



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **30TH DAY OF MARCH, 2005** AT 9:30 A.M.

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

Commissioner Adams left at 12:02 p.m.

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

Items 251, 258 and 259 were pulled from the Consent Agenda for discussion.

Motion to adopt the Consent Agenda: Moved by Commissioner Saltzman and seconded by Commissioner Adams and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS		Disposition:
247	Request of Paul Phillips to address Council regarding last testimony on dog attacks (Communication)	PLACED ON FILE
248	Request of Susan Emmons to address Council regarding 2nd Anniversary of saving the Taft (Communication)	PLACED ON FILE
TIME CERTAINS		
249	TIME CERTAIN: 9:30 AM - Appeals of the Piedmont Neighborhood Association, Steve Cox and Global Events Group against the Noise Review Board decision on the noise variance for the Champ Car World Series on June 16-19, 2005 and American Lemans Grand Prix on July 28-31, 2005 (Hearing introduced by Auditor Blackmer) Motion to grant the variance for one year, renew in future years if conditions are met, 10:00 a.m. start time and restore the mitigation fund: Moved by Commissioner Sten and seconded by Commissioner Saltzman. (Y-3)	GRANT VARIANCE FOR 1 YEAR; RENEW IN FUTURE YEARS IF CONDITIONS ARE MET: 10:00AM START TIME AND RESTORE MITIGATION FUND

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<p>250 TIME CERTAIN: 11:00 AM – Provide additional monies for organizations that support small business districts to enhance their capacity and ability to serve City business district associations (Resolution introduced by Mayor Potter, Commissioners Adams, Leonard, Saltzman and Sten)</p> <p>Motion to reconsider Agenda Item 250 moved by Commissioner Sten and seconded by Commissioner Saltzman: Gaveled down by President Leonard after hearing no objections.</p> <p>Motion to accept Amended Exhibit A moved by Commissioner Sten and seconded by Commissioner Saltzman: Gaveled down by President Leonard after hearing no objections.</p> <p>(Y-3)</p>	<p align="center">36303 AS AMENDED</p>
<p align="center">CONSENT AGENDA – NO DISCUSSION</p>	
<p>251 Confirm appointment of Thomas Bruner to the Portland Parks Board for term to expire August 31, 2007 (Report)</p>	<p align="center">CONTINUED TO APRIL 6, 2005 AT 9:30 AM</p>
<p align="center">Mayor Tom Potter</p>	
<p align="center">Bureau of Housing and Community Development</p>	
<p>252 Amend subrecipient contract with JOIN to provide camper outreach services to the homeless by an additional \$3,900 for a total of \$241,666 and provide for payment (Ordinance; amend Contract No. 35383)</p>	<p align="center">PASSED TO SECOND READING APRIL 6, 2005 AT 9:30 AM</p>
<p align="center">Office of Management and Finance – Bureau of General Services</p>	
<p>*253 Authorize acquisition of vehicles for use by City bureaus (Ordinance) (Y-4)</p>	<p align="center">179144</p>
<p align="center">Office of Management and Finance – Risk Management Division</p>	
<p>*254 Pay claim of Kelly Davidson (Ordinance) (Y-4)</p>	<p align="center">179145</p>
<p>*255 Pay claim of Yakov Y. Gavrishov (Ordinance) (Y-4)</p>	<p align="center">179146</p>
<p align="center">Parks and Recreation</p>	
<p>*256 Authorize agreement with Catellus Land and Development Corporation for acquisition and acceptance of approximately 117 acres of real property in northeast Portland for public purposes (Ordinance) (Y-4)</p>	<p align="center">179147</p>

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Police Bureau		
*257	Amend contract with ACS State & Local Solutions, Inc. to extend the Photo Red Light and Photo Radar programs (Ordinance; amend Contract No. 51527) (Y-4)	179148
*258	Apply for a \$936,334 Law Enforcement Terrorism Prevention Program grant from the Oregon Office of Homeland Security, Criminal Justice Services Division for terrorism prevention and intervention expenses (Ordinance) (Y-4)	179157
*259	Apply for a Bulletproof Vest Partnership grant from the Bureau of Justice Assistance, Office of Justice Programs for the purchase of body armor (Ordinance) (Y-4)	179158
Water Bureau		
*260	Authorize an agreement with the USDA Forest Service to conduct monitoring at Bull Run Lake (Ordinance) (Y-4)	179149
*261	Authorize grant to Regional Arts and Cultural Council for Skidmore Fountain (Ordinance) (Y-4)	179150
SECOND READINGS		
262	Authorize an Intergovernmental Cooperative Agreement with the Regional Coalition for Clean Rivers and Streams to coordinate, develop and implement a regional stormwater pollution prevention and fish protection public awareness and media campaign (Second Reading Agenda 223) (Y-4)	179151
263	Authorize a contract with the lowest responsible bidder for the Sullivan Pump Station Capital Repairs Project for the Bureau of Environmental Services and provide for payment, Project No. 7172 (Second Reading Agenda 224) (Y-4)	179152
264	Authorize an Intergovernmental Agreement with Portland State University to set up and add customization to the CE-QUAL-W2 model Version 3.2 hydrodynamic and water quality modeling for the Columbia Slough (Second Reading Agenda 225) (Y-4)	179153
265	Authorize an Intergovernmental Agreement with Portland State University in the amount of \$81,847 to execute the Single Family Weight Study Recycling Project (Second Reading Agenda 230) (Y-4)	179154

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<p>266 Authorize an Intergovernmental Agreement with Portland State University in the amount of \$113,000 to execute the Commercial Recycling Project (Second Reading Agenda 231)</p> <p>(Y-4)</p>	<p>179155</p>	
<p>267 Authorize an Intergovernmental Agreement with Portland State University in the amount of \$40,748 to execute the Multifamily Recycling Project (Second Reading Agenda 232)</p> <p>(Y-4)</p>	<p>179156</p>	
<p style="text-align: center;">REGULAR AGENDA</p> <p style="text-align: center;">Mayor Tom Potter</p> <p style="text-align: center;">Bureau of Housing and Community Development</p>		
<p>268 Authorize subrecipient contract with Hacienda Community Development Corporation for \$106,775 for the rehabilitation, redevelopment and development of affordable rental housing and provide for payment (Ordinance)</p>	<p style="text-align: center;">PASSED TO SECOND READING APRIL 6, 2005 AT 9:30 AM</p>	
<p style="text-align: center;">Office of Management and Finance – Bureau of Technology Services</p>		
<p>*269 Authorize Flexible Service Contracts for professional services for information technology (Ordinance) Continued to March 30, 2005, 2:00 p.m.</p> <p>(Y-4)</p>	<p>179160</p>	
<p style="text-align: center;">Portland Development Commission</p>		
<p>270 Adopt the Milwaukie/North Clackamas Enterprise Zone Boundary Amendment (Resolution)</p> <p>(Y-3)</p>	<p>36302</p>	
<p style="text-align: center;">Office of Transportation</p>		
<p>271 Create a local improvement district to construct street and stormwater improvements from 26th Avenue to 29th Avenue and on other streets in the SW Texas Green Street Local Improvement District (Hearing; Ordinance; C-10014)</p> <p>Motion to deny the remonstrance: Moved by Commissioner Saltzman and seconded by Commissioner Sten. (Y-3)</p>	<p style="text-align: center;">PASSED TO SECOND READING APRIL 6, 2005 AT 9:30 AM</p>	
<p style="text-align: center;">SECOND READINGS</p>		
<p>272 Establish a Development Services Fee to cover costs and improve service of the Land Use Services Program and adjust permit fee schedules to minimize the impact of the new fee (Second Reading Agenda 243)</p> <p>(Y-3)</p>	<p>179159 AS AMENDED</p>	

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FOUR-FIFTHS AGENDA

Commissioner Adams

272-1 Adopt a resolution to welcome home Portland-based Oregon National Guard
(Resolution introduced by Commissioner Adams)

Motion to suspend the rules to hear the Four-Fifths item: Moved by
Commissioner Adams and seconded by Commissioner Saltzman.

