at their hearings that there were some concerns about this particular -- these particular amendments, concerns about policy implications, concerns about the opportunity for sufficient review and understanding of them, and the planning commission said, let's take a step back, let's get some additional information and see what we think of this. What happened here? I seem to be missing a slide here. Hang on a second. Ok. This would be the next one. The planning commission had a work session on may 11, at which point I provided some additional information on -- particularly on accessory structure permits and what the current regulations are. The planning commission discussed those in detail and did decide at the end of that work session to move forward to council these amendments with their recommendation that you approve them. And it was a unanimous decision from the planning commission. I think I need to go backwards here. So I wanted to give you a little bit of an overview of the public outreach that we did on this project, because you may hear some concerns that code maintenance is not an appropriate vehicle to do this kind of amendment. I want to first start by clarifying that we don't think there are significant policy implications, and when I start talking about what the regulations are and the changes, i'll elaborate on that a little bit. But we also think that there has been more than sufficient opportunity for the public to be aware of and become involved in this process. As you can see, i'm not going to read all of these, but you can see we have mailed -- repeatedly mailed out notice to a wide variety of people, over 500 people each time. We held open houses back in february, we have visited with the citywide land use chairs and offered to go to neighborhood associations, we've really highlighted these particular amendments throughout that process so people were very well aware of what was in here. You may recall some of the other items that were in code maintenance that we called minor policy that we brought to your attention as we had throughout the process, the issue on medium truck parking, pickup trucks in the medium truck category, the issues around radio frequency radio facilities we highlight the minor policy issues, so we've tried to make sure that everyone's been quite aware of what's going on here. Now I think i'm back into the order I expected. I'm going to go through the regulation as they currently exist. The two amendments, the first one has to do with accessory structures and the setbacks, and the second has to do with the accessory unit dwelling -- accessory structures within the setbacks, i'm going to talk about that first. These regulations apply in the multidwelling zones, and in the r7, r5 and r2.5 zones, and currently within those zones only a detached garage that is subject to specific size and height limitations, which i'll talk about in a

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minute, may be placed within the side and rear setbacks. Typically the side set back is five feet from the side or rebound setback, it's a minimum. The only other types of accessory structures that are allowed to be placed within the side and rear setbacks are those that are less than six feet tall. So that typically doesn't even cover sort of a prefab garden shed, if you go to home depot and buy a prefab garden shed, those are typically a little more than six feet tall. So there's very little you can put in the side and rear setbacks that meets that limitation. For an attached -- a detached accessory dwelling unit, it can be up to 800 square feet or 33% of the primary structure, whichever is smaller, and only 18 feet tall. But again, that has to be outside of that 5-into the setback. Now, garage is the only except exception, and garage is specifically defined in the zoning code as a structure that is designed to provide shelter for a vehicle. And it has fob accessory to a residential use as well. The setback for a detached garage can be as little as zero, in other words, it can be placed right on the side or rear lot line, but only if its dimensions are less than 24 feet by 24 feet, that's 526 square feet, and the walls are no higher than 10 feet. Now, if you have a gable roof within the gable end, it can be higher than that in the portion above the wall, but typically we're measuring the height of the wall to the top of the wall sill plate, so i'll show that you in a couple of drawings in just a second. So let me walk you through some drawings that might help. First i'm talking about if you are building an accessory structure that's not an accessory dwelling unit, and you place it five feet from the setback, so you can see i'm showing five-foot minimum setback from side and rear, this structure can be up to 15% of the lot area, and what i'm showing here is a typical 5,000-square-foot lot, so this building can be about 750 square feet, have a footprint of 750 square feet and the height is then measur]□žased on the base zone height limitation. And that's typically going to be between 30 and 40 feet depending on which zone you're talking about. So for r5, if you wanted to build an accessory structure five feet from the side setback and five feet from the rear setback, as long as it's not an accessory dwelling unit, the could -- you could build it up to 30 feet tall. We measure height to the midpoint to the peak. We don't measure all the way to the peak, we measure halfway to the peak line. If you were going to build -- just to clarify, this can have a garage in it, it could have a home office or a children's play area, it could have an artist's studio. It cannot have a dwelling unit in it. If you were going to build an accessory dwelling unit, five feet from the rear and side setback, it could be, again, up to 800 square feet or 33% of the main house. So in this case i'm showing it as 744 square feet, which assumes this house is about 2300 square feet, and this is a typical 5,000 square foot lot. For an accessory dwelling unit the height limitation is 18 feet. So those are the limitations on a general accessory structure, an accessory dwelling unit. The last one is for garages, for a detached garage it can be up to 24 by 24 and again, in this case the height that we measure is to the top of the wall, not to the midpoint of the peak. But even if you build a really tall one with you're probably talking about a structure that's no higher than about 14 or 15 feet. The other thing I was shown in all of these is this eight-foot fence. You are allowed in the side and rear setback to build an 8-foot fence, and we're showing what the relationship is if the adjoining property has built an 8-foot fence next to one of these relatively small structures. So the planning commission's recommendations on these amendments will allow all covered accessory detached accessory structures, including an accessory dwelling unit to be placed within the side or rear setback as long as it meets existing limitations on size and height. They also said let's add a limitation on the placement of dormers to try and address some of the issues around privacy that have been brought up. So, again, what this would allow is either the conversion of an existing garage or the construction of a new accessory structure, including an accessory dwelling unit, as long as it's no bigger than 24 by 24, and the walls are no higher than 10 feet, and then the additional piece that they're adding is that if you place -- if you were to place a dormer to allow light or even to provide a second floor, those dormers would have to be at least five feet from the lot lines, which would be consistent with where the setback would be if you were to build an entire structure inside the setbacks. So I want to talk a little bit about why these proposals were made to begin with. Yes get

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a lot of requests in the permit center from people who are interested in either converting an existing building or building a new building. And my informal sense after working on this for about nine months is that we get fewer requests or inquiries about an accessory dwelling unit than we do for simply converting an existing garage to a children's play area. To an artist's studio, a home office. It would appear to us that a lot of people are really interested in just expanding their livable space for whatever purposes, and at the same time, retaining as much of their back yard space as they can. I hear from many people the loss of 3 or 5 extra feet of the back yard could be pretty precious to them. So they're very interested in moving these buildings outside of the setback. Construction and conversions are occurring without permits. And that's not so much an issue we want everybody to get a permit to pay for it, it's an issue particularly for garages, existing garages that are being converted, those buildings were originally built as nonhabitable space. When you start to convert them for habitable uses, particularly sleeping uses, there are other fire/life safety issues we want to take into consideration and make sure that these spaces are going to be safe to be occupied by people and not just cars. And then the last piece is that adjustments that are requested, and we do get a number of questions -- requests, they are routinely approved. And again, these are typically relatively small buildings where someone wants to have a home office, not that they want to build a giant building, just that they want -- that they want to convert an existing garage. So with did some checking on data, the planning commission asked us, what's actually happening out there? And we pulled the 2002 and 2003 building permits for garages. We came up with a data pool of 363 garage permits, 346 of those did not require an adjustment, and 17 of those requested an adjustment related to the setbacks, all of which were approved. A little breakdown on the 346 that were permitted without an adjustment, 55%, 192, were built within either the side or rear setback. In other words, they were less than 5 feet from the lot lines. So a fair number of garages out there are being built within those setbacks. And that leads to the phone calls we get today with people saying, I want to convert my garage to something, and we tell them they can't, even though it's already been built in that location. 47%, which is 163 of them, were built less than three feet from either the side or rear lot line and three feet is a number to mention because it is at that distance, less than three feet, that additional fire/life safety regulations and the building code kick in, such as a one-hour fire rated wall, and any option in the wall would have to be fire real estate, which means they're expensive, so people typically don't put any windows in it. 20% or 68 of these garages that were permitted in those two years were less than three feet from both the side and rear setback, in other words, a far fewer number were set within both setbacks, typically they were looking to either move it closer to the rear, closer to the side. 16% or 56 were built directly on, in other words, at zero lot line, to either the side or rear lot line, and 14 of those 56 actually had shared side walls with the garage on an add joining lot. I'm sure you've seen those in many Portland inhalation anthrax where you have the garage literally split by the property line. So of the 56 that were built, 14 of them actually had that shared wall. Only 17 out of the 346 were actually built on both the side and rear lot line, and there's a number of reasons why people don't tend to build these on the lot line. Maintenance becomes much more difficult, you have to get your adjoining property owner permission to go on their property to paint or do any other maintenance work, and the fire regulations that kick in at three feet also add to the cost. So people don't tend to build them closer than three feet, and very rarely do they actually build them both on both the side and rear lot line. In 2002-2003, there were 17 permits that required an adjustment. From those, 12, or 71%, were built either within the side or rear setback, less than five feet from the lot line, and that's what triggered, these were typically garages that wanted -- where the applicant wanted the garage to be larger than 24 by 24, or wanted to have a wall taller than 10 feet, in order to be within the setback they have to go through the adjustment. Of those 17, none were requested to be on the side or rear setback. We also looked at the adjustments from 2001 through 2003, so we have an extra year of data here from what I was just discussing, on adjustments for nonaccessory dwelling unit accessory structures. So that's the

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situation where someone is calling up and saying, I want to convert my garage to an office. And we say to them, you can't do that without going through an adjustment. So that's this type of circumstance. It could also be where they want to have a building bigger than 25 -- 24 by 24 and they want to have a home office in it. Any one of those circumstances could trigger the need for an adjustment. So there were a total of 41 in that three-year period of time, five in 2001, 16 in '02 and 20 in '03. 23 of those involved building that's exceeded the size limitations, and 27% of those, or 11 of them, involved accessory structures that were not allowed in the setback, in other words, activities, an artist's studio, home office, that would not be allowed in the setback. 8 of those 41 adjustments actually involved legalization of construction that was done without a permit. So this is one of the things that indicated to us that our hunch was right, that construction is actually occurring out there even though people haven't gotten permits. And these are the kind of circumstances where a neighbor typically will turn in a neighbor for whatever reason, and then we become aware of it because our enforcement is complaint driven. For accessory dwelling units, looking at that three-year period of time, there were only nine adjustments for accessory dwelling units where the structure was set within the rear or side or rear setback. Six of those were conversion of an existing building, three of those for new buildings, and four of those actually involved, again, legalization of construction that was done without a permit. So those were all the pieces of information that we put together for the planning commission, and I have more but i'm not going to go into it. What I want to do is move on to the second amendment, which has to do with design standards for accessory dwelling units. Currently new structures and conversion of an existing structure to create an accessory dwelling unit are subject to five design standards. These standards require that five features, exterior, finish materials, roof pitch, trim, windows, and eaves, be the same as or visually match the primary structure. So that's what the rules say. What happens is that we find it's not uncommon for one offer more of these elements to not match. So in this case, what i'm showing you here is the siding on the house and the siding on the garage don't match, they were not the same. In this case here and here you can tell that the roof pitch on these buildings is not the same. What that means is that for conversion of an existing structure, they either have to replace the nonmatching element, or they have to seek an adjustment for those elements that don't match. And both of those can be rather costly additions to what is already a costly process to create an accessory dwelling unit. The planning commission's recommendations will continue to apply these standards to new construction. So if you're building a brand-new accessory dwelling unit you will be required to have the same siding, to have the same window orientation, to have the same trim size, to have the same roof pitch, and to have eaves that are at least one foot in depth. But what we will do is exempt existing structures that don't match these design features. We will not allow an existing structure that does meet the standards to move out of conformance, so, in other words, if your siding matches your existing -- the siding on your existing garage matches your existing house, you can't change that. You will have to retain that. But if it doesn't match, you won't be required to replace it. We will also apply these standards to any structure that's expanded. So if you have an existing garage and you want to convert it to an accessory dwelling unit, but you want to make it bigger, you have to meet all five standards. I want to let you know in closing that the record for this project in its entirety is here today. It's in the white box in front of the city attorney. And if at any time you want to reference it, I would be happy to pull something out, and this slide does sum rise what's in that record, and I believe that's all I have to say.

**Saltzman:** Any questions for susan? Ok. Great.

**Hartnett:** Thank you.

**Saltzman:** Let's open it for public testimony.

**Saltzman:** You'll each have three minutes and the time is shown in the lower left corner of the video screen the. If you could give us your name before you start your testimony, please.

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**Cathy Mahle:** Kathy molly, 1325 southeast sherry street, 97202. Commissioners, for the past 19 years, i've resided in sellwood and my husband has own and lived in our home since 1976. I'm concerned about adopted code changes and concerned about the changes being considered today. I support high density, but believe the accessory structures used as accessory dwellings need to be limited in order to maintain the livability of our neighborhoods. Although the single story 24-foot square accessory structure is smaller than some currently allowed, it might be too large on a 50 by 100 lot where it is the smaller second dwelling. Having no limit on the amount of units per lot or per block is definitely an oversight. Keep the existing setbacks and exterior material codes. I'm not sure of the status of owner occupancy on the property, but please keep this or reinstate this requirement if it has been dropped. High density without considering the impact on neighbors and consequently on neighborhood livability seems short-sighted. My sister lives in england, the community tries to maintain livability and character in spite of their no-growth boundary and no-growth policy. A new home can be built, but it replaces an existing structure. The foundation does not exceed the original foundation's square footage, but it can be a different configuration. The total square footage is also retained and the front or street facade keeps original characteristics. Other exterior walls have he way, different siding, more windows, and skylights can be added that aren't visible from the street. England and europe have had centuries confronting and resolving density issues while maintaining community and character liveability. Please review the package and add limits to the number of accessory structures that are allowed per lot and per block. Also draw up proposed code changes for remodeling existing structures, have them continue to match the original building style and maintain existing setbacks. When I attended the open house concerning adjustments on this policy package way back in february, january, I was informed that the changes are proposed for two reasons -- first, to reduce the expense for homeowners applying for adjustments. If so, reduce fees. Codes are written to maintain quality control and not penalize individuals. Second, to allow homeowners the option for more square footage, and I quote, like in the suburbs. The Portland is not a suburb. Portland has a lifestyle and amenities that suburbs can't emulate. Maintain the unique character and livability of our city. Please vote no or correct the oversights in this policy package. Thank you.

