



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **10TH DAY OF NOVEMBER, 2004** AT 9:30 A.M.

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

Commissioner Saltzman arrived at 10:44 a.m. (excused)

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

COMMUNICATIONS	Disposition:
1277 Request of Sam Chase of Community Development Network to address Council to thank the Mayor for her support of affordable housing for low income residents (Communication)	PLACED ON FILE
1278 Request of Charles E. Long to address Council regarding a historic opportunity (Communication)	PLACED ON FILE
1279 Request of Glenda Johnson to address Council regarding the closing of the outer SE Department of Human Services and the impact it will have (Communication)	PLACED ON FILE
TIME CERTAINS	
S-1280 TIME CERTAIN: 9:30 AM – Create a local improvement district to assist in the capital financing to construct street improvements in the Portland Mall Revitalization Local Improvement District (Previous Agenda 1177; Ordinance introduced by Commissioner Francesconi) Motion to accept the Substitute: Moved by Commissioner Francesconi and seconded by Commissioner Leonard and gavelled down by Mayor Katz after no objections.	SUBSTITUTE PASSED TO SECOND READING NOVEMBER 17, 2004 AT 9:30 AM
CONSENT AGENDA – NO DISCUSSION	
Mayor Vera Katz	

November 10, 2004

<p>*1281 Pay claim of Charley Korns (Ordinance) (Y-4)</p>	<p align="center">178860</p>
<p>*1282 Authorize a contract and provide for payment to furnish replacement vehicles (Ordinance) (Y-4)</p>	<p align="center">178861</p>
<p>*1283 Authorize payment of \$30,000 from the Parking Facilities Fund to Pioneer Courthouse Square, Inc. as a contribution to Christmas tree lighting ceremony at the Square (Ordinance) (Y-4)</p>	<p align="center">178862</p>
<p>*1284 Create a new Nonrepresented classification of Accounting Policy Manager and establish a compensation rate for this classification (Ordinance) (Y-4)</p>	<p align="center">178863</p>
<p>*1285 Change the salary range of the Nonrepresented classification of Traffic Investigations Manager (Ordinance) (Y-4)</p>	<p align="center">178864</p>
<p>*1286 Authorize donation of twelve less lethal shotguns to the City of Prineville Oregon Police (Ordinance) (Y-4)</p>	<p align="center">178865</p>
<p>*1287 Accept a \$50,400 grant from the Oregon Association Chiefs of Police for a DUII Traffic Safety Grant (Ordinance) (Y-4)</p>	<p align="center">178866</p>
<p>*1288 Accept a \$45,000 grant for seatbelt enforcement from the Oregon Association Chiefs of Police and Oregon Department of Transportation (Ordinance) (Y-4)</p>	<p align="center">178867</p>
<p>*1289 Accept a \$98,948 grant from the U.S. Department of Justice Office of Community Oriented Policing Services 2004 Technology Initiative to continue development of the Integrated Biometric Identification System (Ordinance) (Y-4)</p>	<p align="center">178868</p>
<p>*1290 Amend an Intergovernmental Agreement with Multnomah County acting by and through its District Attorney Office to reimburse the Police Bureau to provide Detectives trained in child abuse investigations in fiscal year 2004-2005 (Ordinance; amend Contract No. 51581) (Y-4)</p>	<p align="center">178869</p>
<p>*1291 Amend contract with the Cascade Station Development Company, LLC to accept additional funds up to \$50,000 to update the mix of uses and development regulations for Cascade Station/PIC Plan District (Ordinance; amend Contract No. 52336) (Y-4)</p>	<p align="center">178870</p>
<p align="center">Commissioner Jim Francesconi</p>	

November 10, 2004

<p>1292 Accept contract with Cedar Mill Construction for Hillside Community Center improvements as substantially complete, authorize final payment and release retainage (Report; Contract No. 35106) (Y-4)</p>	<p align="center">ACCEPTED</p>
<p>*1293 Accept a \$72,500 grant from the Land and Water Conservation Fund to rehabilitate two soccer fields and three baseball fields in Irving Park (Ordinance) (Y-4)</p>	<p align="center">178871</p>
<p>*1294 Authorize a Lease Agreement with Summit Properties, Inc. for Bureau of Parks and Recreation South Maintenance District (Ordinance) (Y-4)</p>	<p align="center">178872</p>
<p>*1295 Amend the legal description for property required for the SW 6th Avenue-Sheridan to Broadway Street Improvement Project (Ordinance; amend Ordinance No. 178837) (Y-4)</p>	<p align="center">178873</p>
<p>*1296 Amend possession date for the purchase of property required for the East Columbia to Lombard Connector Project (Ordinance; amend Ordinance No. 177949) (Y-4)</p>	<p align="center">178874</p>
<p>*1297 Amend contract with David Evans & Associates, Inc. for technical support for transportation capital improvement projects (Ordinance; amend Contract No. 32669) (Y-4)</p>	<p align="center">178875</p>
<p align="center">Commissioner Dan Saltzman</p>	
<p>1298 Authorize contract with Murray, Smith & Associates, Inc. for design of water mains in SW Broadway Avenue, SW Columbia Street and SW Naito Parkway (Ordinance)</p>	<p align="center">PASSED TO SECOND READING NOVEMBER 17, 2004 AT 9:30 AM</p>
<p>1299 Authorize contract to Murray, Smith & Associates, Inc. to provide engineering services for Well 38 Pump Equipment and Site Improvements (Ordinance)</p>	<p align="center">PASSED TO SECOND READING NOVEMBER 17, 2004 AT 9:30 AM</p>
<p>1300 Authorize application of grant funds to U.S. Environmental Protection Agency for brownfield sites within the City (Ordinance)</p>	<p align="center">PASSED TO SECOND READING NOVEMBER 17, 2004 AT 9:30 AM</p>
<p>*1301 Authorize loan agreements totaling \$6,903,534 with the Oregon Department of Environmental Quality under the State Revolving Fund Program for water quality programs (Ordinance) (Y-4)</p>	<p align="center">178876</p>
<p align="center">Commissioner Erik Sten</p>	

November 10, 2004

<p>*1302 Authorize Bureau Director to amend license contract with Bowman Systems to market and license Housing Connections, a City developed web based housing tool (Ordinance; amend Contract No. 52274) (Y-4)</p>	<p>178877</p>
<p>*1303 Accept a grant from the Office of Lead Hazard Control of the U.S. Department of Housing and Urban Development in the amount of \$3,000,000 (Ordinance) (Y-4)</p>	<p>178878</p>
<p>REGULAR AGENDA</p>	
<p>Mayor Vera Katz</p>	
<p>*1304 Authorize a contract with Pacific Consulting Group, Inc. to provide quality assurance services for the Enterprise Business System Project (Ordinance) (Y-5)</p>	<p>178879</p>
<p>Commissioner Dan Saltzman</p>	
<p>1305 Amend City Code regarding collection of past due business license fees (Ordinance; amend City Code Sections 5.33.300, 5.33.470 and 7.02.100) Motion to lower the threshold to \$5,000 rather than \$50,000: Moved by Commissioner Leonard and seconded by Commissioner Saltzman and gavelled down by Mayor Katz after no objections.</p>	<p>PASSED TO SECOND READING AS AMENDED NOVEMBER 17, 2004 AT 9:30 AM</p>

At 10:53 a.m., Council recessed.

November 10, 2004

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **10TH DAY OF NOVEMBER, 2004** AT 2:00 P.M.

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

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

<p>1306 TIME CERTAIN: 2:00 PM – Appeal of Pleasant Valley Neighborhood Association against hearings Officer’s decision to approve the application of Dennis and Kathleen Gaibler and Chris Barnes for Gaibler Lane Estates nine-lot subdivision along with public streets and an environmental resource tract at 16005 SE Gaibler Lane (Hearing; LU 04-011666 LDS)</p> <p>Motion to deny the he appeal and uphold the Hearings Officer's recommendation: Moved by Commissioner Leonard and seconded by Commissioner Sten.</p> <p>(Y-3)</p>	<p>Disposition:</p> <p>APPEAL DENIED</p>
--	---

At 2:57 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.

November 10, 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.

NOVEMBER 10, 2004 9:30 AM

Katz: Council will come to order. [roll call taken] Saltzman will arrive at about 10:30. All right, let's do communications. 1277.

Item 1277.

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

Katz: Forgive me, I have to laugh, I remember when all of you came in and blasted me many, many years -- when gretchen was still here, so this is a big change. Thank you.

Sam Chase: It was in a friendly way we blasted you. [laughter] but actually i've worked with you, mayor, for -- in different ways for probably 10 years, and I have always felt like you've been incredibly open and resourceful in trying to find solutions for affordable housing and you've been a friend of affordable housing throughout your time as mayor. We want to keep it short and thank you the council for their leadership in providing \$11 million this last budget cycle for affordable housing, it's going to make a difference.

Clyde Doctor: Clyde doctor, 3515 southwest barbur, the affordable housing advocate for the city club. It's been a hard couple years for advocates for the poor, and the highlight has been the dedication of the mayor and yourselves, council, in support of the refunding of the housing investment fund. We understand that it took a real commitment and compassion, both, because this is not an issue that was on the top of many people's agendas, and there's a lot of poor people in this city that are going to benefit from the extra work that you applied to this issue. Actually this is a hope moment for us. We had a celebration. We were pleased that commissioner Sten could be here, so we're asking you to share in just a second in what you've accomplished in the area of affordable housing. Our mothers would be very proud of us. We remember the to write a thank you note, and sam will now present that.

Chase: So I just would like to present to you a card from affordable housing now, we had a celebration, and the card, we all give you the thumbs up. I'd like to --

Doctor: This is a turnaround. Thank you all.

Katz: All right. Thank you, everybody. 1278.

Item 1278.

Charles E. Long: Yes. My name is charles long. I live at 420 northeast mason street. The Oregon historical society will host a national bicentennial exhibit of the lewis and clark expedition beginning tomorrow through march of 2005. This will provide students of all ages and opportunity to savor the courage and vision of our pioneers and learn from their past that we may explore our future. Portland will be the only venue in the pacific northwest for this exhibit. It will also enable us to get better acquainted with one of Oregon's finest cultural resources. Located only two blocks from city hall, o.h.s. Has, in addition to spacious exhibit halls, a lecture hall, research library, bookstore and gift shop, a scholarly quarterly journal and publishing house. Being shown concurrently with the bicentennial are paintings by a machines artist, as well as a new permanent "oregon, my Oregon" exhibit of pioneer history. Don't miss this historic opportunity. Thank you.

Katz: Thank you, charles. 1279.

Item 1279.

Glenda Johnson: Hi. My name is glenda johnson, native of Portland. Apparently self-appointed spokesperson for the change that's going to happen. This time I have my speech. I'll just start. Ok.