(Y-4)

At 1:14 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **30TH DAY OF MARCH, 2005** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Potter, Presiding; Commissioners Adams, Leonard, Saltzman and Sten, 5.

Mayor Potter arrived at 2:18 p.m.

Commissioner Adams arrived at 2:30 p.m.

At 2:30 p.m., Council recessed.

At 3:12 p.m., Council reconvened.

At 3:41 p.m., Council recessed.

At 4:10 p.m., Council reconvened.

Commissioner Adams arrived at 4:13 p.m.

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

	Disposition:
<p>273 TIME CERTAIN: 2:00 PM - Appeal of Pleasant Valley Neighborhood Association against Hearings Officer's decision to approve the application of Riverside Homes, Inc., applicant, and Roy and Wanda Michael and Alfred J. Obrist, property owners, for the Waterleaf 65 lot subdivision with a planned development review, environmental review and adjustment located near the intersection of SE 162nd and Foster Road and 6729 SE 162nd Avenue (Previous Agenda 186; LU 03-174778 LDS PD EN AD)</p> <p>Motion to deny the appeal and to uphold the hearings officer decision as modified, omit condition c-14 of the hearings officer decision, replace that condition with the conditions that Portland Department of Transportation has proposed: Moved by Commissioner Leonard and seconded by Commissioner Saltzman. (Y-4)</p> <p>Motion to direct the Office of Transportation to investigate the formation of a Local Improvement District on Southeast 152nd: Moved by Commissioner Saltzman and seconded by Commissioner Leonard. (Y-4)</p>	<p>TENTATIVELY DENY THE APPEAL AND UPHOLD HEARINGS OFFICER'S DECISION AS MODIFIED; PREPARE FINDINGS FOR APRIL 13, 2005 AT 9:30 AM</p>
<p>274 TIME CERTAIN: 3:00 PM - Clarify elements of review process and nontransferability of waivers and recommend funding for evaluation of certain claims filed pursuant to Chapter 5.75 of the City Code (Previous Agenda 211; Resolution introduced by Mayor Potter)</p> <p>Motion to accept the amendments: Moved by Commissioner Adams and seconded by Commissioner Saltzman. (Y-5)</p> <p>Motion to pass the Resolution: Moved by Commissioner Saltzman and seconded by Commissioner Sten. (Y-5)</p>	<p>36304 AS AMENDED</p>

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<p>275 Establish a claim filing fee and create a private right of action for neighboring property owners against a successful Measure 37 claimant (Second Reading 212; Ordinance introduced by Mayor Potter; amend Code Chapter 5.75)</p> <p>Motion to adopt: Moved by Commissioner Adams and seconded by Commissioner Saltzman.</p> <p>(Y-5)</p>	<p>179161 AS AMENDED</p>
<p>*276 TIME CERTAIN: 4:00 PM - Modify duties of Independent Police Review Director to handle tort claims of alleged police misconduct (Ordinance introduced by Auditor Blackmer; amend Code Sections 3.21.110 and 3.21.120)</p> <p>(Y-5)</p>	<p>179162</p>

At 4:30 p.m., Council recessed.

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A SPECIAL RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **30TH DAY OF MARCH, 2005** AT 6:00 P.M.

THOSE PRESENT WERE: Mayor Potter, Presiding; Commissioners Adams, Leonard, Saltzman and Sten, 5.

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

<p>277 TIME CERTAIN: 6:00 PM- Authorize the Commissioner-in-Charge of the Portland Police Bureau to negotiate certain law enforcement agreements with the Federal Government subject to Council approval (Resolution introduced by Mayor Potter and Commissioner Leonard)</p> <p>Motion to postpone for three weeks: Moved by Commissioner Saltzman and seconded by Mayor Potter (after passing the gavel to Commissioner Leonard). (Y-3; N-2, Adams, Leonard)</p>	<p>Disposition:</p> <p>POSTPONE FOR THREE WEEKS</p>
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At 10:17 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.

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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.

[Roll call taken]

Leonard: Communications, request of paul philips to address the council. Mr. Philips? Mr. Philips is not here.

Moore: He is. He's coming. He's on his way.

Leonard: Oh, i'm sorry. Ok. Good morning, mr. Philips. Make yourself comfortable. You have three minutes.

Item

Paul Phillips: Yes. Thank you. I'm paul philips. I live at 1212 southwest clay, Portland, Oregon, apartment number 217. I provided three documents to you. One of them's the same one from the c.d.c., national center for injury prevention and control. I'll discuss that in just a moment. One's from the united states department of justice in case you don't know what a service animal is, is new veterinary, because I moved in Portland, didn't know what a service animal was, and I explained that generally the first three paragraphs explain what a service animal is. He thought, yeah, it did. The third piece of paper is from, as you see, the city council of pendleton, Oregon. I spoke for months. This isn't just the only document, but they weren't too aggressively pursuing the dog ordinance laws, and as I said my service animal has been attacked three times. Getting back to -- bitten by dogs. Getting back to the center of disease and control paper, dog bites, as you read -- or I read from the last sentence of the paragraph, dog bites are the 12th leading cause of nonfatal injuries for all age groups in the united states. That paragraph's pretty plain and simple, but it doesn't explain, of course, that every seven or eight seconds a person is bitten by a dog in the united states. In fact, I spoke to the county commissioners. The following day, march 17 of this year, just after speaking here two weeks ago, and I said that every 20 years 1/3 -- nearly 1/3 of the united states population's bitten by dogs. Did you realize that? Yeah. Most people don't. They call that man's best friend. Who's man's worst friend? People that ignore those facts. Well, I also want to mention, i'd forgotten to say thank you, two words. If it wasn't for law enforcement, my service animal would be attacked quite a bit more. A k9 unit from the pendleton police department and various police agencies, at least three police officers, have kept my dog from being attacked.

Leonard: Thank you, mr. Philips. Your three minutes is up.

Phillips: Yep. Thank you.

Leonard: Item 248, susan emmons. Good morning. You have three minutes.

Susan Emmons: Good morning. My name is susan emmons, the director of northwest pilot project, 1430 southwest broadway. I came in today, because I think we're often here to protest something that you've done, to appeal, to criticize. I'm just here today to tell you about something the city did two years ago that was great, and that really had a profound impact on our community.

Leonard: Seems we could extend your time to five minutes. [laughter]

Emmons: Some of the most frail people that we see in the community, on november 7, 2002, it was announced that the taft was to close by april 2003. The taft is a building up by the crystal ballroom, 13th and southwest Washington, been operated for over 50 years, very low-income seniors and disabled people live there. The people who are operating it, cascadia behavioral healthcare, couldn't get a high enough reimbursement rate for the state and felt they had no choice, and really didn't have the appetite to operate it. They had inherited from unity when they merged.