**Robin Plance:** Robin plance. I guess i'm a little concerned mainly at the removal of the setbacks. It's basically for a fire issue, it's a safety issue, and understanding how you have a fire on the building, you want access. If you get down close to 3 feet, that restricts fire equipment. It's known that most detached small structures and garages are the primary storage area for people for combustibile-type materials, automobile equipment, paint, fertilizers, all the firemen's best friends. I think moving that to -- closer to the setback will actually restrict firemen's movements, and if you have two on each side of the property line, I think you'd have a real potential for problem. I think it's a livability issue as far as safety and shouldn't be waived to incur more square footage. I understand the issue, the other side is you move into a setback, it -- the narrow property lines we have in st. Johns, we're going to have a lot of rows of house was a lot of fire potential to jump from building to building. I think that's a real strong concern there. The other thing via concern here is hearing tonight was -- hearing tonight that the idea that we have these standards and we want to make adjustments so -- because we are granting these all the time, it makes me wonder why we have these standards if we're granting them. It sounds -- and speaking out my ear, it strikes me that we're almost ignoring those standards if we're making adjustments. And the other thing is what's the fallacy of accommodating -- adjusting our standards to accommodate people that are violating our standards with illegal construction? I think that we tend to start setting up a bad precedent if we're going to change our laws to accommodate our people. So I think we need to do a little more thinking about why we want those issues addressed. Once again, the safety and fire safety issues are my main concern. I don't want to dupe indicate what other people are presenting. Thank you for allowing me to speak.



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**John Bradley:** I'm John Bradley. I live on Northwest Johnson. I'm chair of planning for the NWDA. I'm here to speak against this, and I would like to start by just pointing out what I consider to be a code inconsistency. Currently in Portland zero lot line developments are allowed. And a zero lot line development is where with homes in a development on a common street frontage are shifted to one side of their lot. Now, to do that, there is a set of very strict development standards to presumably protect what setbacks protect, which is light, air, and privacy. Those additional development standards are that the distance between homes, the minimum distance between all buildings in the development must be equal to twice the required side setback standards of the base zone. A deed restriction must be recorded on the deed of each applicant applicable lot to ensure continued fulfillment of this setback. Eaves. The eaves on the side of the house are reduced -- with reduced setback may project 18 inches over the adjacent property line. In this case, an easement for the eave projection must be recorded on the deed of the lot where the projection occurs.

Maintenance. An easement between the two property owners to allow for maintenance or repair of the house is required when the eaves or side wall of the house are closer than four feet to the adjacent property line. The easement on the adjacent property must be wide enough to allow for four feet between the eaves or side walls on the edge of the easement. Lastly, privacy. If the side wall of the house is on the property line or within three feet of the property line, windows or other openings which are -- openings which allow for individual built into the side yard are not allowed. Windows that do not allow visibility into the side yard, such as -- or translucent windows are allowed. Clearly these items set forth in another part of the code go right to the heart of what a setback is supposed to be. Setback is supposed to keep people apart. It's supposed to make for good neighbors and it's supposed to allow for air, light, and privacy. And I believe that what you have before you today does not allow for those things, and is inconsistent -- is inconsistent with already existing code.

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

**Sten:** On the issue of you've got a garage that doesn't meet the setbacks and you want to convert it to do some child's play room or something like that, to me it makes sense you should have to get an adjustment for that. Do you see a distinction for building -- between building something new and an existing garage that already exists? The existing garage is a code clean up to me, the new structure is a code change. I'm curious if you buy that and if people could speak to that.

**Bradley:** You know, concerning just garages and garage conversions, the discussion on my committee was whether or not you should still continue to allow garages within the setback, let alone what's there now. So our discussion was to make the code more restrictive, not more generous.

**Sten:** If you've got a structure that's there, it's perfectly good, is it your position you shouldn't be able to use it as a garage until it falls down?

**Bradley:** Yes.

**Plance:** Actually, I differ on that. I take the premise of what we see in New England, they're trying to save older garages and actually encourage them to be converted to useful structures. I have no problem with that. My garage, my own property, is built around 1912, 1910, it's a 1906 home, and the garage is not much more -- to get my car in there I have to get me a Model T. Another use I think would be worthwhile, but it would keep the character of the house on the property. So I would support getting use of it, that would be one way to address infill or easable property, and the structures are already down there, if we can keep the character, I accept that. I agree with what you're saying, Erik, as far as clean-up of the code, but I don't support new structures like that. Is one existing, I think safety issues can be addressed that weren't addressed when it was originally built.

**Sten:** Thank you.

**Saltzman:** Thank you.

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**Scott Rosenlund:** Scott rosenlund, cornell road, Portland, forest park neighborhood association. I'm -- we're against the zero setback part of the ordinance. Pretty much because that can be currently taken care of through adjustments or variances as the staff stated, that those adjustments are almost always given. But that gives a further review portion for that type of development. I think that this would create rubber stamp type of infill that I don't think is correct for the city. Thank you.

**Saltzman:** Thank you.

**Amanda Fritz:** Good evening, commissioners, i'm amanda fritz from southwest Portland. We have people testifying from all five segmenting of the city tonight. The purpose of building setbacks in single family zones is stated in the zoning code as maintain light, air, separation for fire protection, and access for firefighters. Reflect the january building scale and placement of houses on the city's neighborhoods. Promote a reasonable physical relationship between residences. Promote options for privacy between residences. Provide adequate flexibility to site a building so it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas and allow for architectural diversity. The planning commission's recommendation doesn't propose amendments to any of these stated purposes for setback. It proposes to ignore them all. It would allow new homes, garages, sheds and other covered structures to be built on the property line in any single family zone with zero side or rear setback. Would it allow a blank wall, 10 foot high, 24 foot wide, to be built on the property line by right with no ability for neighbors to comment or recommend straight. This is wrong on many levels. Zoning code standard should say what we want. We want setbacks. Most don't need an adjustment. The data you've given show only nine setbacks in two years. I don't think this is a significant problem. People like lights and air. We need space for firefighters to access a back yard blaze. We were promised accessory dwelling units would respect setbacks and be compatible with the rest of the neighborhood, avoiding an overcrowded appearance. The proposed regulation will create confrontations between neighbors angry over fire, safety, privacy, and aesthetics. What happens when four adjacent property owners with their backyards backing on to each other all want to build an accessory structure on the property line? Why would it make sense to allow a 10 foot high covered structure on the property line but not a 10 foot high fence or a 10 foot high uncovered structure? Where does the storm water go? If the building wall is allowed on the property line and the eaves may not protect on the property line? Why permit a residence in a rear setback but not a play structure? Why have regulation that's don't implement the stated purpose of setbacks. If the goal is to allow conversions to use by right, why not do just that? Allow conversions for garages built by the adoption of this ordinance with a five-foot setback for living space above the garage. It's not necessary or desirable to allow new buildings in setbacks, including garages. Especially without adequate consideration of all the issues. One of the very sorry things about this entire project is that it ignores the study. It does not take up the advantage of this public involvement to look at the issues of privacy and open space, and whether -- and what exactly should be done with accessory dwelling units. It was billed as part after code maintenance project.

**Corinne Weber:** Good evening. Thank you for letting me testify today. My name is corinne weber from southwest Portland. I'm here to speak about -- extend this discussion to include a discussion of the system development charges, if you'll permit me to do so. The 16 neighborhoods of southwest, the last board meeting, had a discussion about the system development charges related to accessory dwelling units. And the vote cast was 10 in favor of the proposal i'm about to present, and three abstentions. I'm assuming three groups were absent that -- otherwise, we would have had 16 people, 16 neighborhoods represented. At any rate, we are concerned about the system development charges in a very limited narrow area, and that is that area that encompasses those accessory dwelling units that are proposed that would be placed within an existing dwelling, within the living quarters of an existing dwelling. Our thinking is that many of the old houses throughout

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the Portland area do have vacant space that was formally occupied by the growing children of the couple who lived there and is now vacant. And these -- the homeowners are now aging, they want to remain in their home, age in place as the elders in action refer to it, and they would like to be able to do this. But they look about, you know, they have high expenses for medical costs, their prescription drugs, a topic on television almost every night, very expensive, medical costs very expensive. And when they look at the system development charges that is up front before they can even consider what they might do with this empty space in their house as a source of income, they're facing a charge we understand is \$30843. That's a very substantial some for a couple, an elderly couple living on very limited income with huge expenses they hadn't experienced at any other times in their lives. So we would suggest that those situations, that the system development charges be eliminated. We also feel that the system development charges have already been paid when the house was built, even if they weren't called system development charges, they were certainly paid for by homeowners and property owners down the line, and eventually became designated as system development charges, and to impose pose a charge the second time around doesn't seem fair. And of course susan talked about the safety issues, where people might in this circumstance attempt to circumvent the permit process and proceed without a permit and create all kinds of hazards that would not otherwise be present if they went through the permitting process. So we would urge you to reconsider that system development charge proposal.

**Saltzman:** Thank you very much.

**Saltzman:** Does anybody else wish to testify? We've got room for two more. Come on up.

**Bonny McKnight:** Members of the council, my name is bonnie mcknight, I live at 1617 northeast 140th in the city. During all the discussion around regulatory reform, one of the key rationales was to flake sure the various pieces of the code fit. And were carefully assessed in their impact before they were put in place. Adjustment requests are simply not the way to do that. More than a year ago I testified to the planning commission regarding the numerous changes that were being made to facilitate infill and single family neighborhoods. I requested that we not make any more changes until the overall impacts were analyzed to find the cumulative effect on all neighborhoods in the city. Tonight's item is of special importance where I live. We have larger lots and smaller houses in much of the area, which invites accessory units. But the new unit has other effects that don't get measured well in my opinion. If it is a dwelling unit, is it supported by infrastructure like sidewalks, street lights, schools, parks, pedestrian services, adequate transit and traffic management? In my area the answer is no. And that means the new unit, the infill, simply adds to the multiple problems for those of us who continue to live there. My street has change add great deal during the last 10 years of the code as it's been revised. The new houses around me are twice as high as the existing neighborhood. They were sidewalks in front of them that don't connect to anything else on the street. And so perform no real service. There is no new money for my school district to educate a new family living in the new house. The new house does not bring any park with it, nor does it install a traffic light. Neighborhood commercial zones are automatically turned into more housing, so that we still all drive to the store or to the shopping center. It's just that there are more of us doing all of these things. The issue of infill in single family neighborhoods is simply not being addressed comprehensively. It's time to look at infill and measure our progress toward the 2040 density we've promised in this city. It's a good time to rest, add the review of how density should be directed to zones in the city which do have the infrastructure residents need and begin to set up a method to reach our longer term population goals without destroying the livability of the very neighborhoods people come to Portland to find. I ask the council to direct the bureau of planning to develop such an analysis before we intrude further into setbacks or fill up another corner of the lot. I ask you to vote no on yet another small change without finding out where we're heading.

**Saltzman:** Thank you.

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**Paula Cassner:** My name is paula cassner, I live in east columbia neighborhood. The thing that seems obvious to me about eliminating setbacks is that we would lose trees. Greenery. Things that bring so much life and so much quality to the city of Portland. I'm going to read you something that I got from the urban forestry class that I went to, because i'm tree liaison. Some amazing facts about trees. Trees are the longest living and largest life form on earth. Each year the average yard tree cleans 330 pounds of carbon dioxide from the atmosphere. The evaporation from a single large tree can produce the cooling effect of 10 room-size air conditioners operating 20 hours a day. Two trees can provide a person's oxygen need. Trees increase the home property values 7 to 21% depending on the number and sides of trees. The greenery -- the greener the surrounding the fewer crimes occur against people and property. Relationships between neighborhoods are made stronger simply through the presence of vegetation. Levels of aggression against domestic partners decrease when a neighborhood increases its greenery. If you see -- this is the urban forestry asking if you see somebody cutting down a tree, call us, do they have a permit. So i'm asking once again, why would one part of the code cut-off the nose to spite the fate face of the other. Urban forestry is telling us our tree canopy is decreasing, that that affects our heating costs, our water drainage issues. There's all kinds of things that reducing trees does. So if we do these set backs and -- where does our canopy go? Certainly the livability is the issue. I mean, I did a cross-country tour of cities, and chose this one. Lovingly, in 24 hours. This is something very magical and livable about this city. Please vote no on this. Don't allow it to be destroyed. Thank you.

**Saltzman:** Thank you.

**Susan Lindsey:** Susan lindsey, chair of the buckman community association. Via few brief comments, I urge you to vote no against this proposal. In my history with involvement with the neighborhood association when these questions of accessory dwelling units have come up in terms of land use questions, they've been settled amicably in a variance. I don't really see the need to do this, and what I think it does is that it opens the door for all sorts of conflicts, especially around questions of light. In the buckman neighborhood in particular, we have a lot of older large homes surrounded by a lot of great, beautiful trees that paula just spoke about. For example, many of these trees have existed there right on the property line, and so -- in fact, one is in my back yard. I can janine if my neighborhood wanted to put in a dwelling unit right up to the property line, the kind of battle we'd be get nothing over who owns the tree, because it really is rooted in the property line and many beautiful trees right are -- are right on the property line. So I have a concern about that. Also this question of light. This isn't san francisco, and we're aware of how beautiful san francisco is where all the buildings are flush right up against each other, but every time I go down there, and I go down there a lot to visit my brother, i'm always struck by how much I miss the greenery. Not only do they not have the sidewalk strip that we've been able to plant so much beautiful trees in, but they don't have any space between their houses. They have a great deal more light down there. It's sunny, at least it's that bright fog most of the time. But here in Portland where it can get pretty dreary, it's really nice to be able to allow the light to come through and especially in buckman, when you've got a lot of tall houses. I really appreciate some space between myself and my neighbors, especially in a very dense neighborhood such as buckman or many of the buildings have been subdivided. So I just think this is kind of an unnecessary change, and it's put in place as a code maintenance, and I don't think that's really a code place to put it at. It really should be more thought out, quite a bit like how bonnie said, we have to be thinking about where we're going before we make this change, with which may appear minor. Thank you.