November 10, 2004

This is reality as I perceive it as told as some of the workers. Changing the nature of services of the southeast d.h.s. Is make people not self-efficient. It would close the doors to walk-in customers. This alone is a disservice. The people in that demographic need to use the phones, computers, bathrooms, in order to call for jobs, call families, and quite naturally use the bathroom. Many families are being displaced. Those constantly displaced cause myself and others to feel angry that the open door policy is to change. Just mailing letters out to people being evicted, arrested, not able to respond mentally or have english as a second language issues would result in no response to a letter. There exists a human quality between workers and the people whose lives they touch. If this human quality is eliminated, a vast number of those in need would remain in need. From a law enforcement view, the police couldn't be called when citizens engage in criminality, such as bike theft, purse theft, ect. These menial crimes mean a lot to those who have nothing. If the door closes as planned, in the hope of personal change is gone for such people, it's obvious to myself and many others that human self-respect would be lost and people would degenerate to the lesser angels of their better nature. Criminality as a result of this would get larger.

Despite the low gentrification of the area and because of rising property values, the closure would close the endemic population, that is to say moving a lot of more affluent areas in an area known as felony flats isn't going to change the area. It only makes the need greater for those without and therefore the new neighbors in the area are potential victims for crime. To my knowledge, other branches are not being subject to this change. Downtown where services and shelters to homeless are obviously more available the d.h.s. remains open, as well as other locations. In my study of the history of southeast Portland at p.s.u., this closure follows a historical trend in the history of Portland. The lents area has been the last in line to receive services since it was annexed in 1912. Now that the money is getting tight and services are being cut, an example, the closure of the southeast health center, it seems to me this is one of the socioeconomic reasons for the area garnering the name felony flats. Years ago the area was a poor white area, but no southeast caters to whites, blacks, mexicans, russians, people of all races and religious beliefs. These people deserve the same access to services at other areas. Without the personalized help, the employment searches offers, a lot less people will actively seek employment.

Katz: Thank you. Your time is up.

Johnson: Without jobs that might provide healthcare and given the cuts in the Oregon health plan folks in that area will be out healthcare.

Katz: Glenda, your time is up.

Johnson: Ok. Anyway, the rest says there would be more addiction and crime and stuff. Thanks.

Katz: Thank you. All right. Consent calendar. Any items to be removed from the consent calendar? Anybody on the council? Anybody in the audience? If not, roll call on consent.

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

Katz: Mayor votes aye. [gavel pounded] consent calendar passes. Time certain, 1280.

Item 1280.

Katz: I'm going to turn this over to commissioner Francesconi. This has been on a torturous trail for quite a time, and as chair of the committee that's hopefully going to make some of the decisions, i'm at least terribly pleased that some concessions have been made, but I do have some less than kind words that I will share after we hear the testimony to son of the interests that have created -- some of the interests that have created some of these problems for us. Commissioner Francesconi.

Francesconi: Well, let's not lose sight of the fact that today is an historic day for the city in that we're going to continue to ensure the success, in fact the revitalization of the downtown. At the same time as we set the stage for east Portland, not only gateway and lents, but eventually woodstock and hand, to complete not only a light rail line, but a light rail have system that has

November 10, 2004

defined this region with its land use and transportation policies. So at a time that our land use laws are threatened now, in light of the last measure 37, let's at least continue the legacy of our transportation light rail network system here. And we're coming together on common ground to help do that. Secondly, this project has not been without controversy, but let us also remember that pioneer square, waterfront park, the other projects that have helped define this city, also were born in controversy. Like the mayor, I do have some disappointment that some people who helped shape the project have also chosen to be part of the controversy, even though I do understand the economics of the downtown are fragile now. I'm also somewhat disappointed in the economic study that was commissioned that says that light rail may not contribute to the value of the property owners, which is ludicrous. But having said that, let me also be clear that the opposition arose from economic factors, which are legitimate issue to be concerned about, not from flaws in the project or flaws in the process, because the project itself is very sound because of the work done by the citizens advisory commission and the process that the citizens were engaged in was also good. Now we have hearings like this for the purpose of taking public input on issues like economic issues. So it's very appropriate that we deal with the controversies as we're dealing with them. So brant is going to share with us the arrangements that's been worked out. The essence of it, for me to support a compromise that's been worked out, it had to include language that I proposed in an amended exhibit, a substitute exhibit, and that language is contained in section k. And the sentence that I needed was "this effort shall ensure a revitalized Portland mall and uphold the urban design, social and development vision established in the conceptual design report already adopted by the mayor's steering committee and the city council." so in other words, we're not going to -- the cuts, we're not going to subject the urban design and quality of the construction in the downtown, which is essential for the -- for us to continue to capitalize it, or else I wouldn't support this amendment. So brant, let me turn it over to you.

Katz: Before you do that, commissioner Francesconi moves the substitute?

Francesconi: Yes.

Katz: Do I hear a second?

Leonard: Second.

Katz: Any objections? Hearing none, so ordered. [gavel pounded]

Brant Williams, Director, Portland Office of Transportation: Members of the council, i'm brant williams, director of the Portland office of transportation. I just want to briefly review the local improvement district with you, also summarize the remonstrances, and discuss the substitute ordinance that commissioner Francesconi just put forward. Regarding the l.i.d., in may, if you'll remember back in may, the council approved the conceptual design report for the project, and that included a finance plan that had as part of that plan a local improvement district valued at \$17 million. That was part of the local funding strategy to move this project forward. Then on september 1, the council adopted a resolution of intent to form an l.i.d., and that was -- that led to actually issuing the notices to all the property owners a week after that. Today's hearing is actually a continuance of a hearing that was opened on october 6, and continued because of the number of remonstrances that we received. Staff had to take additional time to review those remonstrances and provide our assessment of those. The original proposed l.i.d. is \$24 million. \$7 million of that is p.s.u.'s contribution to the l.i.d. The remainder of that, \$17 million, is the portion for all the other properties in the downtown area. The assessment methodology, that is part of this ordinance, is consistent with the resolution of intent to form the l.i.d. that you approved back on september 1. That methodology, all non-p.s.u. properties within the l.i.d., will be an assessed an amount equal to the real market value. The categories for the value assessment rates, as well as the distance factors are consistent with those included in the resolution of the intent. This also includes the special exemption that council approved for qualified low-income housing. So regarding the remonstrances, we've received 232 remonstrances from property owners, and that encompasses 341

November 10, 2004

properties in the district. Within the district, there are approximately 1200 properties. This represents 27% of the total land area of the district, and as you probably know by now that to have the l.i.d. Not be able to proceed there would need to be 60% of the land area of those properties remonstrating. So we're not close to reaching that condition, and we're able to move forward with the l.i.d. because of the vast number of the remonstrances, i'm just going to summarize a couple of the issues, the significant issues, that have come up. These two issues, the first one is the property's not specially benefitting from the improvement itself. That commissioner Francesconi already mentioned. And the amount of the proposed assessment being extraordinarily high. And it's a financial burden to property owners. Regarding the question of special benefit, a company produced a report about the economic benefits of the Portland mall l.i.d. The findings of the report clearly indicate that the properties within the district will receive special benefit as a result of these improvements. These benefits far exceed the costs of the proposed assessments. And a copy of this is found in your packet, if you'd like to refer to that. Regarding the question about financial burden, this is a matter that council should consider following the testimony today. It is the basis for the alternative assessment that we brought forward as part of this substitute ordinance. For more details on the actual remonstrances, all the various issues that were brought up, again, i'm not going to review all those again today, given the time constraints, and we want to get to testimony, but the remonstrances and the findings associated with them and the issues brought up is in the council packet, and again there's a copy of that available for those who are in attendance today if they would like to review that. Also, I just wanted to mention that today's substitute ordinance also, exhibit e, includes the remonstrance from Multnomah county, which the -- which exhibit e in the previous -- in your packet previously dependent have that particular one. We do have our project managers here who understand all the remonstrances that were submitted and they're hear to answer questions that you might have, either prior to or following the testimony. Regarding the substitute ordinance itself, the proposed substitute ordinance provides council with an alternative assessment that would reduce the financial burden to property owners while maintaining the integrity of the project and not substantially containing the project scope. Thus this keeps the l.i.d. intact. We got to make sure that any changes that we make at this stage of the game, if we made any changes, we'd have to go back through the whole l.i.d. process. Given the time frame that we have with this middle to f -- middle to f.t.a. for the grant we need to keep the process moving to keep the project on track. Project staff considered a number of alternatives as we reviewed the concerns that were brought before us. We feel like the one that's proposed in the substitute ordinance is probably the best one possible. It lowers the non-p.s.u. portion of the l.i.d. amount by \$5 million to \$12 million for the total l.i.d. for the non-p.s.u. portion. The \$5 million difference will be made up by a combination of both backfilling with other revenues, as well as reducing the scope of the project. The substitute ordinance calls for backfilling \$3 million of the \$5 million, \$2 million of which would come from the mall management program, which is funded by the parking -- additional parking revenues that council approved last summer that would go for, of course, the mall management program. The other \$1 million of that \$3 million backfill will come from tri-met. The remaining \$2 million of the \$5 million will be achieved by reducing the scope of the project. As indicated in the substitute ordinance, the reductions in this project shall not compromise the urban design, social and development qualities of the project. Again, that's as commissioner Francesconi it rated. The plan for reducing the scope of the project will be developed with the citizens advisory committee and will be approved by the mayor's steering committee that's in place for this project. So the final l.i.d. amount will actually be, instead of \$24 million, will be \$19 million. And again, \$7 million of that will be p.s.u.'s portion. The new estimated value assessment rates are \$3.70 per \$1,000 of value for commercial properties. For local institutional properties, \$2.46.8 cents per \$1,000 of value. For residential properties, the rate will be \$1.85 per \$1,000 of value. The new assessments, these lower rates, as well as comparison of the old rates and these new rates, are part

November 10, 2004

of a new exhibit g in the substitute ordinance, and we have a copy of that available out in the lobby for folks if they want to see that, and also we have staff at the back of the room here if there's anyone in the audience who is interested in finding out what their new assessment might be given these new rates. So we do have resources available today for individuals and -- that want to find out their new assessment. I do want to reiterate that with this proposed substitute ordinance, the -- there will be no substantial changes to the l.i.d., and it does reduce the cost -- the financial burden to the property owners by approximately 30%.

Katz: Before we move on, there was a lot of conversation at the task force on the project management and how important that was for the project, that we didn't have a mall management plan earlier on. What impact, if any, maybe because of timing, is the reduction going to have an effect?

Williams: The council approved the increase in the parking fees to go towards not only the capital side, but also the parking -- the mall management plan. And those new revenues will begin next july 1. And what we were planning to do was to take the \$500,000 per year that was going to go to the mall management program, redirect the first four years of that mall management program funds to the capital side. That would cover the \$2 million. What that does, is that delays our establishment of this mall management program and -- but at the same time we still will be able to put it in place by the time the project's complete, which is scheduled for 2009.

Katz: You can plan and have it in place so it can start when the mall's completed?

Williams: That's correct.

Katz: Ok. Thank you.

Williams: We were hoping to have some of that money accrue so when we do have a mall management plan this place, there would be an account they can work with. At this point, by 2009, the account will be zero, and they'll have to work from that point forward.

Katz: Ok. Phil and fred, come on up. Fred, why don't you start.