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It's a long story. But it's owned by reach community development. Reach wanted to keep it open. There were very frail people living there at the time. One woman after the news packed her suitcase. She thought they had to move immediately. She sat on her bed and cried and was hospitalized three times for her anxiety disorder. In early december northwest pilot project got quite a diverse people together in our conference room, more than i'd ever seen, reach, the owner, cascadia, people from the state, senior and disabled services division, people from the state's mental health, the county, people from our bureau of housing and community development, veterans administration, a very diverse group of people who all had contact with the taft. And what everybody around the table said that day is this is a valuable resource, and everybody, other than myself and bobby winestock, said there's no way to save it. So we're from the school of optimism. We're these incurable optimists. We said "let's break into work groups and see what we can do." we did that. Met together in late january. Measure 28 had just failed on the state level. And it seemed pretty impossible, but there was a bright light at that meeting. And it was bob from erik Sten's office and andy from the community development, and again, everyone wanted to save this facility. We need a higher reimbursement rate from the state, but somebody had to put the first money in. And I have to stay, you know, we hear a lot of bashing about city employees. They were so bright and skillful in how they negotiated this. They felt they had -- they could make a commitment by the city, but they wanted a commitment at that meeting from the state. And they got it. And essentially the city came up with a very sizable investment, in my mind, \$345,000. They did it among bureaus working very creatively working together, but what it achieved, and i'll just take one more minute, we got a for-profit provider to come in, other than cascadia, a moderate rehab. The state raised the reimbursement rate. Today we have the highest occupancy the building's ever seen, and I just wanted to tell one story of a person that's pictured on the page that you have. Of the first person I met when I came to northwest pilot project in 1985, he's lived successfully at the taft for four years. When I met him he was actively panhandling. He went in and out of hospitals, corrections, mental health institutions, emergency rooms. He is in stable housing. And so are all the others. It was good for the neighborhood, businesses are thriving. It's a public/private partnership. The building was upgraded. It would have never happened without the city of Portland, never. The state came up with increased reimbursement rate, one-time only money from the city, but I just can't thank you enough. These are people who could be bouncing around our homeless system or on our downtown streets panhandling and they're in a beautiful facility and well cared for.

Leonard: That's a wonderful story. All of us appreciate you telling that. And all of us recognize the leadership of commissioner Sten and his office in this area, and i'm continuously impressed by the work of commissioner Sten and his office in forging these deals. Thank you for sharing that.

Emmons: And I would say, that although they took the lead, everybody else in the city was on board. I know mayor katz was very helpful at the time.

Leonard: Thank you for sharing that.

Emmons: Thank you.

Leonard: We have item 249 that's a time certain. Karla?

Moore: Do you want to do the consent agenda?

Leonard: Sure. Any items that anybody in the audience wants to remove from the consent calendar? [inaudible]

Leonard: 258, 259. Items 251, 258, and 259 will be removed. Are this any other items that anyone on the council or the audience would like removed? If not, can I have a motion on the balance of the consent agenda?

Saltzman: Move approval.

Adams: Second.

Leonard: Any discussion? Hearing none. Karla, please call the roll.

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

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Sten: Aye. [gavel pounded]

Leonard: Consent agenda is adopted. Karla, please read item 251. Commissioner Adams.
Item 251.

Adams: I'm inclined to support Thomas Bruner for the parks board, but I've made an issue out of nominations coming forward without having completed the standard city -- standard city application process that allows us to determine if there are any financial interests of the applicant that could conflict with the service they seek. I would like to move that this get sent -- I don't know, either delayed a week or sent back to parks to come back to us with a complete application packet.

Leonard: Karla, can we pull this item and send it back to the mayor's office, reflecting the concerns of Commissioner Adams?

Moore: Do we have any objections?

Ben Walters: You want to hold it over one week, then?

Adams: Yeah. That's fine.

Leonard: Item 258. Karla, please read that. Richard, did you want to testify?

Item 258.

*****: Thank you.

*****: Good morning, city of Portland. Good morning, city council.

Leonard: You have three minutes.

Richard L. Koenig: Regrettably the mayor's not here today. I'd like to open by saying there's an old saying that most of us at some place in the back of our minds, that preparing for war is not the way to peace. The two items that I asked to be pulled from the consent agenda are applying for grants from the homeland security to prepare for more, as is the item to equip the troops with bullet-proof vests. It may not be clear to all of us assembled what those items mean, but one way to make it more clear would be to determine whether the bullet-proof vest that it's hoped will be received by the city are going to be class A bullet-proof vests or not, or whether that's a military secret. If it's not -- if it's classified information, then we'll know more clearly the intent. So I'd like -- I'd like to put it to the city council to determine what kind of vests are going to be acquired under this ordinance, and I'd also like to have a more detailed breakout discussed at some point, although I'm not sure that we're going to get a detailed discussion of the breakout on the use of the close to a million dollars worth of grant from homeland security. It's \$936,334. If anybody care to enlighten us on that, I'd appreciate it, but on the other hand, again, military secrets can't be divulged. Thank you.

Leonard: Thank you. Further discussion? Karla, please call the roll.

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

Leonard: It passes. [gavel pounded] item 259.

Item 259.

Leonard: Any discussion? If not, Karla, please call the roll.

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

Leonard: It passes. [gavel pounded] council.

Item 272-1.

Leonard: I would ask that we have a motion to suspend the rules.

Adams: So moved.

Saltzman: Second.

Leonard: Hearing no dissension, we've suspended the rules. We'd like to have a special presentation at this point. Commissioner Adams, do you want to introduce what we're doing?

Adams: Yes. Mr. President, if you would be so kind to read or all portions of the resolution that we're reading today.

Leonard: Thank you all for coming. This is a resolution that the council will be voting on momentarily. Whereas since 2003, many Oregon national guard members and other armed services

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from the city of Portland have been serving with courage and dedication in the conflict in Iraq, whereas these Oregon national guard members and other soldiers are our sons, daughters, fathers, mothers, brothers, sisters, neighbors and friends, whereas a major contingent of soldiers return home from Iraq on March 25, 2005, where we recognize the stress and turmoil Portland families had to endure while relatives and friends were serving in Iraq, whereas we offer our community support to those members of the Oregon national guard and other armed services members who are returning home after a year or more of duty in Iraq, whereas while opinions differ on the merits of the United States waging war in Iraq out the sanction of the United Nations, we urge support of the Oregon national guard and other armed services assigned to duty in Iraq, as well as their families. Therefore be it resolved that the Portland city commission hereby officially welcomes home and honors all Portland-based soldiers from the conflict in Iraq. Therefore be it further resolved, that we urge all citizens of Portland to support the successful reentry of soldiers into civilian life by allowing them to return to their jobs and providing educational opportunities. Adopted by the Portland city council, March 30, 2005. Gentlemen, welcome. We're honored by your presence and your service to our country. Would you like to make any remarks?

*****: Just make a couple of remarks. Number one, this is the second group to come back from Iraq. The first battalion, 162nd Infantry came back last year. Another group of Portland citizen soldiers that are scheduled to deploy to Afghanistan in 2006. So we certainly appreciate the council's gesture. I would also tell you that we've had unprecedented support, not only from the employers in the community within Portland, but throughout the state of Oregon, and in fact the employers in the Portland area will be conducting a job fair for the members of the 2162 on Thursday night in Salem, and we have other 29 employers, the majority of which are from the Portland area that will be attending. So great support from the community throughout. We truly appreciate that. It means a lot to our soldiers.

Leonard: Thank you, General. Council?

*****: I'd just like to thank everyone for your unwavering support of our soldiers and families throughout this very long endeavor. It's been a long 18 months, and all Oregonians should know that your soldiers represented our country and our state with exceptional honor and courage and out the most professionalism, and everyone knows who the Oregon soldiers are because of our behavior and how we set the example. And we did a lot of good things over there. And it's very, very, very good to be home. Thank you again for a very wonderful welcome today and throughout this entire week. It's been a great experience. Thank you.

Leonard: Thank you.

*****: I would encourage those who can, on this Thursday, we will have a redeployment ceremony in Salem at the -- at the auditorium next to the fairgrounds at 1630 in the afternoon.

Leonard: That's 4:30 for regular people.

*****: Yeah, 4:30. If anybody has an opportunity, I would encourage you to come and visit. There will be several folks who will be making remarks. So I appreciate it very much.

Leonard: Thank you. We're honored by your presence. Karla, please call the roll.