**Saltzman:** Thank you. Anybody else wish to testify on this? Come on up.

**Caroline Skinner:** My name is caroline skinner from 2420 northwest continuum buy street in Portland. And I actually came to testify about the next issue, but I also have been made aware of the zero setbacks issues. And I am opposing zero setbacks. I can see giving them on a case by case or as-needed basis, but I just don't think it's suitable for Portland's character. I'm from back east,

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baltimore, trenton, new jersey, there are some really hard core urban areas there, but Portland is just not that urban, and I just don't think that it's a livability improvement or -- I just don't think it's acceptable to have zero setback. And I know speaking for myself and many of the others in northwest Portland, we're pretty upset about some parking garages that have been proposed with zero setbacks, and we feel that it's just an impingement upon the person next door. So I just briefly want to speak in support of the others who are opposing zero setbacks. I don't know where this came from, I don't know what is the rationale, but I don't think it's reasonable to give a blanket zero setback. I think it should be used more judiciously than that. Thank you.

**Saltzman:** Thank you. Susan, do you want to come back up here for a second? I guess i'll ask first, was there anything you wanted to respond to? And then did anybody on the council have questions?

**Hartnett:** I wouldn't mind just commenting briefly on the question commissioner Sten asked about conversion of an existing versus new construction. That's always a good question, could we figure out a way to allow what's there to be converted but stop additional stuff. The down side is I can come in then and ask to build a garage and then it becomes an existing garage, and then I can ask to convert it. And what ends up then happening is we do things like put dates in the zoning code. And then somehow we have to keep track of those dates. And that's a very cumbersome thing for us to do in the permit center. Our sense is there's a bright line you can create between a garage, a functional use within a building, or you can limit it to what it currently says, a garage. Or if you're going to start to say, yes, we'll allow a home office, but we won't allow an accessory dwelling unit, or we'll allow you to convert a -- it's a slippery slope that becomes an administrative nightmare for the permit center. So we did -- we had that conversation, the staff and the planning commission about is there some other place where we can kind of slice and dies these regulations, and we really felt that it was either leave it as it is, just garages, or if you're going to make some changes as the planning commission is recommending, you go ahead and allow all of those activities to occur within that limited size that currently exists in the code, the 24 by 24 structure.

**Sten:** That makes sense. If I then asked you if you prefer to figure out how to allow changes in existing structures or -- if I was going to vote against this package or the thing that's hard to do, which would you prefer?

**Hatnett:** Are you asking my personal opinion?

**Sten:** Yeah.

**Hartnett:** Well, I guess what I would say is, I live in the elliot neighborhood, i've lived in Portland for about 23 years now, I think the size of these structures is such that it does not create huge livability impacts. I'm not personally concerned about the fire limitations. The fire bureau's equipment --

**Sten:** That's not the question -- i'm finding the neighborhoods' argument compelling. I think they have a good argument -- I personally am not as bothered by it as some of the neighborhood leaders are, but I think they have a good argument about speaking for constituents in their neighborhoods, why people want the setbacks. And I think it's a particularly good argument on new construction. I find it fairly hard to support the idea that if you've got an existing garage that you're not using and you want to legalize something, you're probably going to do anyway, that you ought to have to pay for an adjustment. That's what's bugging me on this. But if we can split off those two, I can go for it. But i'm probably going to vote against the package. I'm asking you, do you want -- you said you'd rather make everything legal or --

**Hartnett:** I guess what I would suggest is you might want to ask susan feldman from the bureau of development services to come up. It is the bureau of development services that is put in the position of administering that kind of nuance, which is as I said, a difficult thing to do in the code. I think we could come up with some code language that would address that --

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**Sten:** I understand that some really tricky guy could come in and build a garage then come back and say, but I really want to switch it to a dwelling unit. But I don't -- I think building inspectors would be able to figure out pretty quickly --

**Hartnett:** There would be anything that would prevent them from doing that.

**Sten:** The number of people who are either going to pull a tricky one and somehow come back in shortly after doesn't make sense to me, and ok, if 20 years from now somebody builds a garage today and because of this they want to convert it, I think it's just not going to be a huge number of people who are going to will game the regulation that way, as opposed to the number of people who have a garage that sits on the setback lines and shouldn't have to pay for an adjustment to have a home office.

**Hartnett:** I can't tell you until the -- I can't tell you in the permit center whether the requests for conversions are for garages that were built 90 years ago or nine days ago. I just don't know the frequency of that. So I --

**Sten:** I don't think a lot of people are spending the money to build garages to immediately convert them. But I could be dead wrong.

**Saltzman:** Do you have any information, you'd like to come up here and shed any light --

**Hartnett:** She's probably going to say about the same thing I just said. Commissioner Sten, we can write the code language. That's not an issue. If you want to --

**Sten:** Would you rather do that or keep it how it is?

**Feldman:** Well, we would be inching our way toward I think the intent of what the planning commission wanted to do by saying you could -- if you had an existing garage, but -- I think there's a couple down sides to that. One is documenting that the garage was there, and when it was built, etc., so -- that's a little bit of a hassle sometimes. Because a lot of the houses in Portland, older houses don't have building permits or -- on file. But there's probably a way we could --

**Sten:** Could we require an inspector do go out and see if it exists or it doesn't?

**Feldman:** We could, but it could have been built over the weekend. So there's probably a way we could do it. Or we could say any garage built prior to the date of the effective date of this ordinance, or any accessory building legally built, and then they would have to document through our nonconforming development chapter that it had been there.

**Sten:** The reason I'm leaning against the package is not because I'm actually -- I'm saying to the -- this to the neighborhood too, personally opposed to where the planning commission is going, I find the argument this is -- to be de facto true, that there's this many people worried about this, it's not quite a code maintenance clean-up issue. But you don't know that until you bring something like this forward, but that's how it's feeling to me tonight.

**Hartnett:** I might put forward that an alternative to -- I guess if you're concerned that there hasn't -- that this is beyond code maintenance in terms of policy, you could -- we could bring it back to the planning commission yet again through a different review process. I think -- my sense is there has been ample opportunity, most of the folks who are here tonight did not come to any of the open houses, didn't come to the planning commission, there's been a fair amount of effort in the last week to generate concern, so it's been successful. If you want to give more chance for more review, we can take it back, but I think the planning commission did exactly that. They took a step back, they looked at it -- at it, they asked some questions, they ultimately came to the conclusion that the size of the structure was such that livability impacts were not that significant and that allowing that kind of flexibility was consistent with many of our goals to retain people in the city and give them more opportunities to use space that exists and retain outdoor space in their back yard.

**Saltzman:** Do you have further questions? I guess I know this is going on to second reading. I guess I would be interested in a little more information. I think Amanda Fritz mentioned a study on a.d.u.'s. I don't need this now, but I would be interested, I remember that study, and I'd like to know how these changes either mesh or don't mesh with some of the insights that were gained in that

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study. It's been a while since I read it, or read about it. Then the -- I guess that was the main thing, and I was also interested in this idea of perhaps grandfathering what's already an existing garage.

**Hartnett:** The existing versus new construction?

**Sten:** I'd like to see some analysis or thoughts about that. But otherwise, this will move to second reading. I don't know if we have a date scheduled for that yet?

**Hartnett:** I would assume it would come back next wednesday?

**Moore:** Right. Wednesday afternoon again?

**Hartnett:** Next wednesday?

**Moore:** M-hmm.

**Hartnett:** Yeah.

**Leonard:** I feel compelled to point out the obvious. If you're hearing one person say something here and they need to get their -- there's only three of us here, so we either can do that or we can't.

**Hartnett:** I would be happy to provide the information that commissioner Saltzman is asking for. If there's any additional information that commissioner Sten --

**Leonard:** What commissioner Sten is saying, from what I hear, we either make this distinction or he's voting no.

**Hartnett:** I guess the question is, would you like us to bring an amendment that shows that?

**Sten:** I would like to see some kind of amendment, a concept on how we could allow conversions of existing structures. Before the date, that works just great. Owner has to show a permit before whenever this voted through -- whatever works. I don't want to start a big detailed process on how you prove your structure was there. This one I don't believe is going to be abused a whole lot, but -

**Hartnett:** If you want to see an amendment I think what might be better is for us to bring it back maybe in two weeks. Let me grab my calendar.

**Leonard:** I think some of that can be done administratively. I don't necessarily --

**Sten:** We could --

**Leonard:** The concept being he wants to be able to grandfather in those structures that exist and those that don't.

**Hartnett:** I'm assuming, I could be wrong, but i'm assuming if you're going to consider amendments you'll want to take testimony on the amendment or not?

**Saltzman:** Yes.

**Hartnett:** I want to make sure I have enough time to prepare an amendment, get it out to the public and they have a chance to see it. So two weeks would be the 3rd. Does that work?

**Moore:** There's nothing else on the agenda.

**Hartnett:** Ok. So that's when we'll bring it back. I would get the people's name who signed up tonight if everyone had put their address down, I can mail it to them. They'll have that information.

**Leonard:** We know who they all are.

**Hartnett:** I'm just not sure I have all their addresses.

**Sten:** I think they'll be back. I have one more comment. I actually -- i'm not going to look to address this in two weeks because I don't think it will work, but on the question of the accessory dwelling units, i'm interested, i've taken the mayor's admonitions many times not to fill out the planning bureau's work plan, so i'm not intending to do that. The idea of the more comprehensive look at accessory dwelling units is very high up on my list of things i'd like to see done. I think accessory dwelling units are one of the most sensible ways to try and deal with the fact that family size is much smaller and we don't want tons of huge new structures in the neighborhood. So I would love to see a package come back on that and as part of that i'd like to do some financial analysis on the idea of the s.d.c.'s. I think would it take work, but I think we could make a fairly compelling case that there isn't a huge impact if in fact these neighborhoods were built for an average family size of four or five and there's two or three in those homes. I can see that, but there's

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another side -- i'd like to see a financial study. I also think it's interesting, we do not all the bureaus, but a number of the bureaus do waive s.d.c.'s on affordable housing, and it's interesting it may not work on these. So I think there's some inconsistent policy in the city as well because if these are affordable they should get the same s.d.c. Waivers that affordable housing gets, and it may be it's just the definition issue. Would I love to see that bigger issue, and I think to some extent from my point of view, i'm open to arguments, if the council does put off the code maintenance change on the new structures, I think that might be a push back to the neighborhoods to say, ok, let's think through what are the ways we can make accessory dwelling units better in return for not doing it the way you don't want to do it.

**Saltzman:** Let's move on to the next item.

**Items 1226 and 1227.**

**Saltzman:** This is a continuation of our august 18 meeting. Frank, we need you to describe how this hearing will be conducted.

**Frank Hudson, Deputy City Attorney:** This is a continuation hearing. I think a lot of folks were here the last time. It's been a while. So I just wanted to make a few remarks about how we're going to proceed today. I think I can dispose with reading the usual mumbo jumbo, the legal mumbo jumbo we read before land use hearings, but the same rules pretty much apply, and i'll just refresh your recollection about the order of testimony. We'll start with a staff report from sylvia, follows that the persons who originally appealed will have some time to speak. After that, individuals who support the appeal will have an opportunity to testify. They'll have three minutes each. Next the applicant will have 15 minutes and the applicant will be followed by individuals who want to testify in support of the applicant's proposal, and finally, the individual or individuals who originally appealed will have an opportunity if they'd like to rebut any testimony. Thank you.

**Jack Hoffman:** Jack hoffman for the applicant. I think the order is the staff goes first, the applicant goes second for 10 minutes, according to sylvia's memo, and then supporters of the applicant for three minutes each and then the appellants. So I think it's applicants first, appellants second.

**Sylvia Cate, Bureau of Planning:** This is -- that's consistent with the public notice that went out and a memo I sent to matt. There's no appeal. This is a comp plan map amendment with the hearing before city council as the decision-maker. It was continued because there was some opposition, but the only appeal process is once you make a final decision is to luba. So there are opponents, not appellants.

**Saltzman:** Thank you. Any council members, conflict of interests?

**Moore:** We might need to wait until commissioner leonard returns for a quorum.

**Saltzman:** Any council members wish to have -- do any have any ex parte contacts to disclose or any contacts outside of this hearing to disclose? Do any council members have any questions that need to be addressed before we begin? Ok. Sylvia, take it away?