Fred Hansen: Thank you, madame mayor. Members of the council, for the record, i'm fred hansen, the general manager of tri-met. And I just want to be able to say thank you to the city council. I do believe that with the amended ordinance, substitute ordinance, that we do have a plan to be able to move forward on the most important project. What I do want to do is reiterate how important this is for the overall system of light rail and public transportation within this region. And how transformational this infrastructure investment will be for the downtown core area. This is an opportunity that I think all of us are very, very excited about. It is the largest public works project in the downtown core area. It is one that we will be able to accomplish with minimal disruption to businesses, but to be able to have a payoff that is, I think, superb. Obviously a lot of work has gone into this. I'd be happy to answer questions, but i'll keep my comments very brief and just urge your support for this ordinance, amended ordinance.

Katz: Ok. Thank you. Phil?

Phil Kalberer: I'm phil kalberer, chair of the citizens advisory committee for the Portland mall revitalization project. From its inception, the goal of this project was not only to add light rail to fifth and sixth streets, but also to invigorate those streets so they become sitting public pieces for pedestrians, transit patrons, business owners, shoppers and employees would want to be there both day and night. Over the past two years, the citizens advisory committee has devoted many hours crafting a plan for the mall revitalization, which best reflects and serves the mobile roles and constituencies of the key downtown blocks. As part of this group, members of the downtown business committee and property owners were instrumental in developing many of the project recommendations the c.a.c. Put forward to the city council in may of 2004, such as the right side stations, through auto lane, and vehicle pullouts in several strategic blocks. Similarly, the downtown business community was at the table when the project was developed, when the project budget was developed, including the plan to increase it from the original \$15 million to \$17 million

November 10, 2004

improvement district. We c.a.c. members who helped create this ambitious blueprint for the mall's future were keenly understanding that a lot is to be gained and lost in terms of leveraged opportunities for federal funds if the project is not funded at its intended level. Any reduction in the already tight \$165 million budget would not only cut back on the mall's physical renovation, but opportunity to manage, maintain, and develop the mall could possibly be endangered. These all essential elements in transforming these downtown streets for the next 25 years. We understand the negotiations which have taken place, and we appreciate the pledge from tri-met and the city to backfill a proposed \$3 million in the reduction of the l.i.d. assessment, and this will be done to avoid compromising the integrity and promise of the Portland mall project. And for its part, the c.a.c. is committed to working with pdot and tri-met to help best identify the additional \$2 million savings which will need to take place. As the mayor pointed out, mall management is a very important piece of this, and we will work hard, not only to make sure that that piece is in place, but also if there's any alternative funding to move up the development of that program. We urge, as a citizens advisory committee, we urge the city council to support the mall project and share a successful renovation by adopting an l.i.d. of no less than \$12 million, excluding the p.s.u. funds, at the meeting today. Thank you.

Katz: Thank you. Ok, let's open it up for public testimony go ahead.

Greg Baldwin: Greg Baldwin, 320 southwest oak. Madame mayor, members of the council, four weeks ago I was in a small town in Austria and received a fax of the remonstrance. I stewed for two days, calmed down, and then wrote my thoughts. What I began with was simply, this is the saddest event in my 40-year experience in downtown Portland. Not since Meier & Frank's threat in 1968 to build an 11-story parking garage on the Pioneer Courthouse Square block, has a private sector so seriously distanced itself from its responsibility for the welfare of downtown. Michael Powell subsequently told me that I was being dramatic. [laughter] at first blush, my concern was framed by four or five consequences of the remonstrance. I think two are germane today. The proposed remonstrance was a contradiction of the downtown leadership role, the private sector initiated in the late 1960's and is pretty consistently sustained since. Two, the remonstrance suggested that the mall's well-being was the responsibility of others rather than that of the private sector. Thus it implied that the private sector's creative initiative and stewardship would not be forthcoming. However, I returned and invited two dozen of my friends from the downtown business community for a conversation. That and several other conversations over the past three weeks have suggested that we can use this conflict to stimulate a revival of private sector stewardship for the mall and beyond. In the process, the basis for expanded private sector initiative in downtown have been broached and confirmed. I believe that the opportunities do exist to complement the l.i.d. investment you're considering. They include additional in-kind contributions, other funding opportunities, prudent reconsideration of budget priorities, and economies associated with constructive -- creative construction management. As a consequence of the mall -- as a convenience, the integrity of the mall, as it was originally conceived and executed, would not be compromised, and its promise can be enriched, but to do private sector leadership must be secured and its stewardship applied. Approval of the proposed l.i.d. of \$12 million will remove yesterday's impasse. With your understanding and support of what it takes to make the private sector, all of it, competitive in the region, and with our willingness to assume the civic responsibilities we have traditionally borne, this approval today should also provide leverage critical to effective leadership by downtown property owners, businesses and institutions.

Katz: How do you propose to do that?

Baldwin: I think that requires an elaboration and consideration beyond this, but what I'm saying is in the last three weeks, including a number of people in this room, both those for and against the remonstrance, this have been some very creative discussions, and I think it has to occur. And without it, I think the idea of the mall is severely compromised.

November 10, 2004

Katz: Thank you. Ok.

Susan Pearce: Good morning, mayor Katz and commissioners. I'm Susan Pearce. My address is 3142 southwest 25th avenue in the Hosford/Abernethy neighborhood. I'm here representing the Hosford Abernethy neighborhood Association. Or hand as it's affectionately known. We've long recognized the benefits of light rail, which include but don't exclude -- but are not limited to the decreased use of automobile, in many cases increased development, and benefits to business along the light rail lines, and both the short-term and long-term and obvious benefits to the region and the environment. So we urge you to go forward with this plan. We're pleased to see this. We want to take this opportunity also to remind you that what we really want to see is that this project continue forward, be completed, and we can move on to the next step, which will be the Milwaukie/Portland line, moving along with the regionwide system. Thank you, commissioner Francesconi, for remembering that in your opening remarks.

Katz: Thank you.

Erika Silver: Good morning, mayor Katz, commissioners. Erica Silver, director of operations for the YMCA of Greater Portland. We serve 38,000 of our community's most vulnerable people over the year, and I am here to ask for a remonstrance. I'm not sure if we're already included in the one that -- the special exemption that you just made, but we do include housing for very low-income people at our downtown Portland location. We're already being assessed for the streetcar, and which we are paying, and the new assessment simply would be a hardship to us. I will submit a letter and ask that that be included in the record. Thank you very much for your consideration.

Katz: All right.

Francesconi: Why don't you meet with transportation right now and they can tell you where you stand.

Silver: Thank you.

Katz: Ok. Karla? Thank you.

Katz: Michael, he wasn't dramatic enough.

*******:** Yeah, he toned it down a little bit.

John Carroll: Good morning, mayor, councilmembers. My name is John Carroll. I'm here talking on behalf of Portland Streetcar, Inc. I chaired the organization, have been involved in the last 14 years, and the conversations, beyond going into debate in identifying proper funding, proper mechanisms, this is not unusual territory, but I can only commend you on working through the issues and in hopes that we have an affirmative vote here today so that we have this mall improvement and the extension in place. From the private side, we're in the development business, and in my office on a chalkboard there's about 35 communities that have written their names on the chalkboard as they've come to visit Portland for very specific reasons. Usually it starts with a question, how does the city of Portland do it? And it quickly evolves into commitment of infrastructure, commitment of the streetcar, going back 14 years as we started this -- started this effort, and this -- this exercise that you're going through now is so darn important, because as we get the next 35 or 40 or 50 communities from around the country that come to Portland, ask the question, how Portland does it, it will be another piece in place that demonstrates our leadership has the strength to spend the money, the time, and the energy to grow our community. I can appreciate certainly that there's cost that has to be passed on, but we have to look down the road 10 or 15 years and ask the question, did we do the right thing? And based on my personal experience, living in Portland all my life, I look at three or four events like this, the light rail in general, certainly our streetcar, certainly our downtown plan and on and on, we can say in the affirmative, yes, we've done the right thing. I encourage you to vote for this -- for this position today. And I'm pleased that a compromise was reached that we can get an affirmative vote. Thank you very much.

Katz: Thank you.

November 10, 2004

Elaine Bothe: Mayor Katz and the commissioners, I'm Elaine Bothe, 444 Southeast 41st Avenue in Portland. I'm a member of the Citizens Advisory Committee for the Portland Transit Mall Revitalization Project. I also represent the Bicycle Transportation Alliance. My interests in this exciting project encompass more than just raising the issues concerning bicyclists. The City of Portland is a wonderful place to live for a multitude of reasons, and I'd like to see it stay that way. As a growing city, Portland should not simply maintain infrastructure, but exceed the bare maintenance necessities to ensure future livability excellence. Once implemented, the revitalization will reinvent the mall as a centerpiece for the City of Portland, a successful and vibrant center for transit and businesses, and as a multimodal thoroughfare. The station as placed concept is a strong one, from streamlining transit, as well as creating useful landmarks for travelers and meeting places for residents, not unlike the thriving train stations in the European cities. This project is an opportunity to create a showpiece of urban and transit design. I'm disappointed in the reduction of the I.I.D. Contributions, and my concern is that with any further budget cuts, such as this reduced I.I.D. And thus the loss of the additional federal contributions. The elements that go beyond the bare necessities to fairly energize the mall and to make it an exceptional place to spend time will be the first elements to be eliminated. We have the opportunity to apply the learning gathered from the mall's first 20 years, as well as from other successes from around Portland and other cities. It's time for maintenance on the mall now. The opportunity for maximizing the bang for our revitalization buck is also now. I appreciate your consideration regarding the approval of the I.I.D. funding for this project. Thank you.

Francesconi: One thing we also appreciate is your willingness -- you personally -- on behalf of your organization and the pedestrian coalition, which I want to recognize now in case they're not here -- to go along with the through auto lane, which I bet wasn't your first choice, but as you worked through it you saw that it would work for everybody. And so it wasn't a question of compromise or consensus, you came to the conclusion it was the right design. So I wanted to acknowledge you again for that. That's number one. Number two is, in this revised ordinance that we're submitting, we're putting the charge on you to make sure that the council's specific instructions to uphold the urban design, social and development vision, established in the conceptual design, will not be compromised at all by this redaction. And so we're asking you, if we adopt this as a council, to make sure that doesn't happen.