Adams: Well, I had the good fortune of being there when the bus pulled up to the armory for the latest group of soldiers to come home, and it was -- for those that haven't had that opportunity, it's an incredibly useful reminder at how human -- the human aspect of all this really is, and to see soldiers reunited with their family, that just how difficult it has been for both those serving and those back here, related family and friends. So I think this is a great gesture today. It sends a wonderful message. And I enthusiastically vote aye.

Leonard: Some may be viewing us as we're welcoming and honoring you and all of the troops that you represent and wondering how we can be doing this morning and having the hearing we are tonight at 6:00. And I would say that the hearing we're having tonight is because of the work you're doing to defend our country and the freedoms that you fight for, which is something I hold very

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dear to my heart, that my family over the generations has been dedicated to as well. So to me it's a very consistent message that we're sending today. We appreciate what you do. We know what you do. And we know what you're fighting for. Aye.

Saltzman: Thank you for your service. And thank you for protecting us. Aye.

Sten: Also thanks. It's been a very long, long campaign. I think longer than anybody thought. So it's really my pleasure to welcome you home and to hope you also pass on our thanks and blessings to the families that have been involved, because I think they serve in a way that is also -- needs to be noted. It's particularly hardship to be home while your loved one is across the world fighting for freedom. So again, thank you. Welcome home. I hope people will be able to enjoy themselves a little bit this week and keep up the fight. Aye.

Leonard: It's adopted. [gavel pounded]

Adams: We now have a little photo opportunity. [applause]

Item 249.

Leonard: Now back to the fun, a time certain at now. Item 249. Karla, please read that. We'll have staff come forward. Ben, do you have any admonitions that you need to state?

Ben Walters, Office of the City Attorney: Not for this hearing.

Leonard: Not for this hearing, ok.

Paul van Orden: Members of the council, i'm paul van orden, the city's noise control officer. I'll jump into a discussion of the three appeals before council today. We have three appeals today. Two are from the community, via the piedmont neighborhood association and one from citizen steve cox. The third appeal is an appeal from global events, a promoter with a long history, operating with the noise review board and the Portland international racetrack. In jumping into this item, it's important in looking at this particular issue to look at some of the history that's brought forward two of the appeals in particular today. The city's noise control office has not had an appeal to any of the variances at p.i.r. in quite some time, at least in the nine years i've been with the city. There are a few things that have transpired recently in the history and in the past that appear to be factors in why we have the two appeals before us today. One of the big underlying issues that seems to be significant factor from the noise review board meetings we've been having and the comment we've received from the community is the elimination for this particular year of a neighborhood mitigation fund, which is normally funded by the races in this case, in particular by the champ car race to help pay for activities out in the community. And that seems to have raised quite a bit of concern in the community, and in the estimation of staff resulted in some concerns from the community that they're putting up with noise from the racetrack, but the agreement to have a mitigation fund, at least for this particular year, is not there. It's important that council realize that there are still negotiation going on with the parks bureau and the race promoters to see if we can't get the mitigation fund back in place, that may even be done at this point, but as of yesterday I did not have any final word that we had resolved that particular issue. The second --

Saltzman: Could you repeat that again, paul?

van Orden: I did not have any finalization yesterday, that they had reestablished the neighborhood mitigation fund. It may be done, but at this point i'm not sure if that's actually finalized in the contract since the noise control office is not normally involved in those particular deliberations.

Saltzman: Ok. Thanks.

van Orden: The second concern that seems to have been a significant factor in bringing forward the two appeals from the neighborhood was a recent proposal for a drag race event at Portland international racetrack. And although that's not part of the appeal, it seems to have been a strong concern that resulted in a much larger number of citizens participating in the noise review board meetings than we had seen over the last 10 years. And the important factor to note there is that at this particular point in time there may be testimony from the public about this proposed drag race. It's off the table. The parks bureau is holding off at this point from moving forward with the drag

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race, at least for this summer. The noise review board had reviewed a request for a drag race as a separate item from the items being appealed today. They denied the drag race. And parks bureau has not appealed -- or p.i.r. has not appealed that item. That may be a point that some of the citizens may wish to discuss. The final two items to discuss in terms of the history are the fact that the community in looking at noise concerns at p.i.r. has recognized that this has been a significant draw on staff resource, both in the city's noise office and out in the neighborhood offices. When i've had the opportunity to discuss the matter with tom at the north Portland neighborhood offices, he had mentioned that in looking at his time that he spent on issues at p.i.r., it's accounted for 10% of his time, for a neighborhood office that needs to focus on, at least in my estimation, lots of other concerns, that's a very big draw on the time for the neighborhood offices. In the noise office, it's hard for me to put an exact percentage on it, but it is a significant draw. The reason why this is important is many of the issues around the racetrack were extensively studied and analyzed, 15, 20 years ago, and we developed what seemed to be logical solutions to the problem. Noise is an expensive issue to mitigate. One of the ways we addressed that was with the noise mitigation fund. And with that going away, that raised concerns. Another issue was the -- at that point quite an extensive amount of money was spent on the city's part and on the park bureau's part in particular to study the effects of noise on the community. One of the things that I would raise for council today is in looking at the issues and addressing the appeals, what we may look to do for a long-term resolution so we don't face appeals again and again over the coming years is see if we can't address the issue of noise in a comprehensive manner in the current phase of the history of p.i.r. What I mean specifically about that is we haven't done any detailed community noise analysis in a good 15 years. So I think one thing we might be looking to do, after we address the appeals on the table today, is see if we can't address the long-term concerns of the racetrack by doing an updated noise community -- or community noise survey. There are a number of neighborhoods that have become more dense that we didn't have citizens living in 15 years ago. Those are some of the areas where we're starting to see greater concern. The second part of the concept of building a good rapport between the racetrack and the community, which is ultimately what I think we're here to do today, is the concept of putting together an independent survey of the community, separate from the noise analysis, in polling the community to see where citizens lie on the issue. There are obviously opposite perspectives on the issue of racing at p.i.r., but I don't know that we can throw out solid information relative to the concept of whether or not the majority of the community is against racing, the majority of the community is for racing, or where the point is in the middle that the average citizen may find themselves. This is something we've talked about in my office with the racetrack, with the neighborhood offices. It would help to put some kind of statistical accuracy to where the community lies on the issue. To bring us back to the issues of the appeals on the table today, the first appeal -- or the first two set of appeals from the neighborhood request a number of items. The first one -- the first issue and the central issue relates to restoring the mitigation fund. It's only one year at this point, just to be very clear, that it's not in the budget for the racetrack to help fund that money in the community. If there's a way to put that back from staff's perspective, it helps to build a great amount of will -- or great amount of trust with the community that we haven't forgotten about commitments --

Adams: Why was it taken out?

van Orden: It's my understanding, and I wasn't involved in the deliberations, that when commissioner Francesconi was negotiating with champ car, when they unfortunately left the city as he was looking for additional promoters to come to the city, that the only way that he could get them back to the city, or one of the ways, was by offering them financial incentives, one of which was reduced cost savings of the normal fees at the racetrack. Another one was reduction or elimination of the neighborhood noise mitigation fund.

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Adams: And why is the -- why is the variance for two years, but it's really about some specific dates and times and events? Why would you grant a two-year variance when you're really talking about a specific time and event?

van Orden: Realize a two-year is not open-ended. It's very specifically in the decision process by the board related tie weekend each year of automotive racing. The perspective the board has used over the last 10 years or more, and a number of the members of the board are present tonight, will be able to help answer some of the questions as well, the perspective was that bringing promoters to the city of Portland and bringing the benefit of auto racing takes a balancing act of a promoter who is working on either a national or international event, wants to have some kind of assurance that they will be able to come back in future years and not invest the money in promoting and bringing an event for one year, having the concern that possibly the next year they may not be able to return to the track. One of the things --

Adams: But it says the variance is approved with the following conditions, and it has the date and the times -- dates and the times that they can only have the races. So it's -- they get a two-year variance, but they can't have any more races than what's outlined on page two of three of the sharon tracy global events memo? I'm trying to clarify.

van Orden: Right. So the concept of multi-year noise variances is just to recognize that a variance, normally we work within a one-year spectrum. So if a construction company comes in and they wish to work with the city and get a noise variance to work outside the hours, for instance, they can work within a year's time frame, but if they need to work outside of that 365-day period versus a calendar year, they have to apply for a multi-year variance. It's established within --

Adams: So my question is, paul, can the promoter run more events than what's described as a condition number one?

van Orden: No.