**Cate:** Good evening. I'm sylvia, the assigned plan I for this review, and i'm here to present a staff analysis for a revised proposal for the killingsworth quarry. You will recall that the council heard the original request to change the comprehensive map and zoning on this property on may 13, 2004. At that hearing, a number of neighbors testified to council expressing a number of concerns about the proposal. After listening to the public testimony, the city council requested that the applicant work with the neighbors, the cully neighborhood association, and the parks bureau, to refine the request and address the concerns raised by the neighbors. While some concerns were raised about the uses and development that might occur on a proposed e.g.-2 area, and their potential impacts on a neighborhood and the environment, the majority of the issues raised were related to the increase in residential density proposed for the westerly third of the site. This residential upzone was proposed in order to meet the city's no net loss in housing potential when rezoning residential land to an employment zone. The applicant's original proposal met the code requirements, but the neighbors



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felt that the proposed zoning pattern was not consistent or compatible with the surrounding residential area. Since May 13, the applicant has met numerous times with city staff, the parks bureau, and the neighbors. Based on the information and dialogue at these meetings, the applicant has revised the original proposal and now requests approval of this revised proposal. The easterly two-thirds of the site would be rezoned to mixed employment designation, which is implemented through the e.g.-2 zone, the westerly portion of the site would be rezoned to single dwelling, residential 5,000, the airport landing overlay would remain as is, and the applicant proposes to donate 3.38 acres of the r5 zone land to the parks bureau to expand existing Sacagawea Park. The revised proposal has eliminated the r2.5 zone and the two proposed zones, eg2 and r5 would be configured as proposed in this zoning map. This map shows a more detailed configuration of the overall zoning pattern proposed, and depicts the land area that is proposed to be donated to the parks bureau immediately north of existing Sacagawea Park. The proposed zoning configuration is based on this conceptual layout. First, a public street extending south through northeast Killingsworth would be built to provide access to the e.g.-2 land area. No other access into the eg2 land area is proposed and the zoning code prohibits access into this area from northeast Alberta Street. A buffer is required by the code along the southern edge of the eg 2s2 area and the applicant is proposing to extend this buffer along the west boundary to provide greater separation between residential development and a proposed eg2 area. 3.38 acres immediately abutting Sacagawea Park to the north would be donated so that the park would expand to almost five acres in size. An existing ball field associated with the Sacagawea elementary head start school would provide additional open space. The remainder of the site area is proposed to be r5 with residential lots arranged in the approximate pattern shown here. These lots will require future type 3 major land division approval as well as a cully plan district development review approval. The eg2 zone allows commercial and industrial uses by right, institutional uses such as parks, schools, medical centers, day care, and religious institutions are also allowed by right. Retail sales and office uses are limited and floor area, but are allowed if certain standards are met. Residential household living is allowed in the eg2 zone as a conditional use. However, if the proposed e.g2 zone is approved because the site lies within the north cully plan district, absolutely no development or uses can occur without prior approval via a future type 3 north cully development plan review. This means that all uses and development that are allowed by right elsewhere in this city requires additional review and approval before permits can be issued for this site. The approval criteria for development on this site includes a prohibition of vehicular access into the site from northeast Alberta to ensure that local service streets serving the residential area directly south do not have heavy traffic. In addition, a buffer is required along the southern edge. The specific landscaping elements of the required buffer will be determined during the future north cully development review. It is also important to note there are specific additional approval criteria in the north cully plan district for this site that will be applicable in order to ensure compatible redevelopment of certain large parcels as set forth in the cully neighborhood plan. The revised proposal results in a net loss in housing unit potential for this site. The following slides explain how this will occur under the new proposal. The site consists of two large parcels that are currently zoned r7 and are part of a larger former gravel quarry, the balance of which is zoned eg2. The revised proposal results in a net loss of 46 potential housing units for the portion of the site to be rezoned e.g2. Rezoning the west third of the site from r7 to r5 would result from a net gain for that portion of the site of 21 units. The total result would be a net loss of 25 housing units for the entire site if this proposal is approved. The applicant's original proposal met the no net loss in housing unit requirement by proposing a combination of r2.5 and r5 zoning. However, the new configuration of zoning proposed combined with the donation of 3.38 acres to the parks bureau results in this net loss of 25 potential units. The zoning code allows the city council to use units from the housing pool when two criteria are met. The requirements of which I'll paraphrase here. First, the applicant

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must lack the resources or expertise or cannot reasonably obtain the resources or expertise to mitigate for the lost housing through other means. Staff analysis concludes that with a significant donation of land area, the 3.38 acres to the city, the applicant no longer possesses the land area resources to meet the housing unit goals unless the remaining site area is upzoned to r3 or r2.5, which is not consistent with the neighbors' vision for this area. Thus staff believes the applicant can be found to be eligible to use the housing pool by the city council. The second criteria includes the project for which the housing pool units are used will provide valuable services to the surrounding community will draw trade and economic activity into the community, will retain or create employment opportunities for city residents, and contribute new investment to the area. The revised proposal can be found to meet this criteria. This map illustrates the existing zoning pattern in the immediately surrounding area which includes general employment 2, general industrial 2, multifamily r2, the small open space of sacagawea park, and the r7 residential zone. The final animation on this slide shows how the revised proposed zoning will fit within the existing zoning pattern. As I mentioned, all future development on this site is tightly regulated, like the eg2 portion to the east, no development can occur on the residential portion of the site until a future land use review for major subdivision is approved by the city in addition to approval of the type 3 north cully development review. Parks and open areas are allowed by right in the r5 zone and would be allowed outright on a donated land. However, certain types of park facilities and accessory uses such as parking lots, concession stands, swimming pools, and playing fielding for organized sporting events require a type 3 conditional use review. In addition, future development on a donated parkland will require, again, a type 3 north cully development review approval prior to the issuance of any building permits. This aerial photo shows the entire former killingsworth quarry and a portion of the quarry that is subject to this land use review, and a revised zoning request. This area will foe -- aerial photo shows the site in the former quarry in context with the major neighborhoods' streets, sacagawea park, and a development pattern of residential uses to the south and west and light industrial uses to the north and east. The site is part of a special focus area identified in the adopted cully neighborhood plan. The policies of that neighborhood plan were codified in the zoning code which requires the type 3 north cully development review approval for uses and development on this site. The neighborhood plan also includes a vision statement encouraging the expansion of sacagawea park because the neighborhood overall is park deficient. I'll now show just five brief highlights of a virtual tour of the site i've excerpted from the original presentation. It will show the revised layout in context with the existing conditions. The site is currently vacant and undeveloped. This is a view looking to the west at the corner of the site at northeast 74th and roselawn street with residential development seen in the background. This is a view looking north near the intersection of 74th and roselawn, where we see residential development to the north of the proposed r5 zone. This is a view from the south side of the site looking north with the portion of the existing ball field and sacagawea park in the foreground. The proposed donation for additional parkland would be immediately adjacent to this area. This open space provides views across the site to the north as well as views of mount st. Helens on the horizon. [laughter] this section of northeast alberta street is not improved to city standards. The south property line of the site is to the right in the photo, residential development is to the left. The area the site proposed to be rezoned to eg2 is to the right and approximately 20 to 30 feet below the grade of alberta street. This view is looking north across the undeveloped area of the site. We can see industrial uses and development in the background. All of these businesses have frontage on northeast killingsworth. A preliminary analysis by staff concludes that the revised proposal would still meet the applicable approval criteria. However, if city council approves a revised proposal, the original findings will need to be amended and brought back to council together with an ordinance for adoption at a future council meeting, which in case this is approved, I have tentatively scheduled for november 18. The Portland transportation and Oregon department of transportation

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recommended conditions of approval to address frontage improvements and traffic impact mitigation measures as discussed in detail in the hearings officer's original report. Although the proposed zoning has been revised, these conditions remain applicable in order to address required frontage improvements, mitigation measures, and to ensure that prior to development, formal permission is received from odot to connect to their existing storm water facility to ensure that storm water management on this site complies with the city's storm water regulations. That concludes staff's presentation. I'd like to make a footnote that bob haley with Portland transportation is with me this evening, if you have any questions related to traffic.

**Saltzman:** Ok. Any questions for sylvia we will hear from the applicant for 10 minutes. The time remaining to you is shown in the corner of your screen there, and if you could give us your names for the record.

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

**Steven Yett:** Members of the council, my name is steven yett, I am the person who is representing the applicant here, waybo partners. Last time we were before council we were directed by mayor Katz to reconsider our plan, work with the neighbors, and come up with something that was more acceptable to them on certain areas of our plan, and we have done that, we've met with a group of neighbors every month and several times a month, and culminated that with an acceptance, general meeting of the association of neighbors of this present plan that we are presenting here tonight. I think it's something that addresses the issues of the neighbors, it -- the 2.5 housing was very offensive and is totally gone. The addition of park space to sacagawea is something that's been at the forefront of cully's desires not only plan, but their -- the goals and it's been in every plan since that time to extend, increase our park area. This does that. Neighbors were also concerned about traffic, and working from a pdot directive that we have east, west flow from 72nd to 82nd and combining that with the neighbors' request that traffic not be allowed to flow at a high rate of speed. We think that the plan baffles the traffic to some extent, and our plan also offloads quite a bit of traffic generated by residents even from the present zoning. I personally think this is a good plan. Better for the neighborhoods than the last one by far. And hopefully why this will be something that if adopted and accepted, will benefit both parties here tonight.

**Saltzman:** Anybody else want to say anything?

**Don Hansen:** Don hansen, planner with otak, we're planners and engineers for the project. The last time we were before you we were really given three directives that we advanced with. The first was enlarge sacagawea park. Mr. Yett is stepping up and donating 3.38 acres. And we have a letter of support from parks on the record. We worked closely with them. Not just on the size of the addition of the park, but on its configuration and the idea of wrapping housing around it. So it has enhanced security from the neighborhood. We're really happy with how it's positioned, and how it's configured in conjunction with the school property that's adjacent. The second directive was proposed residential zoning that's compatible with the surrounding residences, and I think commissioner Sten commented on this. Single family homes are what fit out there. And so we've proposed r5 zoning and we think it will fit quite well and be a nice linkage. We connect the neighborhood all the way around the park, and we're delighted with that. The third directive was commissioner leonard was focused on the proximity of eg2 to residential. Focus on the buffer along alberta and how that's done. And we have, and the buffer really has three components going for it that I think are going to be effective. First of all, all truck and business traffic is routed to killingsworth away from the neighborhood, so there's no truck traffic impacts on the residential area. The second thing is that we have a grade separation, the e.g2 land is about 20 to 25 feet below the neighborhood land, so it's easily screened. The next thing is that there's a 50-foot vegetative buffer that we're proposing along the northern edge of alberta after we make the road improvement, which we think will be very effective also. That will include a decorative metal fence to close off access also. A few comments on our work with the neighborhood. We've had a real constructive

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summer with them, or fall, I would say. We've attended two general meetings of the entire neighborhood association at cully. In the first one we really debriefed on what we heard at our last visit with you and talked about direction for the project and what we should do. And Kathy, who you'll probably hear from first, the chair of the neighborhood group, set up a subgroup that we could work with and talk about how we should bring it back. We met with them quite a few times. We attended a second overall neighborhood meeting last week and presented this proposal to them, and they voted on it, and 28-8 in favor of what we're proposing. In terms of next steps, as Sylvia mentioned, we need to go a type -- through a type 3 process. How it's developed in detail and so we'll continue to engage in the neighborhood in that process as we go through details. Those are the comments I wanted to make. We're really happy with what we're proposing, and we think it's appropriate for the site given a lot of different forces. Thank you.

**Jack Hoffman:** Jack Hoffman, I represent the Waybo partners in this application. I think what's significant is that this is a comp plan amendment and zone map amendment and the modification still complies with the hearings officer's recommendation made back in April. So not only did the original application comply with it, this does too. I think the key things are you get family housing, you get family jobs, and you basically get a neighborhood park for free, and I think free is a very good price for a local government. The -- this has not been appraised yet in terms of what is the value that is being given to the city by this man, but it's probably close to a half million dollars, and that's probably fairly unusual, even in a city the size of Portland. In terms of family jobs, we all know that there is -- unemployment rate in Oregon stays high, the metro urban growth report 2002-2022 forecast found a shortage of 57 sites for sites of this size, 10 to 25 acres. This request, this application respond to that shortage. It also respond to the deficit that -- and the issues and the outreach by P.D.C., L.C.D.C. and the governor's office looking -- looking for shovel-ready land. The neighbors will continue to be involved as Sylvia mentioned, both with the type 3 public hearing process, both for the improvement, and for the cully neighborhood. It's clearly a good business decision for the district and for the 70, and it's also a good neighborhood decision, because the neighbors -- it's a win-win situation for both the neighborhood and the city. Thank you.

**Saltzman:** So we will now hear from supporters of the applicant.

**Saltzman:** You'll have three minutes, if you could state your name and give us your testimony.

**Caroline Skinner:** Caroline Skinner, 2420 Northwest Quimby. Thank you for this opportunity to testify. In 1995, I bought a small house on 78th Avenue about a block south of Alberta. I never expected the quarry near my house would remain vacant forever. My highest preference for this land nearby is to remain zoned for residential use. However, I am also one of the people who voted with the majority to support option two at the recent cully association of neighbors meeting. While I own a property in northeast, I live in northwest and it's important to me to comment on my experience living very near an industrial area. I live with the negative effects of noise and air pollution from an industrial zone close to my dense residential neighborhood. I understand that while I live near heavy industry in northwest Portland, the applicant is seeking E. Eg2. I know these things are not the same, but I believe there's a potential for many of the same problems to occur from both uses when sited close to homes. I believe CC & R's are not generally granted during rezoning proposals, but are considered later in the process when specific plans are presented and discussed. Nevertheless, I want to comment on potential conflicts between Eg2 and adjacent R5 uses. Loud noise such as clanging noise, smoke, would be most unwelcome. While I'm not entirely opposed, I hope city council takes a protective approach to the quality of life for the people who live near the site as specific new uses come forth. Here's what I like about the option two proposal. I think the developer did listen to city council's request to go back, look at a park expansion and work with neighbors to fine tune the proposal. I like the access to Eg2 limit to entry from Killingsworth with no access from Alberta. Second I like the concept of using a berm plus plantings and a fence for buffering the residents south of the Eg2 area. I hope the project sticks with the

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buffering as proposed and does not later reduce it. I'm happy about the opportunity to expand our little sacagawea park by three plus acres. It is primarily for this reason that I am willing to agree to the somewhat unwanted eg2. I like the way they line the park on the east and north sides. I also like the proposed street configuration. It would have been a huge mistake to run alberta through the park because it would have bisected an already too small space. Cully is underserved by parks. It needs sacagawea park to be the best possible open space to serve the neighborhood as density increases. The project has been the subject of more review since first proposed with the park expansion. It has been fine tuned to address the concerns of neighbors as best it can while retaining the property owners' plan for eg 2. I support the option 2.