*****: I'll do my best. Thank you. [laughter]

Michael Powell: Commissioners, Mayor, I'm Michael Powell speaking today on behalf of the Pearl District Business Association. I have the pleasure of being on their board. We had our reservations about the I.I.D. Initially because it was hard sell to tell people at 12th and Lovejoy that an I.I.D. From the transit mall was in their best interests, but on a reflection, both at the board level, and I feel the vast majority of members of our association and the Pearl inhabitants and business people in general, the thought that a revitalized, vital Fifth and Sixth Avenue, a revised and vital downtown Portland, was in as much as in our interest as it was in the downtown interest. And so there was considerable support for this. That support continues. This will make it a little easier, obviously, because the price will be a little lower, but we continue to be interested in the welfare of downtown, as much as we are in the welfare of our neighborhood. We understand the vital that transportation brings to a neighborhood. We've had the experience of the streetcar. And we hope for the same for downtown. I would like to note, Tri-Met's commitment in the construction phase to learn new construction practices which will mitigate the impact on businesses, because I think that's critical to all of downtown, that this not be turned into a major works project that would disrupt and in effect negatively impact business in downtown. They assure us that will not be the case this time around. So I think that's an important addition and contribution. Finally I'd like to say something, as I try to often, because it's been my pleasure to come before you so many times as a result of a process like this, this process I believe is so unique to Portland, that it accommodates the dissent, the design

November 10, 2004

ideas, the stakeholder -- the woman to my left, bicycle folks, the pedestrian folks, that people wanted to see cars back on fifth and sixth, the transit enthusiasts. I mean Portland has a unique way of accommodating these interests, accommodating the dissent involved in this in coming to what I hope is a happy conclusion today. This is uniquely Portland. It's always important to celebrate that and be part of it. Mayor, if I don't see you again in this capacity, and commissioner, you know, it's fun to be working with you. I've always enjoyed, when we agreed, and when we've disagreed, and mayor particularly, i've always enjoyed your sense of humor.

Katz: Thank you.

*******:** Good luck.

Jim Hennings: Madame mayor, councilmembers, i'm jim hennings, the executive director of the metropolitan public defender. Our office is in the red zone, 630 southwest fifth avenue. I'm here to raise a policy issue concerning exemptions for nonprofit private organizations. Our office is a nonprofit private organization. Under state law we're exempt and can pass on to our landlord the exemption of property taxes. In my mind, this special service district tax that is based upon property values is basically a property tax. The impact, and what i've provided you, is as of 2003, these are the organizations that are exempted. Some of these organizations may own the property. Some of them, like us, are leaseholders rather than property owners. Our contract, much like all of the contracts that i'm aware of downtown, allow the landlord to increase our lease by the amount of the assessment. Basically to pass on to us. That means less money available to us. Ken will talk about the legal issues, but I want to talk about the policy issues. As you're aware, for indigent defense, three of these programs provide indigent defense. We've stopped prosecuting most misdemeanors and 68% of the felonies. We still have problems in terms of sufficient funding for indigent defense, that the money will run out for all criminal defense the first of may unless the legislature comes in with a fix of the part of the fix that the legislature has always used is that most of the indigent defense, that burden is passed back as to whether or not we can provide the defense.

More important, many of these programs provide services to our client, or our potential clients, and quite frankly without these services we will see a bigger demand. I think there's a policy issue here that needs to be looked at, whether or not the council should not continue the exemption that is granted by the state of Oregon to nonprofit organizations. I believe that this is a public safety issue.

I also believe it's a legal issue, which is why i've retained ken antell to advise me on this matter.

Keneth Antell: Thank you. Madame mayor, council, i'm ken antell, here today appearing on behalf of metropolitan public defenders. As you're probably aware, most downtown office leases provide for building expenses to be passed through to tenants. So this assessment that is going to be assessed against the landlords will be passed on to the tenants. Under state law, there is an exemption as the council probably knows, o.r.s. 307.112, that provides for essentially a pass-through of that -- of a property tax exemption in favor of the owner that is then passed through to the tenant. We're asking for the same exemption to be provided for tenants in this case with regard to this project. I want to mention one thing that commissioner Francesconi mentioned earlier, and that is that there's no doubt that the process in this case has been -- has been a good one. And that is the one group of stakeholders in this that did not get notice of this, and did not have an opportunity to be heard early on, is tenants. And the reason is that they don't appear in the rent rules. And so here we find ourselves now at a place where everybody is having a party to celebrate the -- the adoption of this ordinance, which is universally been touted as very good for the city, and we don't disagree with that, but perhaps the process does have a problem if the people who are going to bear a heavy burden of this project did not have an opportunity to be heard. I submit to you, that if they had an opportunity and notice early on, perhaps this exemption would have been built in by now. We're asking the council to take the time to consider an exemption that would allow that -- allow that protection in favor of nonprofit tenants. We've submitted a proposed language. We ask that the record be kept open so that we can supplement that later this week with an additional

November 10, 2004

amendment, and we think that it's the right thing to do to protect nonprofits from additional burdens and allow them to continue their good work. Thank you.

Katz: This is not a land use hearing, where we keep records open, but this is not an emergency, so it will -- it will go on again to next week for a vote.

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

Katz: Ok. So if anybody wants to bring anything, they can.

Matt Felton: Matt felton with felton properties. As a property owner of three office buildings, totaling about 300,000 feet on the bus mall, I would to strongly support the compromise. While we believe light rail is integral to the long-term growth and livability of our city, which we firmly agree it is, the current aesthetic state of the bus mall is of equal importance. There's no mystery that the office market vacancy rates directly on the bus mall are higher than those surrounding it. As property owners on the bus mall, we are being asked to foot a much greater proportion of this bill. I'm here to suggest to the city council and mayor that the contemplated aesthetic improvements, which include the replacement of the bus shelters, the landscaping and trimming of trees and brickwork for the streets to the bus mall are of vital importance to the integrity of this project. Also this project should be viewed as a downtown revitalization project as well as a transportation project. As such, it is an opportunity to improve an area of downtown that is in great need of an overall. Any cuts to the contemplated cosmetic improvements to the bus mall, as a result of this \$5 million reduction in funding, would be a grave mistake and one that would undermine the principal benefits of this project.

Francesconi: See, I agree with that. And so -- I mean, why -- so are you in favor of us reducing the l.i.d. or do you think we should keep it?

Felton: Yes, I am. I think it's a burden for -- for property owners that -- that the burden is too high. We're in too much of an economic downturn in this city, and we can't afford to foot the bill for this project in its entirety. The compromise is a fair one.

Katz: But you're going to tell us what to cut and what not to cut, right?

Felton: Right. I mean, the bus mall is in dire need of a retrofit. The vacancy rates are the highest in the city on the bus mall. The crime is the highest in the city on the bus mall.

Francesconi: That's why we're doing this, that's one of the reasons we're doing this project.

Felton: So i'm sure there must be other cuts that can be found in this budget that will not compromise the integrity of this project and keep that area and spur revitalization of that area.

Katz: We're not going to play that game here. The decision will be made as to where those reductions can be made so that we keep the integrity of the bus mall design, and there may be things that will have to be set aside over others. We don't know what those are yet. Thank you.

Francesconi: Well, I think you're saying the same things. The question is how do we get there.

Katz: Go ahead.

John Beardsley: I'm john beardsley, 115 southwest ash. I'm predominantly a rehabber of historic properties in downtown. As so, I own properties on both the transit mall and on first avenue. I was a stakeholder in the formation of this group, and I was a supporter of it. And i'm here to explain how I came to become a remonstrator. First, I had no idea that the condominiums that are being served by the transit mall were going to be excluded from participation in the cost of the project. I've got some buildings that are valued at less than many of the condominiums that are being excluded from this process. Secondly, because my properties are historic properties, they're subject to historic tax credit. On your tax statement, there's a fair market value, and then there's a credit for the historic status, and then there's a net value. The assessment for the l.i.d. is based on the full market value, not giving credit for the historic nature of the buildings. So that in effect doesn't give any credit to the historic classifications of the buildings that I own. Lastly, as I said, I own properties on both the transit mall and on first avenue. First avenue already houses light rail. And

November 10, 2004

i'm being assessed for those properties that are on first avenue to support the transit mall. I cannot understand the logic of that.

Katz: Thank you.

*******:** Good morning. Am I up?

Katz: Yes.

Henry Goff: I'm henry goff, 1331 southwest park. We appreciate the compromise. Our concern is the real market value that has been assessed to our property. It does not take into account the restrictions to the purchaser as a result of us being designated as a landmark facility, nor the internal design of the building, which is a one-user-type design. Appreciate your consideration.

Katz: Thank you.

John Russell: Good morning, madame mayor, members of council. I'm john russell, 200 southwest market, 97201. My company owns downtown buildings with office space, retail establishments, and apartments. For me and my tenants, this project is a lifeblood. It delivers an enormous number of people effectively and conveniently to our doors. Furthermore, the cost of this -- or piece of this financing, the local improvement district, is minimal. But my -- by my calculation it requires an increase in occupancy levels of less than .2 of 1%. This seems like a wonderful return on our investment. The truth is that downtown properties, whether they're retail, office or housing, can't compete effectively with their suburban counterparts that offer free parking.

And unless we're well served by effective transit. But perhaps more importantly today I think we ought to honor the process promoted by the city and by tri-met to design and detail the dramatic revisions to our transit mall, because of the hard work over some 18 months by a long list of volunteers, I believe that there's unanimity about the design details. I'm told the passage by the city council today of this local improvement district is the last piece of the local puzzle for this wonderful project. Therefore I propose that this day be a day of real celebration, however brief as we now turn to the task of obtaining federal approval.

Dave Hamilton: My name is dave hamilton, vice president of commercial property management for norris and stevens. We represent multiple owners and buildings in the central business district. We believe that the light rail and the modernization of the mall is important to the city of Portland for future growth. A number of -- or most of our owners had issue with the l.i.d. and the dollars that were attached to it. The system is appearing to be working. We want to thank the city of Portland, transportation, and tri-met for their efforts on coming to a compromise, and encourage the council to adopt the amended ordinance.

Trond Ingvaldsen: Mayor, councilors, i'm trond ingvaldsen, I represent standard insurance company. I'm also a member of the citizens advisory committee. I've been on that committee for the last two years. Standard insurance company has about 2,000 employees working downtown, right on the transit mall. 60% of our employees ride transit to work every day. Obviously the extension of the light rail is very important tool to standard insurance company in making our employees have good access to downtown and our offices located here. All along, we've been a strong supporter of the l.i.d. at the \$17 million level. We also were -- we fought hard to extend the l.i.d. to the area we have in front of us today. However, we do think that the \$12 million level is a good compromise, and we do encourage council to adopt the resolution for that amount. I also would like to commend all the parties involved to reach the compromise. I think it's a healthy debate. It's going to be a good solution. And just for the record, as a native of norway, I want to see more norway maples on the mall. [laughter] thank you.

Katz: No argument with this man over here. He's the tree man.

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

Moore: That's all who signed up.

Katz: Anybody else want to testify? Ok.

November 10, 2004

Greg Goodman: Mayor Katz, city councilmembers, my name is greg goodman. A pleasure to be here today to speak in favor of the light rail project and endorse the revised l.i.d. A particular thank you to brant williams and fred hansen. If it wasn't for their time, effort, willingness to discuss the issues and work toward a solution, we wouldn't be here today to endorse the project. The mall project is a needed and great project. For the record, the design process was one that we can all be proud of. Tri-met, the city, and metro did a great job of involving downtown -- the downtown community in design improvements and have come up with a great design option that property owners can support. I can assure you that all of our future efforts will be put forward to work with tri-met, the city, and metro in partnership to make this transit mall the best street it can be. To work together, to have our mall and our downtown each reach its potential and sustain it. Finally, in closing, I would like to thank the city councilmember for its willingness to consider this happy conclusion. Thank you.