Adams: Ok. So even though it says two years, they can't do anything else without coming back to the noise roof board, and thus possibly appeal to the city council than what's outlined on number one?

van Orden: That's correct.

Adams: Ok.

van Orden: On the concept of multi-year permits, what staff would suggest to council is a slight modification of what has transpired over the last five years or so. Multiyear variances serve a beneficially to the promoters, but I do think what we can do to help offer some assurance to the community is require that the applicants come back on an annual basis, almost every noise variance will have a condition that says variances are potentially -- can be potentially revoked upon review. This would just help to formalize that in a more clear manner for the community in terms of recognizing not that it can just happen, if the board so chooses and asks the applicant to come back in, or requests the applicant to come back in, but actually formally notes within the noise variance that they will have to come back in, and that we'll open it up to a community dialogue.

Adams: And that's noted in this item, the fact they have to come back if they want to do additional race days?

van Orden: Right.

Adams: Ok. What's different about -- I mean, forgive my ignorance. Is this a new event? I forget.

van Orden: No. This event has transpired for at least --

Adams: Is there anything new about this request from previous requests regarding the american le mans series, besides the neighborhood not getting the \$30,000? Is there anything else that's different from this request than previous requests?

van Orden: Nothing radically different. They do modify of the support race groups, but the decibel level of those support race groups do not change.

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Adams: How confident should those of us live in the neighborhood -- I live in the neighborhood adjacent to the racetrack. How confident can -- reassure me or how can I feel confident that enforcement of the decibel levels would actually occur? Because these things are under way, there's lots of crowds. I think it's too loud. How do I check on that? I notice there's a hot line. Let's say it's above a loud d.b.e.'s, what's enforcement?

van Orden: Well, that is a good question. The city council in the last year has supported the concept of the city's noise office moving from one field inspector and a part-time summer inspector to two full-time field staff, which would equate to a greater ability to be out in the community on the weekends, which is something I pushed for the nine years that i've been here, making sure that we're there when the problems are happening. So I think that we would have a better ability to cover the issue, but I would definitely come back to the concept I threw out of doing more detailed analysis around this issue with an independent acoustical engineering firm.

Adams: I hate to put you on the spot here, but I have to.

van Orden: Yeah.

Adams: I'm not sure what the onsite enforcement is? What is it again?

van Orden: There are two levels. There's an actual physical inspection by having a noise inspector come out and physically take readings, both in the community --

Adams: During the race?

van Orden: During the race that can transpire.

Adams: Ok.

van Orden: The second level is the racetrack has a permanent sound level meter -- two permanent sound level meters. One is mounted on a pole and is required to record all the information in a computer and is available to the noise control office to analyze and review. The second one is that every race event that happens at p.i.r. Actually has a physical person on the opposite side of the track who watches over each individual car and black flags cars for races where there can be black flags. The important note about the champ car race in particular is that city council many years ago had delineated that there would not be a specific decibel level for the champ car and the supporting races that are part of champ car.

Adams: We're not talking about champ cars here, are we?

van Orden: We are talking about champ cars.

Adams: Ok. That's part of the le mans?

van Orden: That's part of the champ car series. Le mans is a separate series.

Adams: There are two, right?

van Orden: So the note there is that the board, in looking at the concept that vehicles under council direction can operate for the champ car race, without a specific decibel limit, has worked with a promoter and said "you're currently operating at a very reasonable level for an event that doesn't have a cap." they're keeping it at about 108 to 112 decibels from the 50-foot mark from the track, which is the standardized measuring location. The promoter cannot assure us that they won't switch to another engine configuration, which is what would push the decibel levels up, but the board has tried to address that in their decision making and in their conditions by basically mentioning that if there are -- number seven condition from the noise review board variance of 2005, condition seven says if there's an indication that sound levels are increasing, the permit race promoter will be brought back before the noise review board to review the variance. The board will decide if they want to open up the variance to a hearing or revoke the variance. We have a very good cooperative relation with global events. They're one of the easier promoters for our office to work with. So for both of these events, I have confidence that if something were to change with the race, that we would have an ability to work through that issue and open up a dialogue with the community again.

Adams: Ok. Who can speak to the \$30,000?

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van Orden: I believe that mark wigginton -- bob schulz is here from the parks bureau. He may be able to answer some of that.

Adams: That's a big issue for me.

Bob Schulz: Good morning, commissioners. Bob schulz from Portland parks and recreation. I wanted to let you know that as of this morning we have finalized our agreement that we will work out the details that the \$30,000 will be given to the neighborhood. The money will be coming from p.i.r. and champ car. So we wanted to make sure that everyone understood that that was in place.

Saltzman: Is that for this year or last year?

Schulz: That's for this year.

Saltzman: What happened last year?

Schulz: Last year they received the money. This year is the first year -- champ car went through a change of ownership, and so for part of that agreement they were trying to negotiate the -- the no \$30,000 for noise mitigation. We've felt that that was something that needed to happen as well, and so we've been negotiating with the promoter and champ car the last few weeks actually and this morning came up with a solution that we can live with.

Saltzman: So there was a \$30,000 payment last year?

Schulz: Yes.

Saltzman: 2004, and there will be --

Schulz: In the proposed contracts, in the future, there's \$30,000 as well. Ok?

Adams: Great news.

Schulz: Thank you.

van Orden: So that sounds like that resolves a big issue before us. The final concern that the neighbors have raised, aside from the concept of permitting multiyear variances, the concept of restoring the \$30,000 fund is an esoteric dialogue around the concept of appeal from piedmont neighborhood, in particular, requests to return the decision to grant the variance for the june champ car event at the 110-decibel level as these will produce sound beyond the limit. It's been a past practice to allow cart and champ car to exceed this variance limit in order to ensure that government decisions are transparent, a noise roof board hearing with broad community outreach should be required to allow the public to comment on the actual decibel levels produced rather than the 110 limit approved by the noise review board. It's a little bit difficult to get at some of the esoteric elements of this particular concern, but what it relates to is city council has given the noise review board four variance that they can administer. One is at 110-decibel level at 50 feet. Two are 112. One is at 115. The board, in looking at the champ car races has, in a year where there are no variances, four variances for which to put this race, which council has said has to have an unlimited level. Historically what they've looked to do is see if they can't put it in the 115 category, the single event that can operate at 115, because the cars used to operate at that level. This year, when global events came before the board, there was 115 variance available, and there was 110 variance available. The two 112 variances were already taken by other promoters. So when the board looked to address where do we put these events, the le mans event, which is requesting the 115 event, could not happen if they issued the 110 variance, whereas the champ car event, if the board issued at least for this year the 110 noise variance out of the four that are available, it would leave open the 115 variance for the le mans event. The board made the decision that global events has been a reasonable promoter for the city to work with and for the board to work with, and that they would administrator 115 variance that was available, issued on the same night as the champ car for the le mans event, so that event could happen. For this year only, they were going to take the 110 event and issue it for champ car. And in the two remaining years of the multiyear variance, champ car would bounce up to one of the 112 variances. The reason why they did that is they said although council has said that the event can operate at an unlimited level, they wanted to support the community concept of transparency in the levels that they actually operate. Since when we

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monitor the champ cars at the track, at 108 to 112 decibels, they felt it was appropriate in future years where 112 variance was available, to use that variance up rather than let them use the quieter variance. What that does is eliminates one of the 112 events and requires other promoters to come in and -- it's a little bit esoteric.