**Saltzman:** Thank you.

**Mary Ann O'Leary:** I'm mary ann o'leary, I live at 5276 northeast 73rd. I'm right down the road around the corner from the project. I have to apologize, I thought the meeting was tomorrow night, and so my notes are at home. I'm on the cully association board, and my feeling on the project I think it's a good mix, and use of the land. I think overall it's very positive for the neighborhood with the new housing, the park, the jobs, and how they have the road coming in just from killingsworth limiting the impact on the neighbors, on the due south alberta. Concerns that were voiced at the meeting last tuesday were for noise at night from the commercial area, and through traffic. Right now there is no through traffic from prescott to killingsworth except on 72nd and we live on 73rd, and we have a lot of people that scoot around to bypass the signal on 72nd and killingsworth. And there was a lot of concern from people who live on 76th avenue because that would be a thoroughfare so to speak from people coming from prescott trying to get to killingsworth a little bit faster. And so traffic calming issues were discussed. And there is a problem with water on northeast 76th. They're working on the road right now and a gentleman voiced concern about traffic issues and his yard flooding more, but back to the project, I think by having the roads paved and cleaned up, i'm -- on roselawn right by my house we have a huge dumping issue. We've had an abandoned mobile home trailer just dumped in the middle of the road with sewage issues and everything else. So the more that we can help to clean up the neighborhood, it's going to benefit everybody. And in summary, just by having the park situated as it is with the houses wrapped around it, it's going to bring new blood to the neighborhood, positive development, and I think it is a good thing. And I support it. Thank you.

**Saltzman:** Thank you. Anybody else wish to testify in support of the applicant? Come on up.

**Gordon Hunter:** I'm gordon hunter. I live at 6928 northeast alberta street. From 1939 to 1998 I lived on the cornnp/1f northeast 74th and roselawn. My late mother, she died last year, was concerned about the pit since 1941. I am probably the one person who's most responsible that this pit is filled. I'm the one who is responsible, I was the first chair of the neighborhood association, I was concerned about this issue, and I have been working on this issue since 1982. This is a wonderful plan. This is far beyond any dreams that my late mother and I ever had. We went to the county in -- over asphalt in 982, so i've been working on this issue. This is a very good plan. I never dreamed when I testified to city council, when we came into the city I never dreamed I would see a plan as good as this. I really expected to see this whole area be rezoned as commercial. And I was the one who asked city council not to change the zoning. I was the one who put this into the cully neighborhood plan. I was the one who had the idea for the cully neighborhood plan. I was chair until 1991. I cannot tell you how pleased I am, and I only regret that my mother, who worked on this from 1941, and she was still concerned about it when she died last year, and I know some of you know her. She would be so pleased to be here tonight, and to see a plan that solves more than I thought was possible. I really didn't think this was possible. So I want to thank both the neighbors and I want to thank steve yet and his colleagues and I hope that you can vote for it, because I am -- to me this is -- I haven't been working on this for about eight or nine years, I don't do this, but this is

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the one thing i'm still having a concern with, because I live six blocks from here. So I hope you can vote for it, and I wish that my mother could be here to see this happen.

**Saltzman:** Ok. Thank you very much. Now we have the principal opponent. You have 15 minutes. If you need it. If you could give us your name for the record, and your time available is on the video screen.

**Kathy Fuerstenau:** My name is kathy fuerstenau. I live on northeast 73rd. After leaving the initial may 13 city council hearing regarding rezoning application of the killingsworth quarry, I was both excited and optimistic in the possibilities of having a large park in the cully area. The neighborhood greatly appreciated the opportunity to work towards this goal and we thank you. Since then, the killingsworth quarry committee was formed. The committee consists of myself, wanda, cindy, and sean. Each of us lives in a different proximity to the quarry and as a result, have dissimilar opinions about this new proposal, as do many cully neighbors. Some definitely wanted more park, others would rather see the site remain all housing, and of course most would prefer not to have any eg2 of such magnitude right next door to them. We have met with don hansen and mr. Steve yett, applicant, representative for waybo partners, several times in the past five months. Initially the plan was to have all six acres of the western portion of the site become park. When mr. Yett announced waybo partners would be donating three acres for park, the committee was very encouraged and appreciative of the generous donation. We thought surely the parks bureau would be able to purchase the remaining three acres and then we could have a decent size park in exchange for the eg2 rezoning. As the months pass and there was no movement in this direction, our hopes began to dim. I couldn't believe the city would not do everything to get six acres of land for the price of three. It seemed short sighted not to do so. I understand that mine is tight, but this was not -- this was a great opportunity that should have been seized. When it became apparent that parks felt they on on could not afford the remaining three acres, Otak decided to submit the option 2 plan before you. This configuration was not something the k.g.c. was aware of until after it was submitted for approval. Granted it addressed some of the concerns we had been discussing but we were stunned to see we no longer were looking at the possibility of having a six-acre park site. Could the city really not make the original plan happen? Realizing option 2 appeared to be the preferred plan because it adds housing and relieves some of the city's burden for future street development, the committee had to focus on new details. If you look carefully at exhibit a, you can see that a southwest area designated as park is actually part of the sacagawea head start school baseball field. Unless the parks bureau can either purchase the surplus property from the school district or get a lease agreement with schools, then it would not be connected to the park. Two weeks ago riley whitcomb acquisition manager for the Portland parks bureau informed me that a conversation with the school district had not been initiated. So the diagram depicting a large park area is very deceiving. According to the parks bureau, the park will most likely take five to 10 years to be realized, therefore, an open space zoning is preferable instead of the r5 zoning that is designated. With an r5 designation the parks bureau might have to sell the property for housing at a future date and the neighborhood would have loss of recreational area. And thus not be compensated for their support of the site. Since the housing pool has 1,000 units available to accommodate the no net loss policy, why couldn't a few more units be procured so the park area will be able to have the correct o.s. designation? Using r5 designation instead of o.s. leaves the door open for housing serb essentially to satisfy an accounting issue. When land is donated for park property it should be noted as open space. The cully neighborhood would ask that certain agreed upon conditions between the applicant and the committee be met and incorporate it into the application. The buffer and the alberta street improvement, see exhibit b, as illustrate and proposed by mr. Hanson of otac, seemed satisfactory. Having alberta improved and not become a through street is crucial. In addition, having all of roselawn, 74th and 75th avenues improved are at -- or at least paved is necessary. The adjacent neighbors should not be held responsible for the cost of

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street improvements that pertain to new housing, park or eg2 developments. Finally, last, but not least, conditions of the eg2 area. The Killingsworth Quarry Committee would like to submit the following code covenant and restrictions, see exhibit c to the application. Mr. Yett and Mr. Hanson have indicated to the committee that this list is not unreasonable and are comfortable with them. We understand that since we are here for rezoning applications, these conditions need not be addressed presently because of the type 3 process that the North Cully plan requires. Even with this process, the neighborhood feels the cc & r's need to be applied at this time. Having nine acres of eg2 is not desirable. Requiring these restrictions would make the situation tolerable. Neighbors could feel reassured if any development who could not work with these parameters would not consider purchasing or building on this property. But the -- at the October 12, 2004, Cully Association of Neighbors meeting, Mr. Han Southern presented the current proposal to the neighbors and after much discussion, a motion was made to support the proposal. With the above conditions taken into consideration. The vote was 28 in favor, eight opposed and one abstention. The motion to support this proposal was passed. Back in May the City Council requested that the neighbors and the applicant work together to come up with a mutually agreeable plan. If you include the consideration that have been discussed, we have done that. The Killingsworth Quarry Committee respectfully requests that the City Council take the initiative and attach the previously mentioned conditions regarding buffering, street improvements, o.s. and cc & r's as part of this application. Thank you very much.

**Saltzman:** Thank you.

**Shams Cohen:** I'm part of the Killingsworth Quarry Committee. I just wanted to highlight some of the points that Kathy made that we were really disappointed to see a smaller park area, although we're very pleased to have a park expansion. And the o.s. Zone, basically we feel we're trading the park for the eg2, so anything that looks like the park is at risk is something that makes us cautious about supporting the eg2. I don't think of us as opponents to the proposal as much as just revisers of the proposal. So we'd really like to see that space that's donated for park to be designated o.d.s. Is at all possible, and if not, that there's a legally binding conditional use written on to that so it has to be park. In exchange for our supporting the eg2. Again, we do have this list of codes, covenants and restrictions that the applicant has suggested. They're just saying this can come later with the type 3 process. But again, it's one of the reasons the neighbors have agreed to support the eh e.g2, some of the use that's allowed under eg2 are not ok with the neighbors, so we'd love to see that included in the process, rather than waiting until later. It wasn't clear to me tonight whether Don included exhibit b in his proposal as well, which is the sketch he presented to us of the buffering when he spoke about it a little while ago. He wasn't as detailed. So I just want to be clear also that this proposal for the buffering has been presented to the neighbors repeatedly, and that's what we're expecting the buffering to look like based on conversation was Don and Steve. If it was something less than that, it wouldn't meet why we're choosing to support eg2 in the rest of the area. I wanted to touch again on the traffic considerations. I know that will be part of type 3 and there's not a lot to do with that now in the rezoning process, but we do have a lot of concerns about making sure Alberta stays slow even though it's paved, doing whatever we can to keep that new through is that right of 65th slow, maybe be a three-way stop near the park or something like that. And that neighbors especially in the Roselawn area would like to see improvement and pavement going on over there so that they don't have some of the problems that they still have now. That's all I have. Thanks.

**Saltzman:** We'll hear from supporters of the opponent.

**\*\*\*\*\*:** Basically I wanted to have more than three minutes, since I was the opponent last time.

**Moore:** That was all.

**Saltzman:** Ok. Rebuttal by the applicant? Five minutes.

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**Don Hanson:** Don hanson again. Three acre -- 3.3 acre park combined with sacagawea 1 1/2 acres is almost five acres. The neighborhood park standard is essentially four to six acres in size. We think it's appropriately sized. Kathy's talked about a six-acre park that would have encompassed the entire western portion of the site. We talked with parks a lot about that. And there was not adequate funding to pursue that.ref>o we went to the 3.38 acre option which they think is very suitable and in scale with the neighborhood. In terms of zoning the proposed park site open to space versus condition of approval that is open space, I think really as long -- we didn't propose the zoning because we didn't want to dip into the housing pool that much. The park is allowed outright in the r5 zone, that's what we proposed. With the condition of approval at council that it be a park in the future. So parks wouldn't have the ability to go back and do something else with it unless they came to council and came through a public process. We have reviewed the list that -- kathy has put a lot of work into this. To her credit. We've reviewed the list of -- really they're not cc & r's, they're more focus order the uses. The list that kathy's presented of acceptable use and not acceptable, we've reviewed with steve and are generally in agreement with all of these. We don't have a problem with what they're proposing. But we do want to go through it in detail and I think type 3 is the place to do that. One last thing, the buffering. I didn't talk about the cross-section when I initially presented, but this is the cross-section that dave attached that I talked to the neighborhood in detail about. That's what we propose doing along alberta. Those are the items I wanted to comment on.

**Jack Hoffman:** I just want to comment on a couple things. One is the street improvements. Those can be taken care of at the development stage when the development comes before the hearings officer on the type 3, whatever street improvements are appropriately charged to the development will be appropriately charged by the staff. With respect to the o.s. zone, that is the reason we chose that, did not choose that is because of the housing pool issue. And we would agree with the condition of approval that this be parks, that's our intent, that's what steve's intent is, and that would be the time when he would apply for the s.d.c. Credits, when they have the development at that time. So, again, it's his intent hopefully the city council's intent that this will be a park and not sold by the park bureau for housing.

**Steven Yett:** And I will make a final comment. In this whole process i've learned two hats, because i've been very involved with the neighborhood association through the years. I'm also very involved with the development group. This is a balance. It may not be ideal in all areas, I agree with kathy, it might be nice to have a larger part, but in striking a balance, we really had to go with what not only the neighborhood felt was within their comfort zone, but also the city of Portland. And between pdot and parks, they really chose the design that we submitted, and if there's anything that's different to be made of it, it's pretty much up to the city if they want to do additional work.  
\*\*\*\*\*: I want --

**Leonard:** I want to nail down a couple things. I'm a also unclear with respect to the request by the neighborhoods to designate the open space that's owned by the school versus r5. She said -- you said that would take away from the housing stock?

**Hanson:** I could address this. The only portion of the park that takes away from the housing stock is the 3.38 acres that we're dedicating. So the northern part of that open space. The school site is already zoned r5.

**Leonard:** My question is, why is that a problem for it's to designate that open space?

**Hanson:** The school property? I don't think it would be a problem.

**Leonard:** You don't --

**Hanson:** I don't own the land, so -- I feel a little awkward suggesting --

**Leonard:** That's why I asked, because I was confused.

**Saltzman:** You mean the donated land.



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**Leonard:** As I understand what the neighborhood is proposing, they're proposing because the parks bureau doesn't have the money to buy the land from the school district, so as to ensure the it remains open space, that zoning be changed from r5 to open space. Is that correct?