Francesconi: Greg, are you on pioneer square board still?

Goodman: Umm, yes.

Francesconi: And, you know, a thought that i've had is, are you still collecting for this ice rink? Are you still charging the downtown for b.i.d. for the ice rink?

Goodman: Well, first of all, the square has nothing to do with charging the downtown for an ice rink. That think is up to the bureau of licenses is, and there's going to be an announcement on that in december. I was talking with sandy yesterday, but we have to have a business improvement district board meeting to get a resolution passed at the business improvement district board as it results to the funds, as it pertains to the rink.

Francesconi: See, my thought was, I understand licensing collects it, but I was in charge of licensing when we were approached to collect the b.i.d. On behalf of pioneer square, who has an arrangement with the Portland business alliance. But my thought was that pioneer square is a station now, a stop on the light rail line, and there may be an opportunity with your leadership to talk with pioneer square board about how it could work together to take advantage of the fact that pioneer square is a stop, and also to look at an arrangement between the terrific people on the pioneer square board, you included, who care about the city, and the maintenance of the mall, to talk about how to work on that issue, to help replace that \$2 million. And so it's just a request, because I think you're in a unique opportunity to help do that.

Goodman: I promise you it will be. That's a good idea. And we will discuss it at the square board meeting, and I also chair the business improvement district, so it will be a topic of conversation at our december meeting.

Francesconi: That's my request.

Goodman: Ok. Thank you.

Francesconi: Thank you.

Ross Williams: Mayor, commissioners, my name is ross williams, 426 southeast 19th in Portland. For many years I worked with citizens for sensible transportation on transportation issues. This project is one that people support out in the community. And I think it's important that not just the downtown part, but the entire project, both the i-205 corridor and going to milwaukie ultimately as the whole project will do. It's important that this part get done in order for that to happen. It's also important, I think, to understand that it is one large project with lots of commitments, and there were lots of reservations by all sorts of people in the community as this project has gone forward. But people support it because they know we need to expand our light rail system in order to provide the kind of transportation network that's going to build the kind of community we want to live in. And so there are lots of people out in the community who support this. They may quibble about the details, but they really want to see it move forward and continue to give tri-met the support they need to expand our transit system. Thank you.

November 10, 2004

Katz: Thank you. Anybody else? As I said, this passes to second, but let me take the privilege of the chair by saying how much I love the city because you folks are so gentele and polite, and there are undertones here going on for weeks and months and nobody -- did you want to testify? All right. Come up. I'll continue later.

*****: I'm sorry. Hi, everybody. I'm coming for the --

Katz: You need to identify yourself for the record.

Eva Drowss: My name is eva drowss. I'm coming from dallas, texas, and i'm looking for my daughter. She is at home nine years, and stay this, Portland, Oregon, and she study, and we moving my country first, and we come back and staying now. I come because i'm looking, my daughter. Right now i'm going in the police department, and no have information for she. I have a last address for my daughter, and she not living this -- this address. And I want help, help, somebody, because four years, I have no information. Maybe my daughter wanted help.

Katz: I heard about your situation before the council.

Drowss: Yes.

Katz: Curtis, raise your hand. See this gentleman over here. At least for now, he's your contact. And then he can --

Drowss: He help me?

Katz: I don't know if he'll directly help you, but he'll connect you to people that will help you.

*****: Ok, thank you very much.

Katz: Thank you, everybody. As I said, you're very gentele and very polite. Every once in a while I think we need to be a little bit more honest with each other. Yes, fred, john, this is a celebration. There is no -- no question about it. Jim, this is a celebration. But as I watched all of this unfold, I have to be very honest with you, I got a little angry. Many of the business community wanted the auto lane. The bicycle folks didn't want it. The pedestrian folks didn't want it. I didn't want it. Others didn't want it. But to accommodate the needs of the business community, everybody took a step back, analyzed the situation, and said, "ok, we will do this, we'll make it work to the best of our ability." and then a whole group of people who got what they wanted walked away from the table. Now, we don't do business like that here. The city council doesn't work that way. If we make an agreement collectively, we keep our agreements. And so I needed to share that with you. That really did anger me, because I was very disappointed. I was very disappointed in members of this community who should know better, who understand the value of what we're doing, and what we've been doing for years and years, starting 30 years ago when this mall was first constructed. So having said that, we will make this work, but you're not going to tell us what we're going to reduce and not reduce. We'll make that decision based on what's the best for the city of Portland and for the mall itself.

Leonard: Mayor, may I make a couple remarks, given the audience is here and will be voting next week?

Katz: Ok.

Leonard: And in the spirit of what you just said, I don't want anybody to be surprised. This is a -- for the public reasons that people have heard there to be controversy over this project, those are not reasons that -- that I agree with. I mean, having grown up here, I appreciate what light rail has done for the city, and i'm very supportive of the project and what I am confident it will accomplish. For that, I thank commissioner Francesconi for this fine work. I cannot vote it. I cannot vote for it, it's very frustrating for me, because i've been very clear since august when we had a hearing, that it is patently unfair to charge the first unitarian church, to charge the first baptist church, the first christian church, salvation army, Portland state, but if you happen to own a condominium, you don't get charged. If you own an apartment house, you get to pay -- you can take comfort knowing that people who rent an apartment, they pay. But if you own a condominium in this town, we have taken the unique action of excluding condo owners. So I hope next wednesday, when this is passed

November 10, 2004

by the council, that anyone fortunate enough to have a penthouse suite at the koin tower will walk out on their balcony, raise their martini glass and toast the city and thank them for excluding them for having to pay for the light rail.

Francesconi: Well, since we're all making comments here, one of the things that I want to do is, after i'm gone shortly, is to raise a martini glass -- [laughter] -- which I rarely do, and I want to celebrate not only this, but there's one or two things in parks I want to celebrate. So life is not always fair, and that's why we try to make it fair. And so that's why on the future projects, we are going to include the condominiums, which is the right thing to do from a policy perspective. But we can't threaten the federal funding, which is also the reason that i'm going to vote in favor of this reduced l.i.d., in addition to the fact there are some economic hardships that the downtown property owners are suffering. But i'm convinced that we just have to do things to make this city and region competitive down the road and to maintain our quality of life. And I just want to make sure that we've got the three votes next week, and it was my job to help make sure that we do, to move this project forward, because it is so vital to the future of our region. And so I want to thank people here, brant especially, as I said before, this was your coming-of-age party, and I want to thank fred hansen for his advocacy. I don't begrudge property owners for advocating for their interests. That's part of the process. I do have a disappointment i'm going to express. And it's -- and it's more concern. It's not in any particular people. But our business organizations -- and there was a transition happening at the time, so I understand this. But we have to have a more united business organization who could advocate for through lanes, but then can turn around and help us pay for it and not just take a pass on that and help -- and have the public sector do that work. That's not right. And so i'm hopeful that that can be strengthened to the point where it can do difficult things again, because or else I worry that we won't be able to maintain the public/private partnerships that built this region. Thank you all for your work on this.

Katz: Commissioner Sten.

Sten: I'll just say I intend to vote yes. So i'm the third vote. [laughter]

Katz: That's very important, because he's no, and commissioner Saltzman is taking a conflict of interest request, and will not be voting. So commissioner Sten's third vote is critical. Ok, everybody, we'll vote on this. I didn't hear any amendments. We'll vote on this next week. Thank you. All right, let's move on. 1304.

Item 1304.

Katz: Ok. Why don't we clear out. All right, let's clear the hall. All right. Come on up. Who's going to be speaking?

Jim Wadsworth, Office of Management and Finance: Good morning, mayor Katz, commissioners. I'm jim wadsworth with the office of management and finance. Council resolution 36246 which you passed on august 18th of this year directed o.m.f. to take any necessary steps to acquire and implement an enterprise resource planning system. This quality assurance contract before you today is a -- is our first step in that direction. Quality assurance is a necessary function to ensure optimum project management and to mitigate project risks. So we request council's approval of this ordinance to allow the enterprise systems project to move forward. Happy to answer any questions.

Katz: I don't know if we really -- if we were really listening to everything you said. [Outgoing audience was noisy leaving chambers.]

Wadsworth: Ok. I'm jim wadsworth. Council's resolution that was passed in august that -- that directed o.m.f. to take the necessary steps to acquire and implement an enterprise resource planning system, this is the first step, quality assurance piece. The quality assurance function is necessary to mitigate project risks. So that's -- this is the first piece coming forward. And we request council's approval of this ordinance to allow us to move forward with the enterprise business systems project to do just that.

November 10, 2004

Katz: Thank you. Anybody else want to testify? Any questions? Roll call.

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

Saltzman: I just wanted to add, this is the same firm providing us with quality assurance services on our customer information service implementation through the water and sewer billing, doing a very good job. Aye.

Sten: Aye.

Katz: Mayor votes aye. [gavel pounded] 1305.

Item 1305.

Saltzman: Thank you, madame mayor, members of the council. This is a proposed code language that would achieve what will of us may think is the obvious, and that is when the city awards a contract to a firm to provide a good or a service to us, they should have two things. One, they should have a business license to do business with the city. And secondly, their business license fees should be paid in full for any past businesses they've -- if their business is in Portland, they should have their business license fee fully paid. This code language assures now that we will be checking on both of those items as a routine matter citywide for any contract over \$50,000. So in essence two things will occur. We will check, and this will be done in conjunction with the bureau of purchases and the bureau of licenses, will make sure they have a business license. If they do have an outstanding balance due, we have the ability under this code language to work out terms of payment. So that part of the business license fee could come out of the contract award itself, or the other alternative would be if a business could not win the contract if they don't have their business license fees fully paid. So I think it's a fairly straightforward code change and something, as I said, it's probably an obvious thing, but I think it's making it in code will assure that it is -- becomes a citywide practice and purchases will be checking on this.

Katz: Great. Thanks. Ok.

Leonard: I do have an amendment.

Katz: I'll take it in a second. Why don't you pass it out. Then we'll take it. Do you want to address this issue and --

Leonard: Do you have the amendment?

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

Katz: With the amendment in hand, i'm certainly going to give commissioner Saltzman an opportunity to address the amendment. But while you're here, I guess the issue is what's going to be more effective and what's going to be easier to administer. So talk to us a little bit about that.

Jeff Baer: Good morning, mayor Katz, city councilmembers. My name is jeff baer, sitting in as acting director of the bureau of purchases. The ordinance that commissioner Saltzman's office put forward was intended to look at those procurement actions that occur over the \$50,000 realm, and what it did was it provided us with an additional mechanism in which we could actually look at whether or not a bidder was legally qualified to do business with the city of Portland, and it provided a way for us to actually reject or notify the bureau of licenses to do some follow-up work to make sure that they were in compliance. Just kind of a -- just a step back for a minute, back in june, in tandem with the bureau of licenses, bureau of purchases we, began a very concerted effort to look at those. In fact, we've been reviewing those formerly bid projects to make sure they were in compliance, that they were a viable entity in which we could do business with. And as the -- this amendment -- the ordinance is written, what it does is it provides a way for us to -- for the bureau of licenses to go and make sure that they can make -- can either make payments or make sure that they are in compliance with the business office law. That gives us in effect a tool, we could actually reject that bidder if need be. Plus, also puts in a contractual provision that we could withhold payments if necessary.