Adams: You lost me somewhere in the middle.

van Orden: Ok.

Adams: Can you summarize perhaps for us what this year -- what's different about -- I asked about the difference in the race this time to the previous time. I'm now asking about the difference in the experience of noise for the surrounding neighborhoods this year versus last year. Could you summarize with all of those intricate considerations and decisions, is there going to be more noise from p.i.r. into the neighborhoods because there's more louder events or less?

van Orden: This is one of the first years in a number of years where we're actually finally back to the historical level of using all four of the variances. Over the last 10 years there have been quite a few years where we only had two or three events. So looking purely at the concept of noise events and the impact on the community, there will be more events this year than any other year where we only had two or three races. So that's one way to equate it, or --

Adams: Four have been allowed by previous council decisions?

van Orden: Right, that's correct. So it's not a departure from the historical concept of what's permitted. It is from an experiential perspective for the community, a reality they will hear more noise just because of the number of weekends they'll be racing.

Adams: And is there anything about today's decision that would set a precedence for the other requests that was put forth to the noise review board, but not brought here to council?

van Orden: The only thing that I could think is -- the items I threw out that were more long-term concepts, I wouldn't even expect we'd be dealing with today. The concept of council in some manner requesting that the board review on an annual basis every automotive race, that could have a long-term change, but it's not a radical departure. That's the only major item that I could see would change things for the board's operation.

Adams: Thank you.

Saltzman: That's part of the recommendation?

van Orden: Yes, from staff, most definitely.

Leonard: Great.

van Orden: Thanks.

Leonard: Thank you very much. Now we'll hear from the appellants. They have 10 minutes apiece, piedmont neighborhood association, steve cox. Are we going to bring them together or separate?

Moore: They were coming up separate.

Leonard: Separate, ok. Piedmont neighborhood association first, please. Please identify yourself and you have ten minutes.

*******:** 10 whole minutes, thank you very much, council. Good to see you all.

Leonard: You don't have to take it all.

*******:** And you know I will. First of all, thank you for allowing me to speak this morning. In regards to our appeal of the champ car and le mans races, I think it was --

Moore: State your name your record.

Eleza Faison: Eleza faison. The piedmont neighborhood association is east of the p.i.r., and bumps up against kenton neighborhood association, where p.i.r. lays. In regards to our appeal, I would like to read a general statement that will be submitted for the record. And basically it is outlined as this -- thank you this morning for the commission allowing us an opportunity to discuss dialogue in regards to p.i.r. We of the piedmont neighborhood association want to address some issues that surround the livability of our neighborhoods in regards to international raceway. It is

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our testimony and that of several other neighborhood chairs that the publicly-owned facility of this nature is compelled to consider the benefit impact of events and the magnitude of livability in which it lies. The creation of this facility was intended for local -- for local venue for smaller events in its inception. If the intent is to create substantial revenue for the city then we need to look at alternative locations for the -- for the facility, noise mitigation techniques by which we can minimize the noise that actually comes into the livability of the neighborhoods, and/or serious alternative less -- less noisy events such as the x-games and various other opportunities for impact revenue of those -- of that magnitude. In regards to this particular application, and several points I would like you to consider denying this application, the application does not use the outlined variances as referenced by paul van orden in correspondence to what was adopted in 1999 to reduce the noise and overall impact to the neighborhood livability. The variance of 110 decibel space is not in fact being utilized in this current variance and directly conflicts with the allotted variances as referenced by paul van orden today. The attempt to give multiple-year variance is a slap in the face of the intent of the committee process. The promoter cannot guarantee changes in the technology from one year to the next and is going to continue into the future events, and therefore should only be given variances in its relation to its ability and historical compliance from year to year with the codes and variances that were used in the previous year. It would guarantee cooperation with the good neighbor agreement. The city entered into a voluntary good faith agreement in 2002. By the variance committee, only -- by the variance committee owe own testimony, the variances have consistently increased and the noise has consistently increased over the last 15 years, from 1989. This is a matter of good faith. Finally, if this is going to be a p.g.e. park type of situation, hundreds of thousands of dollars went into restricting the noise pollution of the residents and businesses of northwest Portland when that facility was built. If noise pollution and policy for the citizens is a priority of this medication administration, the restrictions or removal of p.i.r. to a viable neighborhood, if you look to increase noise and draw in larger and larger venues, needs to be investigated as a noise mitigation technique, not just a fund. The fund historically increases the livability through tree planting and other various noise mitigation techniques on the parts of the citizens in which they -- that live there, but it is the end all, be all, and it is the sole priority of reducing noise in this neighborhood, it was merely a gap measure to allow for the use for variances to be used appropriately and adequately to maintain livability. If we're looking to bring in such venues as nascar, drag races, and other loud noise, pollution race, then we need to look at these mitigation techniques as opposed to simply a mitigation fund. I also have a concern with the recent proposal to merge inspection with enforcement. It has been a historical fact that enforcement has left many open and viable complaints with the neighbors. Inspection has been the technique by which we get immediate -- immediate -- i'm sorry -- we get immediate information on the decibel levels that have historically and current been used at this track. Inspection has cooperated with the neighborhoods to a great extent, more so than the enforcement of these issues. Historically there's been malfunctions of the decibel levels at the park, and currently, as of the last noise variance committee, the measurement tools that are used to calculate d.b.i.'s at the park historically have been malfunctioning and are often calculated versus actually measured due to misplacement of the d.b.i. monitors. Therefore it is very difficult to get a current and consistent calculation of the noise by which the neighborhoods suffer. I would ask that you enforce the need for clear and accurate and consistent measurements of noise coming from p.i.r. into the neighborhoods.

Leonard: Thank you. Steve cox. Mr. Cox, please identify yourself for the record. You have 10 minutes.

Steve Cox: Thank you, steve cox. I live in the kenton neighborhood. I didn't realize I had 10 minutes. I could go on and on.

Leonard: That's why I reminded you.

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Cox: I'm appealing this variance for three reasons. One was obviously about the mitigation fund. I appreciate that that's been restored, the fact that we have to put up with this obnoxious noise. I think we should at least be compensated for it. The second reason the noise review board granted these variances for two to three years at a time. I'm asking that these variances be granted on a year-to-year basis with the optimistic hope that north Portland can become a more peaceful place to live in far less than three years. These three-year and two-year variances are equivalent to a three-year sentence of obnoxious, even dangerous noise. The original purpose of p.i.r. was for amateur racing. You should have all received an email from Mike Burton in the last week recounting some of the history of the birth of cart races and unkept promises by the city. I think it's high time, with the new administration, that the city keep its end of the bargain. Third reason is Portland international raceway is entirely too loud. If this was just for events, I could live with this. If this was just eight events or 10 events. I bought my first house in north Portland two years ago. When I first moved to Portland 10 years ago, I lived with a friend who just bought his house at 13th and northeast Alberta. At that time it was a very rough neighborhood. I saw people get shot, but I continued -- you know, I did tree plantings, I worked hard. We did a community garden. I tried to make it a better neighborhood. The whole time I was saving to buy my first home, it kept getting further and further out of reach. When I finally had a nice down payment, I couldn't afford the neighborhood. So now I've been driven this much far north. Kenton is a sweet neighborhood, ripe with potential, but almost every Saturday and Sunday, Friday nights and Wednesday nights, all summer long, through October, sometimes all day long, I'm accosted in my own yard by the noise of Portland international raceway. Some of the most beautiful days in Portland, in my garden, are ruined for me by the noise of p.i.r. and yet this is the neighborhood I can afford as a single first-time buyer. But I did not work this hard on my house to turn around and sell it. I bought it to make it my home. With the opening of light rail and the new Fred Meyer and homes being refurbished and the glorious St. Johns bridge, north Portland is improving its livability. But the noise from p.i.r. is in direct conflict with that improvement. The mission of Portland Parks is to enrich the lives of citizens and enhance Portland's natural beauty, not to produce toxic levels of noise that flow into residential neighborhoods. In a city that prides itself on being environmentally progressive and nationally known for its livability, the fact that a city park makes this much noise is shameful. We already have to deal with trains and planes, which are vital to the economy, but why should we be asked to deal with noise far louder for the sake of recreation of a few? I'd like to point out an article in "The Business Journal" last week about the lack of available industrial land in importantly. It seems if properly planned, setting land p.i.r. sits on for light industrial development that could create jobs and generate taxes would far better benefit the neighborhoods of north Portland than p.i.r. is currently doing. I'm asking you to take a good long look at p.i.r. I have an article from "The Oregonian" that questions the validity of the numbers stated in economic impact studies about racing, particular to NASCAR, but I think it transfers quite well. I'm asking to sit down with p.i.r. and all the neighborhoods of north Portland and the office of noise control and reevaluate the racing season and its decibel levels. This needs to be done through the office of neighborhood services to assure the best interests of those who live in the neighborhood, not those who come to the neighborhood, pollute it with their noise and leave. Even amateur racing is entirely too loud. Lower the permitted decibel and make those who use the track and create the noise pay through the nose to put up sound barriers. I'm not anti-racing, I'm anti-noise. This is about livability. This is about my home and this is about my neighborhood. Thank you.