**Fuerstenau:** They wanted to donate -- [inaudible, from back of room]

**Leonard:** So do you object to the donated property being o.s.?

**Hanson:** The donated property being zoned o.s.? I don't think we're opposed to it as long as the city is ok from a no net loss housing policy perspective.

**Sten:** Right. I think that's fine if we can technically get through that hurdle. I talked about the no net housing loss last time, and I actually think it's a policy that needs to be revisited because it's very, very old.

**Saltzman:** It is old.

**Sten:** I don't think -- I don't see any substantive harm to anybody by it being changed to o.s., we just have to make sure we take the appropriate action to get it so you don't have any bad consequences from that.

**Hanson:** As long as it doesn't obstruct our process, we don't have resistance to that.

**Sten:** I think it's kind of a belt and suspenders, because the parks bureau is not going to sell it --

**Hanson:** Especially if there's a condition of approval from this council that it be a park.

**Leonard:** And then my question with respect to exhibit b, proposed from the neighborhood that you said you would prefer to wait until your type three hearing, they're suggesting alberta, roselawn, 74th and 75th be paved, and that you as the developers, pay for that. Do you have a problem with that?

**Hanson:** We're proposing right now paving alberta across the frontage of our project. We're proposing paving roselawn across the frontage of our project also, commissioner leonard. I think they're referring to a portion of roselawn that's between the edge of our property extending wiste. We'd really have to talk with p dos dot about that and see what they intent for that also. But right now basically what we've proposed is what typical pdot standards would be for constructing neighborhood streets.

**Leonard:** How about 74th and 75th?

**Hanson:** We were proposing paving that.

**Leonard:** 74th and 75th, not between.

**Hanson:** 74th and 75th are paved.

**Leonard:** It says here improved or at least paved.

**\*\*\*\*\*:** They are paved. Currently.

**Fuerstenau:** No, they're not. Not between alberta and roselawn. We.

**Hanson:** We do propose paving 75th between roselawn and alberta, commissioner leonard. That extension through. We propose paving 75th, the portion of it that comes up to the northwest corner of the park site. We're not sure what parks wants to do in terms of extending that street down and over to 73rd. We're waiting until they come up with a detailed design for the park.

**Leonard:** How about 74th?

**Hanson:** That's the one I just reference referenced.

**Gordon Hunter:** 74th is not the city standards. That was paved by the city during the sewer project, but it is not the city standards. So the city will not keep up the street.

**Leonard:** Then my last question to you is with respect to attachment c. As I understand it, if we can characterize it correctly, you're not thinking that these would be appropriately cc & r's, but you would agree to the conditions of what is not acceptable activity and that they have delineated here, and what is acceptable economic activity?

**Hanson:** Yeah. I will comment on one that's listed as not acceptable. It's no noisy operations, no polluting generating businesses. That's a very general term. Now, in the eg2 zone, both of these items are strictly -- they're rules that restrict the amount of noise that can emanate from your site as

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well as pollution from your site. So I would say we would come fly with the standards in the eg2 zone regarding polluting generating businesses in and noisy operations. Because essentially if you went with this general statement, you couldn't build anything. But in general, we agree.

**Leonard:** As you'll recall last time, I was concerned about uses on that site as they impacted the neighborhood. So in my support of this it will be conditioned upon those three questions I just asked you becoming part of what it is we approve in a workable for mat. I don't want to include something that is not workable, but I do want to given that the neighborhood has moved from their prior position to make sure that the open space is designated just that, open space, not r5. I do think it's reasonable to have the streets improved that they've identified here, and I would like to incorporate a version of their attachment c.

**Hanson:** I think all three of those are fair points, commissioner leonard. And they're ones that we would certainly address in more detail during type 3. And I actually encourage --

**Leonard:** I want to include those now as part of this approval conditioned.

**Saltzman:** Ok. Any further questions? I think we're -- I would like to bring up sylvia and -- I don't know if parks wanted to add anything.

**Hanson:** Thank you.

**Saltzman:** I guess i'll start out by saying I guess i'm a little concerned about exhibit c. It seems like -- this is probably more appropriately directed to our attorney, I don't think we have the constitutional authority to prohibit certain types of uses as outlined in this exhibit c, such as strip clubs, halfway house and things like that, even dry cleaners.

**Cate:** I have not seen that exhibit, so it's a little difficult to --

**Sten:** I guess -- I guess my sense is probably directed towards commissioner leonard, i'm in agreement. I want to compliment the applicant. This is a very, very good piece of work in items of how far you brought. This as we're getting into I think fine tuning how we approve this, you've done a terrific job, and it's a civic approach you've taken and I appreciate it. I think it's pretty tough to put those kind of requirements into a zone change. So I think somehow memorializing those are going to be there, you can't can put covenants and restriction, but I don't know about a zone change.

**Leonard:** Those uses aren't appropriate now? The vehicle repair, auto body, dry cleaners, strip club?

**Saltzman:** Not under the present zoning, but under an eg2 they would be.

**Leonard:** We have the discretion as to whether or not to approve a change to eg2?

**Saltzman:** We can approve a zone change. I don't think we can prohibit specific uses --

**\*\*\*\*\*:** If I could --

**Leonard:** We cannot support the zone change and that will come accomplishing the same thing. So I would be very interested in somebody figuring a way out -- a way to accomplish not having these kinds of activities.

**Cate:** If I could address that, let me walk you through a what-if. If I approve the proposal or some modification of this revised proposal, nothing can be developed or put on the eg2 portion of the site without a north cully development review that has criteria. Now, I could -- we could stay here all night and I could read all those criteria to you, but I frankly do not see how in a type 3 process some of these uses are -- or many of these uses could come close to meeting those approval criteria. So I think what i'm trying to get at is, you could approve the zone change and have some surety through that additional required review if some objectionable use was proposed it very likely would nhttpet those approval criteria even if the hearings officer found that they did, it would still be appealable to city council. So I think there's a checks and balances already inherent in the plan district regulations that get at these sorts of concerns.

**Leonard:** And I understand that, but that's not my point. I appreciate that there's another process involved. My point is if I want surety that those kinds of activities are not going to occur there, is

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there some other means by which I can accomplish that in this vote beyond just voting against the zone change?

**Cate:** I would defer to the city attorney on that.

**Hudson:** I don't think we can do it.

**Leonard:** I'm not asking that. I'm asking, is there some other way? Not necessarily the process here, is there some other way I can accomplish assuring myself these activities won't occur there if I vote to approve this zone change? I guess I know I'm -- in previous hearings that we've had we've given conditions for development, and I'm not sure I'm understanding why we couldn't do that, why we couldn't say we'll approve it with these conditions versus just voting no.

**Sten:** I think the distinction is when you're -- a permit, you can condition it just about, particularly if the two sides agree, on a zone change approval, you're changing the zone, there isn't any mechanism to say it's a zone change except it can't be noisy. The distinction you outline is the -- I'm not in disagreement with your goal.

**Leonard:** I just happen to know this is an area that's been challenge the with some adult kinds of businesses, and I don't want to do something to create more opportunities for those kinds of developments, because I am cognizant of that kind of business finding its by in this particular area.

**Hudson:** There may be a way to do it. I suspect folks will have to sit down and do some right brain thinking, but off the top of my head, I can't think of a way where you can prove a zone -- approve the zone change in one hand and say, but we're approving it but we're going to prohibit you from doing something that's technically permitted.

**Saltzman:** I think these issues --

**Hudson:** You can pass the approval criteria --

**Saltzman:** We've had state ballot measures that try to get to the heart of this issue.

**Leonard:** I understand all that, and right now we're in the position that it isn't zoned for these uses, and I'm conscious that by -- by --

**Sten:** Then you don't get the park.

**Leonard:** Is there some way other --

**Saltzman:** I'm looking at this as a whole package. We're getting a four-acre addition to a park, r5 housing, eg2, buffers, street improvements, and as sylvia just explained, we have this north cully plan district with a lot of criteria as to what's appropriate development and we also have the statements of the developers as to what they want to see there. I think that is to my mind more than enough assurance than to risk doing something that will not pass muster with our constitution.

**Saltzman:** Could I --

**Sten:** Mr. President, could I make a suggestion? I think the arguments are on the table. This is going to have to come back, I think, or are we going to take a tentative vote tonight?

**Saltzman:** Well, we can take a tentative vote tonight or not.

**O'Leary:** Is it position for [inaudible] on northeast roselawn --

**Saltzman:** Come back up to the microphone, please. I don't think that's part of the issue here.

**O'Leary:** I just wanted to make sure it was clear, 73rd to 74th on roselawn feeds into all of this. And right now it's what I call lake roselawn. There's an 8 to 10-inch lake there that covers most of the unimproved road. And we've been fighting, trying to get this cleaned up for -- we've been in our house 24 years.

**Saltzman:** Thank you.

**O'Leary:** And that's part of what we're wanting to have cleaned up and paved.

**Leonard:** I think we heard they're willing to do that.

**O'Leary:** 74th to 76th. We're talking 73rd to 74th.

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**Saltzman:** Thank you. If we don't get past the fundamental issues of the zone change, all these issues about street improvements will be moot. Because there won't be a zone change. So we need to figure this one out.

**Leonard:** I think we might have --

**Fuerstenau:** Can I say one more thing? This is about the cc & r condition. Kathy fuerstenau. Did I talk to someone at b.d.s. that used to work -- anyway, they indicated to me that even though this is a zoning change, you can put conditions upon it if both the applicant agrees to that, and we agree to that. He said if you can put -- if you want to say there's no pink houses on there, you can do that if anybody agrees to that. And you dock that at this time.

**Saltzman:** What kind of houses?

**Fuerstenau:** Pink houses, he was just making an absurd kind of comment.

**Leonard:** Have you ever seen a pink house?

**Fuerstenau:** No. Actually I have a purple house.

**Saltzman:** It's --

**Leonard:** It's not an absurd comment.

**Fuerstenau:** He said as long as the applicant were to agree to the conditions, you can add anything even on a rezoning proposal, that's what the information -- that's why I pursued that and maybe someone can find that out.

**Leonard:** I wonder if we can use this next week to explore that possibility if all the parties agree?

**Fuerstenau:** It just has to be agreeable for them, as long as they ok it, and I think sylvia, I talked to you about that as well, and you did kind of indicate as long as everybody agree was these conditions, you can -- it's not something that happens very often, but you can do that at this time.

**Saltzman:** Why don't we -- I think there's a consensus we're not reaching a consensus on this point right now. So we will set this over, then?

**Sten:** I guess I would say, i'm in the position just about everybody in the room is seeking the same thing. I am not in support of putting these conditions into a zoning approval because I think it just gets into -- I don't think it's necessary. I think we have the protections in place you need to make sure the uses don't happen, given the things you're listing, I think we would need months to negotiate what you're actually meaning by the different pieces. I think we're going to have to have this come back for development review, so i'm -- unless something comes along, i'm 100% sympathetic, but probably not going to support it, so i'm wondering --

**Leonard:** Would I agree with some of the points here, i'm not suggesting that exhibit c be adopted. I am sensitive to the issue of the -- to be up front, the kinds of adult businesses that seem to have congregated within just a very short geographic area in that particular strip. And so I -- I absolutely agree with commissioner Saltzman's sentiments, I don't want to throw the baby out with the bath water, if there's a means by which I can feel a little comfortable that we're not creating a zone change that could actually hurt the neighborhood, i'd -- in terms of the type of business, i'd feel more comfortable voting for it. I could conditionally support this and reserve the right next week to vote no.

**Saltzman:** Ok. I'm with commissioner Sten. I'd like to approve this without the conditions.

**Sten:** With all this -- if only three people, it gets difficult because you have to have a unanimous vote. I think commissioner Leonard, you found yourself in the position of killing this deal or not killing this deal or coming up with language which I can support, which I haven't heard so far.

**Leonard:** I'm suggesting maybe in the next week our able city attorney and b.d.s. staff might be able to do just that.

**Saltzman:** Do we want to do a tentative approval subject to -- if you can come up with language that the three of us find acceptable next week? Or not.

**Hudson:** Let me just say this. I think it's mainly at the applicant's ballpark. I don't think --

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**Leonard:** I understand that. If they can come forward next week and say we don't have a problem with a couple of these conditions, I feel a little better. I don't know if that makes mr. Saltzman and Sten feel better, but it would make me feel better. It feels to me like we're pretty close, and if I could have some assurance that we're not creating a zone that will allow some of these things to occur, i'd feel a lot better.

**Saltzman:** These issues -- that's fine. I frankly -- with all due respect, I don't think these issues -- the applicant's ability to agree. If it's true and some unnamed b.d.s. employee is right, we'll know that next week.

**Leonard:** Right.

**Saltzman:** But my hunch is these issues relate to fundamental constitutional abilities of the cities to condition which uses may or may not go into appropriately zoned areas. Come on up.

**Yett:** I'll tell you where the sticking point is on this. It's not dry cleaners and strip clubs, which I don't think is appropriate for this area anyway, the outdoor activities, no one in their right mind is going to put a rifle range in the middle of the city outdoors. That's not an issue. Noisy operations, no polluting, no glaring lights, glaring lighting I think is fine. What they suggested here about the height is great. Noise and pollution, I would like to have that clarified by the neighborhood. It gets a little nebulous.

**Leonard:** That's not where i'm focused right now. Apparently we're all agreeing, at least the neighborhood and you guys, and i'm just asking, is there some way to memorialize that without violating any constitutional principles. I'm hard put to believe that where we don't have a permitted use now and it only 0 customers if we only vote yes, that there can't be some middle ground that doesn't violate any constitutional rights. We're not talking about a zone that currently allows a certain activity that we're trying to restrict. We don't allow it now, and i'm suggesting that there must be some path by which to get to a place where you can do the things you want to do and I can feel comfortable voting yes conditioned that a couple of these other things don't occur. If you agree. It sounds like there's a process where that happens where we are not really denying you anything.