Thomas Lannom, Director, Bureau of Licenses: Thank you, mayor, council. Thomas lannom, director of bureau of licenses. This really is a continuance and extension of a partnership that we

November 10, 2004

did begin in June. And it's been very successful one to date. The general fund has realized additional revenue of about \$66,000 as a result of purchases' effort to refer noncompliant businesses contracting with the city to the bureau of licenses. The amendment before you really would drag in an additional 400 or so contractors between the \$5,000 and \$50,000 range. I believe that's the correct number. And so it wouldn't result in any additional work. I think there was some discussion about that early on. The threshold that would result in considerable additional work is below that \$5,000 mark, because there are literally tens of thousands of transactions under that level. So that would be a different problem, and that would require some additional resource, but from the \$5,000 mark up we've talked about it a lot, and we think we can do that fairly readily. I want to thank commissioner Saltzman and commissioner Leonard for their leadership on this.

Katz: Commissioner Saltzman, do you want to address this?

Saltzman: I'm comfortable with going to a lower threshold of \$5,000 rather than \$50,000 if purchases feels it is something can be done effectively. We chose the \$50,000 threshold in consultation with purchases about some of the issues that came up, but if you're comfortable I'm comfortable.

Baer: The issue that came up, we were concerned it would become a bottleneck, and we were in a position of trying to address kind of a mixed bag of procurements as they come through our bureau. What the amendment does is it allows us the discretion to continue that going forward and notifying bureau of licenses for follow-up works.

Katz: So you all agree. All right. Anybody else want to testify? Passes on to second. Everybody we stand --

Leonard: Do we need to move the amendment?

Katz: Sorry. Everybody agreed on it, but --

Leonard: I'd move the amendment.

Katz: Ok. The amendment -- do I hear a second?

Saltzman: Second.

Katz: Any objections? Hearing none, we stand adjourned until 2:00. [gavel pounded]

At 10:53 a.m., Council recessed.

November 10, 2004

NOVEMBER 10, 2004 2:00 PM

[Roll call taken]

Item 1306.

Saltzman: Please read the item.

Saltzman: This hearing is on the record. I'd like to ask our attorney, Frank Hudson, to please describe the hearing and how it will be conducted.

Frank Hudson, Deputy City Attorney: Good afternoon, everyone. Under state law the city is required to read certain rules and procedures prior to the hearing. These are the rules. This is an on-the-record hearing. This means you have to limit your testimony to material and issues in the record. That means that during this hearing, you can only talk about the issues, testimony, exhibits, and other evidence that were presented at the earlier hearing for the hearings officer. You can't bring up anything new. This hearing is designed only to decide the hearings officer made the correct decision based on the evidence presented to him. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded that you must limit your testimony to the record. The order of testimony will be as follows -- we will begin with the staff report by the bureau of development services staff for approximately 10 minutes. Following the staff report, the city council will hear from interested parties in the following order. The appellant will go first and have 10 minutes to present his or her case. Following the appellant, the persons who support the appeal will go next. Each person will have three minutes to speak to the council. This three-minute time limit applies whether you are speaking for yourself or on behalf of an organization such as a business association or neighborhood association. The principal opponent, which is typically the applicant, will have 15 minutes to address the city council and rebut the appellant's presentation. After the principal opponent, the council will hear from persons who oppose the appeal. If there's -- oppose the appeal. If there's no principal opponent, we'll move to supporters of the appeal. Each person will have three minutes each, whether you're speaking for yourself or on behalf of an organization. Finally the appellant will have five minutes to rebut the opponents of the appeal. The council will close the hearing and deliberate. After the council has concluded its deliberations, council will take a vote on the appeal. Council will set a future date for the adoption of findings that are the final vote on the appeal. If council takes a final vote today, that will conclude the matter before the council. If you wish to speak to the city council on this matter and have not signed the list outside of council chambers, please sign up at this time with the council clerk. Now for the scope of testimony. Again, this is an on-the-record hearing. It is not an evidentiary or what's known as a de novo hearing. This means you must limit your remarks to arguments based on the record compiled by the hearings officer. In presenting your argument, it's permissible to refer to evidence previously submitted to the hearings officer. It is not permissible to submit new evidence today that was not submitted before. The planning staff and I will be listening carefully to your argument, and if it strays from the evidence or issues presented at the initial hearing, I may interrupt you and remind you that you must limit your argument to issues and evidence in the report. If your argument includes new evidence or issues the council will not consider it and it will be rejected. City council's final decision. If you believe a person who addressed city council today improperly new evidence or presented a legal argument that relies on evidence that's not in the record, you may object to that argument. Council will provide a time at the end of the hearing for anyone to offer this kind of objection. Finally, under state law, only issues which were raised before the hearings officer may be raised in this appeal to the city council. If you believe another person has raised issues today that were not raised before the hearings officer, you may object to the council's consideration of that issue. Again, the council will provide a time at the end of the hearing for anyone to offer an objection. Thank you.

November 10, 2004

Saltzman: Thank you, frank. Any members of the council wish to declare a conflict of interest? Ok. Do any members of council have ex parte contacts to declare or information out of this hearing to disclose? Ok, then we will turn it over to staff for the staff report.

Fabio de Freitas, Bureau of Development Services: Thank you, commissioners. Good afternoon. I'm a planner with the bureau of development services. As a clerk read into the record, we're here to discuss the appeal of land use review 04-011666 l.d.s., otherwise known as gaibler lane estates. The purpose today of the hearing is to consider an appeal of the hearings officer's decision to approve conditions a nine-lot subdivision. The appellant here today is the pleasant valley neighborhood association and listed on your scene are the other various folks of interest here, including the applicants and representatives. To previously describe the original application to you, this is a land division request to allow seven additional single-dwell residential lots for a total of nine lots within a subdivision site. The request also includes the dedication and construction of new public streets. In creating the proposed residential lots, the applicant is proposing to amend the condition of approval from a previous land use case heard back in 1995. Subdivision approved and known as huskey heights. I'll get into that in a second. An appeal of the owe a summary of the appeal, i'm sorry, the appellant has taken the position that the applicant has not fulfilled the neighborhood contact requirement, that the sanitary sewer capacity has not -- is not there. The method of public stormwater disposal and capacity is not there. And there are issues, according to the appellant, related to transportation impacts. Before addressing these issues, i'd like to acquaint you with the site and the surrounding area. This is a zoning map showing the site here in the shaded area. You'll see that the site is primarily zoned r-10 with the very small sliver in the northwest corner with a p overlay. This is southeast 162nd street. Gaibler lane is an existing right-of-way approved with that previous subdivision I referred to as huskey heights. This in fact is the approved plan for the -- for that huskey heights subdivision. We believe essentially look at this as phase one of this proposal. The arrows here to emphasize that this is 162nd avenue here. At that time this was the only frontage of the site. So gaibler lane was created, the two lots there, in the more green color, were created, as well as the darker blue color parcels there for future development. That's what the -- the subject of -- of gaibler lane estates is. So this is a preliminary plan for gaibler lane estates. Again, you'll see there's a lot here and a lot here in a lighter shaded color that have existing homes on them. The darker blue colors are new lots created, being proposed to create -- be created through this subdivision. Gaibler lane coming through here, east and west. This is a new right-of-way that the applicant has proposed to join to a new subdivision to the south here referred to as lehne estates, which I will also get into further. Again in that northwest corner there's that sliver of p zoning that will be set aside in a tract. I'm just showing you this slide, because the previous slide did not represent the accurate termination of gaibler lane. This is actually how it will be constructed in the cul-de-sac. Listed before you now are the land division approval criteria that the hearings officer considered in hearing the case. Those highlighted in black are those that are applicable in this situation. So the hearings officer decided that -- the hearings officer's decision included supplemental findings to conclude that all approval criteria were met, including again confirming that the neighborhood contact requirement had been met and adequacy of sanitary, stormwater, and transportation services were met also. With regards to the specific points of appeal, the first one, the neighborhood contact requirement, i'd like to emphasize at this stage that as part of the appeal the appellant included a statement that the neighborhood contact letter sent by the applicant was sent to an incorrect address. That matter was never brought up before the hearings officer, so I do not believe that we can address that issue today. What it comes down to is there was a responsibility of the applicant, as well as of the neighborhood association, in terms of this neighborhood contact. The applicant sent the neighborhood association a letter, as required by code, to establish a meeting to talk about their proposal. The code sets out a specific time frame in which the neighborhood association is required to respond to that letter. In this case the

November 10, 2004

neighborhood association did not fulfill their obligation to contact the applicant in that timely form. It was staff's position at the time that since that -- the neighborhood association did not fulfill its obligation, that the applicant was no longer required to meet with the association. The hearings officer confirmed our conclusion. With regards to sanitary sewer service and stormwater capacity, I can get into the very details of it request if you'd like, and I do have staff here from b.e.s. to discuss it with you, too, but I would like to emphasize that both of these issues, this is not the first time that this body has seen this particular issue. With regards to lehne estates, the subdivision that I referred to again to the south of this proposal, the appellant -- same appellant -- brought this matter to this body. The city council upheld the hearings officer decision in that case that there was adequate stormwater and sanitary sewer service for that particular subdivision. The appellant then appealed your decision to luba, at which time luba held a hearing and confirmed your decision again, as well as the hearings officer's decision, that there's adequate sanitary sewer and stormwater capacity in this area. So it's not the first time you're looking at this particular issue. Staff certainly feels that we've addressed this, and the city has addressed this, in the past, and has come to the conclusion, with the confirmation from luba, that there is no issue here. With regards to the appellant's last point of objection related to transportation impacts, in response to testimony submitted by the appellant at the hearings officer's hearing, staff provided supplemental information to the h.o. With regard to the area's transportation system and analysis of the evaluation factors listed in the applicable code section. The hearings officer concurred with staff's conclusion that transportation impacts -- or the transportation impact approval criteria was met. And i'd like to just get into this particular issue, just briefly, with you. As we see it -- and what I mean by "we," this is the first time that we're addressing this particular issue, owe b.d.s. staff, pdot staff, as well as the city attorney's office put our heads together to discuss this particular finding -- or particular approval criterion. We defined the transportation system generally as being the area with within the new development which -- i'm sorry, this is a contextual map to give you a flavor of this particular development, as well as the other developments in the nearby area. So we've defined the transportation system as being the area within the site itself, as well as being streets within the area and intersections of this subdivision it potentially might impact. So we're talking about gaibler lane itself, southeast 162nd avenue, and the intersection with foster to the north. Taken into account destinations and opportunities for transit within the system, there are no commercial or recreational centers nearby. To very north of here, at least a mile to the north of the site, is the springwater corridor and powell butte park. It's much more than a mile away if you actually try and get access to both of those facilities. So there's really nothing close to this particular site in terms of recreation or commercial. Additionally, there's no transit opportunities -- there's no availability for transit opportunities here either. Southeast 162nd avenue, i'll show you some pictures here shortly, you'll see, is currently not improved with sidewalks or bike lanes. Therefore pedestrian travel and bike travel is quite limited here. Transportation impacts historically have been looked at in terms of vehicular impacts to surrounding areas. This issue of looking at pedestrians in bicycle systems and incorporating that into transportation impacts is -- is not the standard. It's not information that's typically received in a transportation study. So it's something -- but it is something we have to address because it's in our code. Staff feels that the system, transportation system, will be improved by this development with the new paved streets that are going inside the development, as well as the sidewalks. Coupled with this, again, the adjoining -- the abutting subdivision to the south, which the city council has approved, will have public streets. There will be a connection between the two subdivisions. There'll be opportunity for pedestrian/bike travel through both of these subdivisions, and again looking at this contextual map the city does have applications in for very large subdivision to the very west and north of gaibler lane, subdivision referred to as hawthorne meadows, and then to the very north, up at foster and 162nd, another large division known as waterleaf. Traditionally transportation -- transportation system here will be improved with improvements that will be a part