Leonard: Thank you very much, Mr. Cox. Global Events Group. Good morning. Please identify yourself for the record and you have 10 minutes.

Sharon Tracy: Thank you. My name is Sharon Tracy. I'm with Global Events Group in Portland. Some of my testimony, you have written, I'll change it, because things have developed, among them is that \$30,000 noise mitigation fee, which we're very glad to hear has been finally finalized to be

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paid. Again, I work for global events group. We're contracted by the champ, plus the american le mans series to market and manage their events in Portland. Champ car is the financial promoter for their event. Currently is in a three-year agreement with the city of Portland to conduct this race at p.i.r. global events group is in the middle of a three-year contract with the american le mans group to similarly conduct their event here in july. Champ car has been here for 22 consecutive years. The race is still a rose festival event. There are only three other cities that have a longer history with the champ car organization than Portland. Both races bring international live television and international attention to Portland, broadcasting to over 180 countries worldwide. The beauty and attractions of Portland and the northwest are highlighted with shots of the Portland skyline, mount hood, the columbia river gorge, emphasizing the benefits for vacation-bound travelers to enjoy in our city and our own backyard. P.i.r. depends on revenues from the events held there for its funding. It operates on an enterprise fund out general tax dollar support. Major events, such as champ car and the american le mans provide much of that funding. There are currently four varianced events at p.i.r., as there were last year. I think paul van orden expected would be more this year than last year, but we're only repeating the same events that happened there last year. Le mans was there last year, as well as champ car, and I think there are two vintage races. The weekend schedule that I submitted with our champ car application included a sunday morning warm-up session prior to 10:00 a.m. For both the atlantic and the champ cars. This represents a 15-minute session on a track for the atlantic car drivers, 30 minutes for the champ car drivers. This time is used to ensure that the car, the driver, and the team are race ready for competition. In the case of the champ cars, the warm-up time is set, a specific amount of time prior to the start of the actual race to allow time for any mechanical problems with the cars to be corrected. All the athletes and their equipment in every sport warm up prior to competition. These drivers certainly qualify as athletes when they're racing at speeds up to 200 miles an hour, pulling fighter pilot g-forces through the corners for two hours straight. Recently a driver reported that his average heart rate for a two-hour race is 178. The sunday morning prerace warm-up has been included and approved in our noise variances granted over the last 10 years. It's not a race. It is a warm-up with cars being allowed to take a few laps around the track. Upon questioning the champ car officials, i've been told there's never been a champ car race where a warm-up was not held prior to the actual race. It is a safety condition that they're concerned with. The two-hour Portland race is scheduled for live cbs network show starting at 12:30 p.m. This is a time certain event. The race cannot be delayed. After at least 10 years of allowing the schedule to include the warm-up sessions, we don't think it's fair or consistent to change the rules now. The warmups were allowed in spite of the no varianced races prior to 10:00 a.m. Rule, because they were just that, warmups, but not races. Another issue that has been complained about, again, is the -- is the multi-year variances and how we deal with those. Again, in 1980 the task force concluded issues surrounding p.i.r. and all the noise variance procedures were then put in place, and have been in place ever since. It was established that there would be four events that would be allowed that require variances. Multiple-year variances have been granted since by the noise review board, champ car from 1989 through 2004. There have been a series of multiple three-year and five-year variances. For the old grand prix series from 1991 through 1997, again a series of multiple-year variances. Even the Portland historic race from 1993 has multiple-year variances in place through 2006, and the sovereign vintage race has a multi-year variance in place from 2003-2005. Multiple-year variances, so that we know we have a date, we have an agreement to hold the event from year to year, they match the multiple year contract so we have in place with the race sanction bodies. This allows the schedules for the race series to be set as much a year in advance of each season. It allows the responsibility of promoting and marketing the event to flow from year to year, to allow multiple year contracts with event sponsors and service vendors. It allows ticket sales to start in a timely fashion and for travel plans to be made by out of town visitors. It allows hotels to book rooms for fans and returning race teams, with the assurance

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that the event will be held. When a multiple-year variance is given, all of the above help provide stability for the event. The variance includes certain conditions and stipulations with the understanding that if there are going to be any major changes in the continuing years, those changes must be made knowing -- known to the noise control board for appropriate action. Multiple-year variances are not given without continuing control, nor are the multiple-year variances received with any intent to take advantage of that contract, because it is exactly that, is the contract that enables business to proceed in a timely manner. We're asking the council to help us make these events financially stable. They are not going to return to Portland if they're not. Now i'd like to talk about the 108 noise level granted for the champ car event. The champ car series, and its number one training series, the atlantics, were granted an exclusion from any specific decibel limit from its first appearance in Portland in 1984. The reason behind this exclusion or an unlimited variance is that it is an international series with stiff competition among the competing drivers for individual race points that lead up tie season championship. There are no rules within their structure that allow a local authority to remove a competitor from the race competition. The unlimited portion of the variance applies only to the 18 champ cars and the 18 atlantic cars. The remainder of the supporting races on that weekend must meet the designated noise levels. In the case of the 2005 variance, the other supporting race is a trans am series and they do have a restriction of 110 decibels, as anything else that would be added to the weekend. The champ cars have no readings of 108 to 112 decibels. The atlantic cars range 106 to 111. All the other events must be no louder than 110. Our noise readings are taken by hand-held meters on the backside of the track when the cars are under full power. These readings are recorded and handed over to the race promoter throughout the day. We are alerted if there is an issue with cars that are over the limit, so teams are notified and the cars will eventually be black flagged, if they can be. I think that we do have a good procedure in place to monitor the noise emitted over the weekend, where we have control of it. We have control of the noise at the racetrack. We can't control the noise as it filters out to the neighborhoods at this point.

Adams: Are you -- is there ever a practice where you have citizens with you as part of that monitoring?

Tracy: They're welcome to come out. I think it came up at one of the noise variance hearings, where they wanted to come out and physically watch how those hearings were taken. I think neil swanson, the noise control officer on site, would be willing to allow that to happen. I mean, we get the readings. I get them directly from mr. Swanson. And they could see that he actually is fairly -- he's very competent at what he does. He does it, not only in Portland, but at other cities as well. So that would be something he's willing to do.