**Yett:** About 90% of this right offhand we'd agree to. There's a few areas if you'd like to go over and clarify it.

**Leonard:** I don't really think i'm proposing violating any constitutional rights if we're not allowing these uses currently. I'm saying as a condition of approval, I would like some assurance that a couple of these aren't going to occur.

**Don Hanson:** I understand your sticking point on this. I think it makes sense to have something that travels with its decision. Let me suggest something we've done on other projects. Maybe it doesn't address what happens in eg2 zones citywide, but it's rather site specific. Good neighbor agreement. It's formed between us and the neighborhood association. We record it with the property. And what that does is essentially looks at these lists of allowed and not allowed uses on the site without addressing the larger policy issues which I think commissioner Saltzman's raised. This is something that I --

**Leonard:** My problem is i've worked on those before, they're not as enforceable as what i'm interested in. What -- here's all i'm asking. For people to sit down and see if there's a way where all sides can agree to some limited conditions that make sense, all sides meaning both you guys. And then come back and if we had the support we do, and if we don't, we don't. But you've heard my concerns, and I don't think they're ones that apparently step on what you want to do anyway, except there's a way to get there so that I feel ok about voting for a zone change that allows some of these other activities that i'd like not to see in that area, i'd feel a lot better.

**Hanson:** We're agreeable.

**Sten:** Ok.

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**Saltzman:** So I sense there's no tentative decision, I guess we're going to set this over. I'll set -- suggest we set it over --

**Leonard:** I could vote for a tentative decision contingent on both sides getting together, and they be we could do -- if we did an amendment next time, can we final vote at that time?

**Sten:** Something to think about, what if I moved tentative motion to approve the zone change as proposed in option two, subject to some language to be worked on for the next two weeks and brought back?

**Susan McKinney, Bureau of Development Services:** Sylvia had mentioned -- susan mckinney from the bureau of development services. Sylvia had mentioned earlier she had scheduled a subsequent hearing to adopt a revised findings and an ordinance november 18. What we're looking at doing is revising all of these findings. Because of the revised proposal. I think to do that if you're looking to do a final when we come back in two weeks would be kind of hard pressed.

**Sten:** I think what the idea would be is we take a tentative vote to approve the package subject to a little bit more work that's going to come back to us, so you can start working on the whole package with a strong expectation it's going to pass and have a hearing before the 18th to fine tune commissioner leonard's idea, and then plan a bringing it back on the 18th.

**McKinney:** That's fine.

**Leonard:** That's great. And also I don't want to lose the agreement on the street paving.

**\*\*\*\*\*:** What about the o.s.?

**Leonard:** The o.s. On the donated property, the r5, the o.s., I asked in the series of questions I hope you were taking notes, just to make sure there was agreement, ask there is, so the questions I asked, will we have consensus, i'd like to see those come back in the form of an amendment. The r5 to o.s., the paving of 74th, 75th, roselawn, alberta, and some language on the zone change.

**McKinney:** Commissioner leonard, could you clarify what -- which uses you are concerned about?

**\*\*\*\*\*:** Apparently there is consensus on specifically the top three uses, the vehicle repair auto body dry cleaners strip club. Both sides appear to agree that those are uses that aren't -- the applicant is not contemplating anyway, so that would be what i'd feel good about.

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

**Cate:** And if I could ask council for a clarification, I have run the numbers very quickly on the top of my head, i'll have to fine tune them, but if you want the proposal further amended -- amended so that the land area that's proposed to be donated to parts gets rezoned o.s. Rather than a condition placed on it, that park use only, then that will result in additional units being pulled out of the housing pool, and I just want to make sure that you're aware of that. My --

**Leonard:** I think I heard commissioner Sten say this is an area i'm not as familiar with as he is, but there were -- there should be some way we could accomplish not changing the total number of units if we do the designation o.s. --

**Sten:** Other ample units in the pool at this point?

**Cate:** There's well over a thousand units if we go to o.s. were looking at around 56 to 58 units. If you're comfortable with that, I just --

**Sten:** I won't bore people with the recitation of the loss houses pluses and minuses tonight. I think that's just fine. That's what i'll say.

**Cate:** I just want to make sure that was clarified for you.

**Saltzman:** If he's fine, we're fine.

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

**Leonard:** Thank you.

**Saltzman:** Do we have the motion? Did you make a motion?

**Sten:** I did, actually.

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**Hudson:** May I suggest that we give the applicants' attorney an opportunity if we wishes to weigh in what he thinks the legal issues are, just so we'll know for the record? Because I think it would help. I know would it help me and I think it would help staff in terms of trying to formulate something that would work.

**Hoffman:** Jack hoffman again. I think what we're going to try to do, I understand the issues, paving the streets, the o.s. zone, and the uses. And then there's the constitutional issues about the strip clubs. What we're going to try to do is come up with conditions of approval that pass constitutional muster and address your concerns for the neighborhood.

**Leonard:** And I -- with all due respect, I respect these guys a lot, i'm not thinking that the constitutional issue that i'm familiar with applies in the sense -- in this instance given that it isn't zoned for strip clubs. So please don't use that as a leverage, because i'm not -- i'm feeling like that applies in this case. I think this is different than the kind of issue we normally deal with that i'm thinking of one very recently where an area is zoned for a strip club, they go in and i've even said the same thing, that's -- we cannot go in and retroactively do something that's been approved. This isn't retroactive. We haven't voted to approve this yet, so my sense is strong that we can say something that all parties could agree with that would not violate the principles of freedom of speech under our constitution.

**Hoffman:** I'm optimistic we can work with the city attorney's office and your staff to put together some conditions that will be acceptable.

**Leonard:** Ok.

**Saltzman:** I would just caution that even though strip clubs are certainly the most visceral part of the use restriction, I don't know whether it's any more constitutional to zone out dry cleaners or vehicle repair auto bodies based upon them being appropriately zoned. But we'll leave the discussion at that and wait and see what you come up with.

**Sten:** I'd like to see the language. My concern is cluttering up the zoning code unnecessarily. I'm looking at amanda, we have a type 3 process, I think amply protects this property, and I think there's nothing to worry about on this issue, so putting things into play when they are necessary --

**Leonard:** Maybe we can have that discussion, and I can understand a little better some of the processes I haven't been as exposed to as my colleagues, and maybe that will satisfy me. For now, if we could continue working --

**Saltzman:** We have a motion to tentatively approve it? We are have a second?

**Leonard:** Yes.

**Saltzman:** Ok. Any further discussion? Please call the roll.

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

**Sten:** I admire both the neighborhood and the property owners' efforts on this. Aye.

**Saltzman:** We'll see more about this. Thank you all and --

**Moore:** Can we state a return date? The 18th?

**Cate:** Sounds like we need to return in two weeks with the conditions of approval language and come back November 18<sup>th</sup> with revised findings.

At 8:34 p.m., Council recessed.

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2:00 PM

**Items 1228, 1229, 1230.**

[ Roll call ]

**Katz:** Commissioner Francesconi is on personal business. Let's read all the items.

**Katz:** Gil, come on up, nicholas, come on up. Steve, come on up. Before I turn it to gil, let me tell you where we are. We have completed all the requests of the city council members, and nicholas will go over those. The amended language is written. We will have to accept a motion to substitute all of that, and katherine and I had a conversation and she convinced me, and she's right, that we will allow for very, very brief testimony on the actual language of those items that we now have new code language for. I will cut anybody off if you go off message on those items. And then we'll act. Ok. Gil?

**Gil Kelley, Director, Bureau of Planning:** Sure. Thank you. Good afternoon. Gil kelley, planning director. I will apologize in advance that I can only stay a few minutes here. I have another speaking engagement down the street. But I wanted to introduce this and turn it over to nicholas. I did want to let you know that as far as we know, all the rehabilitation task force and seismic issues that were on the table before have been resolved, and you've dealt with those, so today we are really only focus order two components of the larger package. One of the zoning code amendments, which you requested last time. And we've brought those forward, nicholas will explain those. Those have been distributed in a packet and will be the focus of the hearing today. Those apply to incentives for nonconforming structures and multidwelling zones. The submittal criteria for applications in the two-tract demo process. And clarifying that the landmarks commission meetings on demolition are a part of the council record. So we've made those adjustments in the zoning. We have also brought forward a second part of requests that I asked for. The -- commissioner Saltzman asked for a new location policy, or the city's location policy when we are leaving city-owned buildings, that it be broadened to include a priority for these structures, historic landmark structures. And also to make clear that the historic resources will be eligible for the green investment fund, so those have been brought forward as part of the programmatic part of the package here. The mayor directed us to form as we've called it last time, a s.w.a.t. Team which we've labeled with a new acronym that nicholas will explain in a moment, which really allows us to kind of intervene and assist owners early, even prior to an application process in rehabilitation of their buildings. And finally, we have pledged to do two -- one, return to council with -- during the budget process with a scoped out version of what the future phase of the historic program might entail. You heard many comments from speakers last time around that the city ought to have a more robust program. In fact, we have some of the elements already in place that were asked for, but not all of them, and so that's a future piece of work that we'll be coming back to you on. And finally, we have also pledged in the resolution an ordinance in front of you to evaluate the effectiveness of the zoning code provisions you're put in place with your action now to see how well they're working and so forth. And so we'll make that a part of our ongoing regulatory monitoring program.

**Katz:** Good. Thank you. All right. Nicholas? Just want to remind you, we've taken care of 1229, 1230, all we need to do -- no. We've taken care of commissioner leonard's items, all we need to do is vote on it. All right.

**Nicholas Starin, Bureau of Planning:** Nicholas starin, Portland bureau of planning. I don't have a preliminary presentation, i'm just going to start right in on explaining the amendments that we have acted on. First I want to state that the project file is in the room to my left as it has been at each of the hearings. You have a yellow table in front of you that sort of summarizes the



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amendments. The amendments themselves, the actual language are contained in three documents, a execute ordinance, a new exhibit b that will be attached to the substitute ordinance that contains the amended code language and report language, and there's a new resolution that we filed yesterday that I don't believe will be acted on today, but it would be next week. I was going to initially start out with the zoning code amendment and go through them in order. I'd like to ask your permission to jump to item number 6 on page 2. This has to do with commissioner Saltzman's direction to create a vocational -- locational policy for city services. We worked on that, and that's what the subject of the resolution is. And we worked on that with b.g.s. And the b.g.s. Representative can only be here a short time, so i'd like to cover that first.

**Katz:** Do you have any objections on picking up on six? Is john acker here? Come on up. Are you going to cause me grief, or do you --

**Starin:** Absolutely not.

**Saltzman:** Are you going to cause me grief?

**Starin:** No. No grief.

**Starin:** The policy directs that the first priority for locating city services be in publicly and publicly controlled buildings. When the city is looking for whatever reason, looking to privately owned buildings, then the priority would be for historic buildings that are subject to demolition review. And that's basically the -- what the resolution reads.

**Katz:** John?

**John Acker, Bureau of General Services:** Yes. Well, john acker, with the bureau of general services. The idea here is that there's a public investment in publicly owned buildings, and if there's vacant space that's available that meets the location ideal needs, that would be the first priority for expansion and moving of city businesses, and then after that, then private owned -- we could go to private space, leased space, that if equally -- if it meets equally the locational needs, the space needs and costs, then that would be the priority would be the historic buildings.

**Katz:** Ok. Questions? I'm going to ask people not to testify on this resolution, because this resolution will be formally before the council next week. Ok. Keep going. Thanks, john.

**Starin:** Now we'll go back to page 1 and run through the zoning amendments. Number 1 is the new zoning incentive introduced by commissioner Sten. It is basically the same as the concept that we discussed last time. It's available in the rhr 1 and 2 zones to historic resources where the previous use was a nonresidential use to prevent conversion of housing. One slightly new piece when we started writing the code, we realized we needed to address the situation where there might be a mixed use situation that included some residential, and we could either say that if it included some housing, they're not -- they're strictly not eligible, or the second option, which is what we recommend, is the new project taking advantage of this incentive if the previous use included residential must replace at least as many units as were in that previous use.

**Katz:** That was a good compromise. Go ahead.

**Starin:** Number 2 is, when we were looking at the new resolution -- excuse me, the new incentive, we had to decide -- it was modeled on the rx incentive that's preexisting that required a renovation plan. We had removed the renovation plan requirement from all the other incentives and was only remaining for the r.x. 77, and we decided we did not want to apply that to the new one, and that sort of prompted us to think, why are we even keeping it for the one 77, so we're -- 77, so we're proposing to remove it. The original reasons we're removing it, it remains unclear what criteria apply, determining whether it's a renovation plan is valid or good or not. And it's just seen as another regulatory hurdle. So we're recommending removing that. Number 3, regarding demolition review and responding to testimony and comments about the application supplementary application requirements, the list of financial and other information. And we went ahead and

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divided those into two separate categories, depending on which criterion the applicant is requesting a review based upon. And so if the applicant is using the economic hardship criterion, the complete list as you've seen is maybe requested by b.d.s. If you're only using the policy argument, only the first four items are maybe requested, and we've also just for clarity, replaced a cross reference to another part of the code to make it explicitly clear that b.d.s. may waive those requirements and the applicant may choose to not submit them and the review would move forward. Number 4, demolition review. This is responding to the desire for council to have a record be built and coming to them with the demolition review in the demolition review process, so we've added some language that clarifies that the record and testimony from the public meeting where the landmarks commission discussed the request would be a part of the record that comes to city council. Number 5, the technical amendment that's were included in the memo. The last time. There's a new one in there, number 2, that we -- at the end here it clarifies for consistency that the type four procedure is heard by city council. Does anyone want details on the technical amendments? They're fairly straightforward. I'm going to -- that's it for the code amendments. This next table basically brings together policy amendments, changes to the ordinance, and other documents that address council's amendment requests. We covered six. Moving to seven, this is the historic structures renovations to historic structures that meet the program requirements will be eligible for the green investment fund, and that language is in exhibit b and will be put into the adopted report. On number 8, as gil mentioned, following up on the idea of the s.w.a.t. team. We've sort of tentatively called it the historic preservation assistance team, and that would include city representatives from city bureaus and the public and -- the private and nonprofit preservation communities, and it's, again, seen as sort of an important proactive tool to find solutions to historic preservation problems before the need for something like a demolition review, and we've already started bringing that group together to deal with a couple issues. That language is in the substitute ordinance and the report. Number 9 is the monitoring and evaluation function. We recognize there was some testimony from the central eastside and industrial council and others that there was concern about unintended consequences from some of the use of some of the incentives, particularly the ones that allow increased flexibility for different kinds of uses. And so as gil mentioned, we are committing to put those into the monitoring and evaluation function and watch for those and if we need to make changes, we can make changes. That's also in the ordinance. And finally, the mayor has directed the bureau of planning to scope out what would be the third phase of this project, likely to be less code centered project, and to break that scope as part of the annual budgetary process to the council.