November 10, 2004

of all the subdivisions that will take place in the future. Public streets, again, with sidewalks. So there'll be opportunities for enhancing the safety of pedestrian and bicycle modes of transportation with the incremental development in this area of the city. Staff also felt that the negligible vehicular impacts resulting from the proposal do not warrant offsite improvements, such as extending any existing sidewalk systems in the area. The closest sidewalk to the subdivision is located up here, approximately 1,000 feet to the north where the hawthorne ridge subdivision is. So we -- we did not feel that it was appropriate or proportionate to ask the -- the applicant in this particular case to extend the sidewalk system 1,000 feet on property that he doesn't -- that he doesn't -- that they don't own. I'd like to emphasize again that the subject site, as we know it today, has no frontage along 162nd avenue at all. So any improvements that we would be asking the applicant to incur would be complete a off site. Just some photos to wrap up here to familiarize yourself with the site now. This is standing at 162nd avenue, looking west along existing gaibler lane. As you'll see the existing condition, it's unimproved. Here at the corner, as well as where this house is, are not part of this site, as well as on the north side here, this is not property that's part of the subject site. Looking north along 162nd avenue, the street slopes down from gaibler here. The yellow air row depicts the location of the ditch. Looking in the opposite direction, again the location of the ditch where stormwater overflow will be going to. The existing house, that will remain on proposed lot one. Vacant lot, that will be proposed lot two right next to that house, and the existing house that will remain on lot three. This is looking south along the area where the new proposed north/south street is going to be constructed, and connect to lehne estates to the south. And looking out towards 162nd avenue from approximately the intersection with that new north/south street. So to conclude, your alternatives today are to either deny the appeal and uphold the hearings officer's decision to approve the subdivision. Deny the appeal, modify the hearings officer's decision based on the review of the record, or uphold the appeal in part or in whole based on review of the record. And that concludes my staff report.

Saltzman: Yes, thank you. Any questions?

Leonard: I do. I have a question. Is 162nd avenue is the eastern boundary of the city?

de Freitas: The city's border out there is at 162nd avenue, that's correct.

Leonard: And does it include both sides of 162nd or does it go down the middle of the road on 162nd? The reason i'm asking, is i'm looking at the undeveloped road, and i'm wondering what the plans, if any, are contemplated for developing sidewalks. Because as you're pictures show, that's an area that I think we can only assume will be developed more, and obviously the load will be greater on 162nd and as more housing occurs. Is there a future plan to improve 162nd with sidewalks, on both sides? And I was asking you if it includes the eastern side of 162nd side as well.

de Freitas: I'll take a stab at answering your question, commissioner. I do have pdot staff here that may be able to assist us. I don't know where the precise line is with the boundary of the city. The east side of 162nd avenue is the pleasant valley area. I do not believe that there are any current capital improvement plans that have been approved by the city for any time in the near future that the street will be improved by any means. I don't know if -- bob, do you want to come up and --

Leonard: Would it be the responsibility, once those developments occur, that adjoin 162nd, for that developer to do the sidewalks and --

de Freitas: That's traditionally how we have had -- outside of capital improvement programs for major street construction and improvements that the city incurs, that has been the traditional way that we do receive these improvements, is for developers to come in, or even in some cases just a lot split, where an applicant is proposing to divide their lot into another lot, pdot will require at that stage that the applicant either dedicate additional right-of-way for future improvements or actually make those improvements. That is the traditional way -- manner in which the city has sought improvements to roads, yes.

November 10, 2004

Leonard: And does that create some inequity, given you that have this kind of unique situation where there's no development in the interior portions behind those lots that abut 162nd? Does it create some inequity, that the responsibility ultimately, to actually do the improvements on the street, will fall to whoever's unfortunate enough to just develop on the street as opposed to those, that are developing, such as this applicant here?

*******:** I believe you're correct in that assumption, that the --

Saltzman: Identify yourself.

Bob Haley, Office of Transportation: Oh. Bob Haley with the office of transportation. The frontage requirements apply to that property which abuts the street where the development is occurring. Of course, as you know, when you go through a possible I.I.D. process, that sometimes that can reach further back, if you can draw that nexus that they're receiving a benefit from.

Leonard: We could do that at that time when that kind of development occurs, actually spread it out?

Haley: Generally when there's a -- a subdivision comes in and the city engineer would make the decision to accept waivers, a remonstrance toward a future I.I.D., that's usually because of either the -- the engineering costs or the obstacles of creating those frontage improvements are too great in balance compared to what the property was doing. Usually it's a major stormwater or topographical constraint or some other, but it's relatively flat along this part of 162nd and we wouldn't anticipate -- most of these properties that do front, at least to the north of here, are large enough that they would probably work out and balance, and 162nd improvements would be required. To your earlier question, I'm not sure who has the maintenance obligation for the paving, but the street -- it is a shared street between the right-of-way -- the city's boundary runs down the center of 162nd. East side is Multnomah county and the west side is city of Portland.

Leonard: I see.

Haley: I believe Linda Bauer may know some more. I understand peripherally there's been discussions between Multnomah county and the city and the neighborhood for plans for improvements to 162nd.

Leonard: Right.

Haley: But they're in sort of conceptual preliminary stages, nothing we could typically apply.

Leonard: I would assume, Bob, that you guys share -- my impression -- that this -- this area is going to exponentially develop because of the vast amounts of underdeveloped land.

Haley: Yes. Even though it's zoned R-10, which is a relatively low single-family zone, the parcels are of significant size enough that there's -- there's plenty of development potential along this area.

Leonard: Thanks.

Saltzman: Other questions? Ok, thank you. And now we'll hear from the appellant who will have 10 minutes. If you could state your name for the record and the clock is in the lower left-hand corner of the screen there in front of you.

Linda Bauer: Thank you. Linda Bauer, representing the neighborhood association as well as myself. I need to make some corrections to staff's comments. There is a 15-acre park that is up behind Hawthorne ridge. It is not as far away as Powell Butte park. There's also a 20-acre common open space that Metro just purchased on the other way, down at Clatsop. So there are parks that are well within walking distance of this area. The sewer is being extended, as staff said, 1,000 feet to serve this site, but the sidewalk is not. Why not? Why isn't the sidewalk being extended at the same time the sewer is? Yes, I did take this case, similar case to Luba, and I found out afterwards, I had to file a public information request to get the information from B.E.S., but there -- turns out that there's a map. B.E.S. told us all along that this was not within the Pleasant Valley area -- planning area. Turns out it is -- it was in the Pleasant Valley planning area. It was in -- I think it was section eight of the study area. So this area was planned, taken into consideration as part of the Pleasant Valley

November 10, 2004

concept plan, and b.e.s. has the map that shows that it was. Let's see. I do believe that their sending me the notice to the wrong address is relevant in this case, and it is already part of the record. There are not any offsite improvements -- he told you -- he told you that there were three developments proposed. None of them are doing any improvement -- or not doing any sidewalk improvements, any street improvements. They're using the ditch along 162nd for their stormwater. So there are no current offsite improvements from any of these developments. Staff and the applicant committed a procedural error in this case. As you read the record you will see that the applicant told staff that they were given the option of coming to a meeting or not. This is not correct. I asked that they come and share their proposal with all interested parties and gave them the option of which month they would prefer. The email to staff states, our client has expressed that he would rather not meet with the neighborhood association unless absolutely required by ordinance. He believes that since the association did not contact us within 14 days, and they gave us the option to meet, we are not obligated to meet with them. My concern is that not meeting with them could hold up the land use review process. The pleasant valley neighborhood association did set up a meeting with the -- with the applicant, and they didn't show up, and they didn't call to say they weren't coming. We had people there who were very interested in this proposal, and they had to go away without participating at all. Then the email that staff -- let's see. Then they emailed staff and the staff advised them, it is my understanding in reading your email that you notified the neighborhood association to request a meeting to discuss the project and you did not receive a response to this notification until 25 days later. Assuming you followed the requirements of sending the request for the meeting as described above, you are not obligated to meet with the neighborhood association since they failed to respond within the required 14 days. This assumption is an error, since the applicant did not meet his obligation to -- did not meet his obligation to request a meeting with the neighborhood association when he set the -- sent the request to the wrong address. Therefore the staff advice that the applicant was not required to meet with the neighborhood association was in error. If I remember right, from the wording of the ordinance, as it is quoted in the application, the 14 days is a guideline, "should respond," not "must respond." therefore it is not a do or die situation if either of the conditions are not met. The fact that the request was sent to the wrong address over the christmas holiday made it impossible for me to respond to the applicant within the recommended 14 days from the date that the application tried to establish his date of notification. And I did schedule a meeting within the 45 days, the guidelines of the code. The email goes on to say, even if ms. Bauer gave you the option to attend the meeting at a later date, the fact that the neighborhood association did not meet their -- their required response time as outlined above, allows you to proceed without the need to meet with them. A timely response was made as recommended once the request was received. And a meeting was set up with the applicant establishing the time lines. The procedural error occurred in concept when the applicant made the appointment to meet with the neighborhood association you failed to show up and didn't give us any notice that he didn't intend to discuss his proposal with us as required by 33730040. Our substantial rights were violated when we were not allowed to discuss the proposal with the applicant while it was still in the planning stages, when the negative impacts would have been easier to avoid. By the time of the hearing, the applicant was unwilling to consider any changes whatsoever. The city and the applicant violated the letter of 33730045 when the application was accepted without the second letter, which is explicitly required by the code. It says that the neighborhood -- after the neighborhood association meeting and before the application is submitted for land use review, a second letter has to be written and sent to the neighborhood association and to the district coalition. There is no second letter in the record because there never was a second letter. The second letter was never sent. On page 10 of the staff report, it says, in this report pdot has reviewed and accepted the alternative turnaround configuration that the applicant has proposed, and is attached as exhibit c-4. There is no exhibit c-4 in the staff report. The only exhibit attached to my copy of the staff

November 10, 2004

report does not show a turnaround and has no number. Obviously they took care of that, because staff did show you the turnaround. The transportation impacts 3654120 require that the transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluating factors include street capacity, level of service, vehicle access and loading, onstreet parking impacts, and availability of transit and facility -- transit facility and services, and connection to transit. Impacts to the immediate and adjacent neighborhoods and safety for all modes. Nowhere in the -- in the record do they say that this -- that 162nd is safe. It is not safe for bicycles. It is not safe for pedestrians. If you meet a fire truck on 162nd either -- there's no place to pull over, so you either stop and let them go around or you go into the oncoming lane to get out of their way. It is that narrow.