**Katz:** Thank you, nicholas. Questions by the council? I'm assuming by your silence that you are all right on these amendments, and so after the public testimony, katherine will take the amendments following these numbers on the side. Ok? All right. Let's have public testimony.

**Katz:** Just on this, just what you just heard.

**Allen Hunt:** Good afternoon. My name is allen hunt, i'm the executive director of the episcopal mission society, also called william temple house. And we are at 2023 northwest hoyt street in Portland. And just by way of background, we have emergency services, mental health councils, and -- counseling, and voluntary pastoral care. We have owned the historic mckenzie mansion at that address since 1971. The building was built in 1895. And we now feel that we need to move to the east side to better serve our clients so we are considering selling the historic mckenzie mansion, and this code amendment would be very helpful to us in both the aspect that it flexes the use that that building could be put to, it would make it easier for us to sell it and relocate, and also, the s.w.a.t. Team or the assistance team I think would be of great benefit to potential buyers for that

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particular property. So i'm here to support the code amendments for the historic resources, and I hope that you'll approve them. Thank you.

**Katz:** Let me ask you a question. It's my understanding, though I haven't seen it, that your real estate agent is advertising this as a historic building for demolition.

**Hunt:** No. Not for demolition. In fact, I -- thank you for asking. Our board and all of us feel very strongly about preserving that particular structure, so we would only agree to a sale that does in fact preserve it. We do not in any way, shape, or form, want to see that demolished.

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

**Kurt Wehbring:** I'm kurt wehbring, 3333 northeast 18th avenue, Portland, i'm a member of the long time member of the board of william templehouse. I just want to emphasize that we're very concerned about the marketability of the property. We have had it up for a while, we had some very good offers including one from the youth hostels, and they were not able to go forward because of concerns about the requirements to -- that they had to go through to be able to use the building for that purpose. My understanding of these modifications is it would give more flexibility, and therefore make organizations like that and other possible reuses more feasible. And alan -- as alan said, we have -- we very much care about the building, in fact, I brought a picture for you if you want to see it, but the reality of the work we do is most of our clients are now on the southeast side, and also, we don't want to be burdened with the upkeep of a major structure like that. So we would very much welcome this kind of flexibility that's built in. Thank you.

**Katz:** Why don't you show the council the building. I think they all know it, but -- ok. Robin?

**Robin White:** Robin white, Portland boma. My address --

**Katz:** I'm sorry. I thought he had a piece of paper. He's got a frame.

**Katz:** It just takes your breath away. Thank you.

**Wehbring:** This is something i've had on my wall at home for a long time, and we care about it. And even though once we sell it, if we do, we can't control what happens, and the city can, and through its preservation ordinance, we very much hope that there will be someone who cares for it as much as we have.

**Katz:** Thank you. All right. Robin?

**White:** Robin white, Portland boma, 0308 southwest montgomery street. In looking at that picture, it makes me sad to think that because I fall in that category not everything old is as beautiful and memorable as that. [laughter] actually, we have submitted information in the past, and I just wanted to go on record saying I do appreciate nicholas sending us the information, and I did review the proposals. And unfortunately they don't answer our concerns. Especially with respect to the definitions and such. I do understand that the council is wanting to pass this, and all I can do is urge you that in doing so, please, please leave the door open for future discussions with the business community to make modifications that will make this program workable for us. Thank you.

**Katz:** Thank you.

**Greg Peden:** Greg peden. First of all, thank you for the opportunity this afternoon. As you well know, we have been meeting with your staff members in the & the mayor's office as well as the other offices to work through some of these amendments. I want to recognize that some of the amendment that's we've brought to you are included in this list of 10. I particularly wanted to reference number 8, the opportunity on a case-by-case basis to look at tax benefits, city fee waivers, things like that. I think as you get into this process those things will be very significant to property owners. So I want to thank you for inclusion of those. I want to focus on number 10 for a moment, the -- sort of the follow-up and review. As you know, there are things that we have approached you with that are not in this incentive -- not in these amendments. Certainly as we

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review the program in the budget or ant wall review process here, that will be included. We hope to have further discussion about those, see how the project is moving forward. We're disappointed that those things aren't in here today, but we understand where we are, and we'll continue to work with the city on it. Thank you.

**Katz:** Thank you too. We did spend a lot of time with Greg and some of the team working through the amendments. Not all of them were included, because we just -- that was not where we were going, but the conversation will continue. Steve?

**Steve Abel:** Good afternoon, Steve Able, Stoel Rives, 900 Southwest Fifth. I've looked at the packet of the amendments and I appreciate the fact that the supplemental requirements have been modified as discussed in the previous hearing. Many of the amendments that were proposed by the Portland Business Association were valid amendments, I understand they're not before you, I'm here to talk about any of those if there should be any questions. I also think that phase three ought to be now. I think an effective preservation rehabilitation program is something that the city needs, not partial programs. It needs a whole program for preservation. I think we should be talking about those things now before this act is passed. I'd be happy to answer any questions.

**Katz:** Thank you, Steve.

**John Czarnecki:** Good afternoon, Mayor, members of the Council. John Czarnecki, 2742 Northwest Xavier Street, Chair of the Portland Historic Landmarks Commission. I guess I would to a certain extent reinforce Mr. Able's testimony that I also believe these things should be taken care of now. I would say that at the same time the package you have before you is the right tool for the right time. I would be very concerned about postponing action on this package any more than it already has been, and at the same time commend the Council and especially Mayor Katz very strongly for the work you all have done on this. I've looked at the further amendments and am very glad to see them because I think that several of them actually strengthen the package as it was presented. I'm glad to see number 4 under demolition review because it reinforces the opportunity for effective public input in the type four process. Also the inclusion of the G.I.F., the Green Investment Fund properties, will be a welcome change. The follow-up resource preservation process wonderful. I think you all know that list that was in the original packet is something with which we in the preservation community have been struggling for a long time, and we're overjoyed that it's included. The H-Pact, I'm -- I couldn't be happy. That it's in fact enforced and wish you all the best as it works, as I understand it hopes to in the next few days or few weeks. So thank you very much for these amendments, and all the best to you, Mayor.

**Katz:** Thank you.

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

**Katz:** Anybody else?

**Peter Meijer:** Peter Meijer, Chair of the American Institute of Architects Historic Resource Committee. We support these amendments as they are before you. We think it is time to act now, and talk later, and we're supportive of continuing discussions, particularly when it is a concern of updating the inventory. But by all means, pass what you have in front of you. Thank you.

**Katz:** Thank you.

**James Bela:** James Bela, I wanted to address amendments seven and eight, the amendment seven is a Green Investment Fund. I feel it's not a good investment of city funds to give money to -- for green building work unless the historic structure is seismically rehabilitated. And to a standard that will not require demolition following an earthquake. These are public funds and I think they need to be invested wisely on -- number 8, on the S.W.A.T. Team, I would add the words next to the last sentence, "by identifying a tool kit such as tax benefits, grant and loan opportunities, zoning incentives, city fee waivers and technical assistance with building and zoning code issues," and I

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would add a common, including seismic design requirements, and I would also oppose city fee waivers as part of this. Because that money comes from elsewhere in the public, so I would like the effort on the technical assistance and other issues, but I think city fee waivers mean that it's kind of a hidden tax that we all pay. I'd like the opportunity to vote on that, but you need to include some language that would link some of these things to earthquake preservation issues, because without them, many of these historic structures could be lost forever. Thank you.

**Katz:** Thank you. Ok. I'll take a motion to substitute.

**Leonard:** So moved.

**Saltzman:** Second.

**Katz:** Any objections? Hearing none. So ordered. [gavel pounded] i'll take a motion to accept amendments 1 to 10. Those are these, that we've just walked through.

**Leonard:** So moved.

**Saltzman:** Second.

**Katz:** Any objections? Hearing none. [gavel pounded] ok. Let me say a few words before I accept the next motion. Your staff, your bureaus, my office, the Portland business alliance, Portland plan, b.d.s., have worked at least a year if not more, in some cases more on this issue. We've heard testimony, we extended opportunities for the alliance to come and talk with us about further amendments. Some of them fit into where we were going and why we were doing this, others didn't. We agreed that we needed to put further emphasis on historic preservation here in the city. This certainly is the first phase. And I found out a couple of days ago that a demolition permit was requested and received for the ladd carriage house and that my understanding is that a demolition permit was filed for the crest building. Or close to be filing for the crest building. This is within less than two weeks. And consequently, as we're working on this, people are making statements by their actions that what we're doing really is very important. So i'm going to ask for a motion to amend the ordinance by deleting directive e, and add an emergency clause and vote on it today.

**Leonard:** So moved.

**Saltzman:** Second.

**Katz:** Any objections? Hearing none. [gavel pounded] all right. That motion was for both amending the e and the emergency clause.

**\*\*\*\*\*:** Yes. And you have the language for the emergency clause in front of you.

**Katz:** Right. All right. I'll take a motion.

**Leonard:** Move to -- we're doing 1230?

**Katz:** Yes. No -- let's start with 1228 first.

**Item 1228.**

**Leonard:** I move --

**Katz:** Roll call.

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

**Katz:** Mayor votes aye. [gavel pounded] 1229.

**Item 1229.**

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

**Katz:** Mayor votes aye. [gavel pounded] 1230.

**Item 1230.**

**Leonard:** Aye.

**Saltzman:** This is the last ordinance?

**Katz:** This is the one.

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**Saltzman:** I just want to thank the mayor's office, planning, bureau of development services, all the bureaus and the Portland business alliance and all the many citizens who worked, I think it's been at least two years, not one year, that we've had these amendments under review, and I think that they have struck the right balance between providing incentives to preserve the history of this great city, and I think it's particularly appropriate maybe this time of year when we think more about the people that used to populate and some maybe who still populate the houses and homes and buildings of Portland this time of year with halloween coming on. Sort of an appropriate time to once again say these buildings are important parts of our legacy, and it's important to have the ability as a city council. I can't think of any responsibility that I want to more have at this table than the ability to really stand up and say no if we think something is so rich a part of our history and our heritage that we can't fathom it being gone. And this opportunity -- I don't think this is going to be something we will do heavily or without due consideration, but it is necessary, it's a necessary power that we need to have as a city council, and i'm glad we've done this, and I believe we've added some good incentives, and I think we've also added the opportunity to take a look and see how it's all working, and do more if necessary, come back and fine tune it if necessary too, but I think we've got a fine balanced package and i'm proud to vote aye.

**Sten:** I just wanted to thank mayor Katz who's been very, very, very persistent on this, as well as all the folks out there, some of whom who have been on different sides of this package. The old saying, the perfect is the enemy of the good, and I think this is a much better package when you look at the incentives and the demolition than what we have in place before we vote this through. I think there are a few thing to work on and review, and i've heard mayor Katz say that today, which is why i'm going to trust that's going to happen and move forward. Because I think we won't be able to solve all of these pieces, and I do think also hopefully now that this exists, and the argument no longer will be in play of whether it should exist, because it does, that we can come together and really -- I think the idea of working with it and seeing which of these incentives work, seeing what's missing, we had a lot of debate around much of the criteria -- what should the criteria be for denying demolition, somebody who is not looking forward to those kind of hearings, I think that may need some work to figure out what do I need to look at, what's fair. But I think the message that's being sent today is that we want to save these buildings, and there's the beginnings of some I think aggressive incentive packages to make that happen. And I think that's key to go with what I think a few years ago probably was not a good enough package, and everybody at the planning bureau and the mayor's office came back and really worked hard to put it together. So it is I think a legacy the mayor will be remembered by, and leaving us with appropriately so, so i'm proud to vote aye.

**Katz:** Thank you. I want to thank the council. They identified the weaknesses of the first ordinance, they said this is all wonderful, but if you don't have incentives it's got going to work, and you were right. And I thank you for that. Commissioner Leonard, thank you for working through some of the other issues with regard to the rehabilitation code, which is going to help dramatically. I want to thank hanna and karen in my office for being even more persistent than I on this issue. And the preservation community on citizens here who really care. This is somewhat of a wonkish issue {historic significance of some buildings, and they care and they were here, and we heard from them. Gil and steve, you always deserve our thanks, but there's that gentleman sitting at the edge, nicholas, who came in at the 11th hour and helped put all of this together, quietly, efficiently, very professionally. So thank you, nicholas. If I forgot anybody, I apologize. Thank you city council for a wonderful gift to the city. Aye. [gavel pounded] ok, everybody. We stand adjourned. [gavel pounded] thank you.

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At 2:38 p.m., Council adjourned.