Saltzman: Your time --

Bauer: It says 34 seconds.

Saltzman: Ok.

Bauer: I'm sorry. Questions?

Saltzman: Thank you.

Bauer: I guess so.

Saltzman: You have 20 seconds.

Bauer: Questions? I'm sorry.

Saltzman: Well, we have your written statement here as well.

Bauer: Ok.

Saltzman: Any questions for linda? Ok, thank you.

Bauer: Thank you.

Saltzman: Are there any supporters of the appellant who wish to testify? Anybody signed up?

Moore: Nobody signed up.

Saltzman: Ok. Now we will now hear from the applicant, and you will have up to 15 minutes. If you could state your names for the record and keep track of your time by the clock in the lower left-hand corner of the screen there.

Steve Morasch: Ok. For the record, my name is steve morash, an attorney with schwabe, williamson and wyatt. And i'm here on behalf of the applicant. I have with me here today todd mobley with lancaster engineering to talk about the traffic. I also have other people here available to answer any questions that the council might have, including leslie hauer, the planning consultant on the matter, the developer, and the civil engineer. As staff mentioned, the lehne estates matter involves several almost identical issues raised by the petitioner and ultimately taken to luba by the petitioner. And the issues dealing with sanitary sewer and storm sewer in particular I think were already resolved by council in that matter. And I haven't heard anything here today that's different than what was presented in the lehne estates matter. Unless the council has any particular questions about those two issues, our position is that they've already been resolved and luba's upheld the council's prior determination on those issues. With respect to the traffic issue, luba remanded on a very narrow point in lehne estates and said that the city had to address a factor that looks at safety for all modes, but it's important that luba said that the city could determine how much weight to give that factor in the context of a particular development application. In other words, for a very small development, the city might look at that factor differently than for a very large development that might have bigger impacts on the transportation system. But the city does have to look at it. The city in this case did look at it at the hearings officer level, and the hearings officer adopted a number of findings on this issue based on evidence that was submitted both by staff and by the applicant's traffic engineer and the applicant's planning consultant, and essentially what was determined was there's no safety problem that currently exists, because there haven't been an accident involving a vehicle and a pedestrian or a bicyclist on that road in the last five years of records. I think they've done traffic counts to show that there's very light usage out there right now

November 10, 2004

for those two modes, because there's just not much demand out there for those types of modes of transportation. But staff also looked at mitigating, you know, these issues, and what this application could do to mitigate those issues. And several things have been accomplished by this application. One being the internal sidewalks and street improvements that are being done, which includes not only the frontage of the lots being developed, but also gaibler lane all the way out to 162nd, but a second type of internal improvement is providing additional connections in a north/south direction between this development and lehne estates to the south, which provides an alternative route, alternative to 162nd and foster. And third, and I think most importantly, is especially in the context of a small seven-lot subdivision as this one, is systems development charges. This might get to a point raised by commissioner leonard in the initial questioning of staff as to the equities of the situation when you have an internal development versus an external development on the street. I think systems development charges go a long ways toward, you know, equalizing some of these inequities through things like s.d.c. Credit for people who do large offsite improvements, and s.d.c. Fees to be paid by developments based on the number of lots. It's true, the city doesn't have a capital improvement plan in effect for, you know, foster, but that's not to say the city won't develop or shouldn't develop one in the future. If as we see on the conceptual map shown by staff, a significant number of these developments go through with a significant number of new lots, creating a pool of new money that could be used to fund street improvements out there on foster or 162nd. I think with that, I will turn it over to todd, unless there's questions on any of that from council.

Leonard: I do, but I don't want to take away from your time.

Saltzman: Why don't wedding and complete your presentation and we'll ask questions.

Todd Mobley: My name is todd mobley from lancaster engineering, sixth avenue in Portland, 97209. We did the traffic impact study for this development. I'll be pretty brief here. Many of my points were covered by staff and by steve's testimony. I just wanted to reiterate, as part of the traffic counts that we conducted for the impact study, at the intersection of henderson way, which is north of this site, that's the main entrance to the existing decision, there was very little pedestrian and bicycle activity there, and that street excerpts quite a number of residential units. The amount of demand generated by a development of this size with seven new homes would be insignificant. So my other points were connectivity to the local street system off of 162nd and payment of s.d.c.'s to help mitigate impacts and the potential for future capital projects to build those -- that infrastructure. That's really all I had. So if you have any questions.

Saltzman: Ok. Thank you. Questions?

Leonard: You said that the -- that there was an alternative access that some routing to the south caused from 162nd and foster, alternative to 162nd and foster?

Morasch: I was referring to the alternative, the connection of lehne estates, the development to the south of this one, and there's an internal connection between this development and lehne estates. And, you know, as other developments in this area continue, we're likely to see more of that type of internal connection, which could --

Leonard: They don't pour out to get on to foster at 162nd and foster.

Morasch: At this time they do, but as more developments go through, there's a possibility of other connections being made.

Leonard: All right.

Morasch: For some of the future developments.

Leonard: Have you been out there?

Morasch: I have been, yes.

Leonard: I don't know where that would happen.

*******:** You don't know where that would happen?

November 10, 2004

Leonard: I mean, it's kind of -- I think barbara welch road is the next road to the west. I just wondered why you said that, if there was some planner --

Morasch: Well, it's in the hearings officer's decision, the staff decision, I think -- or staff report. And it would also provide internal connections, so people that wanted to go from one neighborhood to the other, they wouldn't have to go out to 162nd and foster. So if someone, for instance, lived in lehne estates, wanted to visit their neighborhood who lived on pleasant valley lane, wanted to walk, there's that internal connection, so they could walk to their neighbor's house or ride their bike. They wouldn't have to hit foster for those types of real local trips.

Leonard: You know, the thing I will say is not your responsibility, and i'm going to hold you accountable for it, but there is no bike activity on 162nd because it would be suicide to ride a bike on would 162nd. That's why you don't see bikes there. So the point that is not safe is not lost on me. I drive that road two or three times a week. As I said, that's not your responsibility. However the point that we need to do something to improve that road is a point i'm sympathetic with because it's going to become more dangerous, and as more young kids are out there, there will be kids on bikes on 162nd, and that can't happen until improvements occur.

Morasch: The method of improving that would be to put that on the capital improvement plan as a set of improvements, and then fund it with s.d.c. money from all these developments that are going in in that area.

Leonard: And I wouldn't have a problem with that, but my understanding is that's not how we designate s.d.c. money. Am I wrong on that? I mean, it doesn't get aside based on where it goes in at.

Morasch: Well, I mean, funded generally with s.d.c. money --

Leonard: The famous hawthorne pizza place that moved across the street with the s.d.c. money, that those dollars were actually used to help fund projects like the failing street pedestrian overpass, which has no geographic to the area. So --

Saltzman: I think the point is that s.d.c. revenues can be used for those types of -- they're not tied to the geographical location.

Leonard: I think on an area like that, I would like to figure out how we might do that, because that does need those improvements dramatically, or somebody is going to get hurt out there.

Morasch: Correct. I wasn't suggesting that these s.d.c. monies would be tied to that geographical area as commissioner Saltzman pointed out, I was merely suggesting that the city is receiving s.d.c. monies from this area and other areas around the city, and if sidewalks were added in this area they could be funded through s.d.c. money.

Saltzman: Ok. Any questions? Ok. Thank you. Are there supporters of the applicant who wish to testify?

Moore: Nobody's signed up.

Saltzman: Ok. Then linda you have -- this is your opportunity for rebuttal. You have five minutes.

Bauer: I -- I don't know what else to say. They didn't comply with the code and -- and improvements out there need to be made, and the s.d.c.'s sounds like a great thing, but if you're not familiar with the s.d.c. list it is a set list in the code, and when one project comes off of that list, only one project goes back on to the list. The improvements out here are never going to be made with s.d.c. monies. There's never going to be enough. The city is using s.d.c. money all over. I agree with commissioner leonard, that there needs to be a way with keeping the local money, doing local improvements in this area. You're right, there are 1500 acres on the other side of 162nd that are going to be developed in a very short time frame, and the city and -- well, both Portland and gresham have been wrestling with how in the world are they going to fund these. And i've been staying pretty up on what they're proposing, and I frankly don't even know how -- what they're proposing to use, and I don't think they do either. They know that -- that they're going to start

November 10, 2004

allowing development out there, but how in the world it's going to get paid for, probably will come down to a case-by-case basis. I really don't know. But much of this case, they did not meet the requirements of the code. The application should be denied. Questions?

Saltzman: All right, thank you.

*****: Thank you.

Saltzman: Ok. This is our time for discussion, or additional questions of staff.

Leonard: I mean, the points that -- good points are being made by Linda that I'm sympathetic with, points that are going to have to require us to develop a plan for that area, because it is a unique area in the city. It's a recently annexed area, and I don't know that we have -- I'm sure somebody will correct me as soon as I say this, but I'm trying to think of a place within our boundaries where we have such vast amounts of undeveloped land that will be developed. I can't think of a place like that. Does anybody have -- is that about right? And that road is a dangerous road. 162nd and Foster is -- and Foster in general -- they do need to be upgraded to reflect what's going to happen in that area. It's unfair to hold this particular development up on that broader regional issue for the area out there, but it is something that I would commit to Linda and the neighborhood out there, that I would like to sit down and talk about. I like the idea maybe of localizing the S.D.C. charges, or earmarking them, if you will, in that particular area for projects in that area. That hits me as something that might be useful that will come out of this. But I think that those are discussions that would occur outside of these hearings -- this hearing.

Sten: Yeah, I agree.

Leonard: So, I mean, I -- I would move to deny the appeal and uphold the hearing officer's recommendation.

Sten: Second.

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

Leonard: Again, for me, I appreciate the concerns raised because they're legitimate concerns, and I think that we need to probably develop a comprehensive approach in how to develop that area out there, because it is going to impact a lot of the infrastructure, probably more so than any other area in the city in the near future. Aye.

Saltzman: Aye.

Sten: I agree with Commissioner Leonard's comments. The last time I made comments about I didn't like the administrative decision on some of the issues, but that's a bigger policy question. I think we do approve the -- it wouldn't be fair to pull away that approval at this time. Aye.

Saltzman: Ok. So the decision is made, and so I guess -- we don't need to revise -- we won't revise findings.

*****: Excuse me?

Saltzman: Do we need to schedule another day for this?

*****: I don't think so. It's a final decision.

Saltzman: Ok. Final decision. And we stand adjourned until Wednesday.

At 2:57 p.m., Council adjourned.