Adams: And he and you in terms of monitoring are a team during events? He's looking at your meters, you're looking at his?

Tracy: No. He provides the meters.

Adams: He provide the meters?

Tracy: He provides the meters. That's in addition. I know that p.i.r. has a trackside meter that is just a -- it records the static noise, the overall noise.

Adams: I understand. So he provides you the meters, and then you're looking at the meters for your event and giving that information to the promoter, or he is? Neil swanson provides the meters. He takes the readings. He gives me the readings.

Adams: Ok, ok.

Tracy: And we have those throughout the day. I usually get the morning readings at lunchtime, and I get the afternoon readings at the end of the day.

Adams: Ok.

Tracy: I think paul described very well why the champ car noise variance this year is the 110. That applies to all of the supporting events, not champ car and atlantic, and that next year when the

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112 variance opens up, that will be the one from sovereign that will expire next year. That is the variance given to the champ car. Their noise readings indicate that they're not over at 112 at this point. In years past, some of the early years, the cars were up in the 115, 116, 117 decibel range. And the turbo-charged engines are not that noisy anymore. The American Le Mans series, which comes in July, has the 115 variance, the highest one allowed. Its competitors actually do have a higher readings on their cars than the champ cars do. The feature race for that series is what requires the 115. They bring about 115 different entries in for the weekend. 15 cars of that group had noise readings that were from one -- from 84 to 102. 85 cars were in the 93 to 110-decibel range. Only 15 cars were in the higher 112-115 range. Those cars do race in the feature event. The rest of my notes I think were on the noise mitigation fee. With that settlement, we're out of time. I just wanted to go back. I think that we were very -- very appreciative of the concern that the north Portland neighborhood groups have. Global events wasn't involved in the initial contract negotiations between the city and champ car. And it's been a long time to be able to bring the two groups together to come to a solution, how to get the \$30,000 paid for this year. That fund has been paid from the proceeds of the champ car event, and it's a gross proceeds, not net. Since 1993, the fund was established in 1990, \$30,000, replaced a proposed ticket tax, so the set amount has been paid no matter what the gross income or net income or loss is to the event. And we're glad to see that it won't be missed this year, and again it did return to the contract for the next two years. In closing, I'm asking the council members to please recognize that the community asks that these major racing series brought to Portland not change our prior practice of granting the multiple-year variances, allow us to go forward in doing business in a businesslike way, to allow the athletes and their teams to conduct important prerace warmups on race day. These events should be recognized for the overall advantages and the positive economic impact they bring to our community. We're only asking for eight days out of the total p.i.r. calendar, where we're conducting noise with these two events. Thank you very much. Do you have any questions?

Leonard: Thank you.

Adams: Do you support the condition of the noise board, that you come back, as I understand it from Paul, that you come back every year?

Tracy: It's always been a condition of the noise variance, that if there are any changes anticipated in noise levels or schedule, like major hour changes or schedules that we would go back to the noise board and explain what that would be.

Adams: So you support it?

Tracy: I would.

Adams: Ok. Because this -- as I understand it, this wouldn't -- you'd come back even though there might not be any major changes for a review? Do you support that?

Tracy: I would. I would say that we would be in contact with the noise board and Paul's office, saying this is what our schedule would be for, say, 2006, are there any issues to be discussed, and open it up. I think that the variance allows you to do business in a businesslike way. We don't want to ignore the neighborhood and say, "no, we don't want to listen to your concerns."

Saltzman: So you have a two-year contract?

Tracy: We have three years with Le Mans, but we're already done one year.

Saltzman: So two years?

Tracy: Two more years with the American Le Mans event. The champ car would be three years, 2005, 2006, and 2007.

Saltzman: Ok. Then the city also has a contract with --

Tracy: The city's contract is with champ car. The Le Mans contract is with global events group.

Saltzman: The champ car is the three-year?

Tracy: Yes, uh-huh.

Saltzman: Ok. But these variances for both race are for two years? Am I getting that right?

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Tracy: No. The le mans is two years, because we have two years left on that contract. And it's for three years for champ car, because there's three years with that contract.

Saltzman: So the variance requests match the contracts?

Tracy: The contracts in place, which is the whole reasoning behind multiple-year variances, to match what you've committed to do.

Saltzman: And you said something about the black flagging in certain races was not allowed by the racing associations, or something like that.

Tracy: The only one that is excluded, and it was excluded, still is by the city council, is champ car. And their leading series, which is toyota atlantic.

Saltzman: What's excluded?

Tracy: It means that we anticipate they're going to make a noise level of up to 112, but they -- they do not recognize local noise restrictions or the ability for a local promoter to pull one of their cars out of competition. I mean, they have a lot at stake in each individual race leading up to a season-long championship, and that exclusion --

Saltzman: So they won't do the black cars in other words? And that was champ?

Tracy: Champ car. American le mans does recognize the black flag and the noise restrictions. Anything else?

Leonard: Thank you, ms. Tracy.

Tracy: Thank you.

Leonard: Supporters of the appellants. Karla, do you have a sign-up sheet?

Moore: I do. Come up three at a time.

Leonard: Welcome. You have three minutes. Please identify yourself for the record.

Susan Landauer: Hi. I'm susan landauer. Thank you very much for giving us this opportunity to speak to you. Gary hanson asked me to read his testimony, and i'm --

Leonard: State representative?

Landauer: Yeah, uh-huh. State representative. He lives at 628 north tomahawk island, so he gets a lot of the noise. And i'm supposed to say my address. I live at --

Leonard: No. You don't need to do that.

Landauer: Ok. Gary said to Portland city council members, I remember in the 1970's when the city created a simple modest racetrack on the floodplain north of kenton in order to give teenagers the safe place to drag race instead of dragging on city streets. But that humble and unobtrusive beginning, the raceway, has become a noise industry that needs to be more thoroughly studied before we subject kenton, piedmont, portsmouth, university park, arbor lodge and hayden island residents to offensive levels of noise, degrading their neighborhood quality of life. I understand that the varying noise of champ car and le mans racing is part of the appeal for those visiting fans. I understand how p.i.r. Officials might be tempted to push offensive levels of noise on to thousands of neighbors if there's a payback in ticket revenue. But as a 35-year north Portland resident and automobile enthusiast, i'm skeptical of the claim that more noise equals more money. I ask the council to closely study whether these races that require noise variances have truly generated more ticket sales than those quieter professional racing that operate within safe noise levels for citizens, the elderly, and kids. Thank you. That's from gary hanson, our state representative. And is there time for -- oh, i'm doing --

Leonard: You have 56, 55 --

Landauer: Ok. I would like to see an end to varianced events at p.i.r. I bought my little house in december. That summer I found out about p.i.r. It's about a mile away, and sometimes hayden island gets the noise and sometimes I get it. And I don't want to go outside. I have to walk my dogs, and I ask people, "doesn't the noise bother you?" some people hate it, but some say "no, I grew up here and i'm used to it." may I suggest you take this opportunity to study the benefits and

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problems of p.i.r. I believe that the money and publicity are not nearly enough to balance the quality of life to neighbors and I would rather have a bake sale than get the \$30,000. Thank you.

Leonard: Thank you very much.

Carole Newvine: Let's see, can you hear me? Ok. Hi. My name is carol newvine. I live at 4822 north vanderbilt in the portsmouth neighborhood. I would like to thank the commissioners today for listening to us and the appeals from the neighborhood. And here we are again at city council, discussing p.i.r. noise issues. I ask the council to deny any appeal by event promoters to start their noise any earlier. I also ask that they seriously consider the neighborhood appeals to already-granted variances. Instead of the noise situation improving in north Portland, we are now asked to give up more of our quality of life. No amount of mitigation money will buy quality of life for us in north Portland. There should have been no granting of any kind of a multiple-year variance. North Portland should be getting quieter, not louder. Every weekend during the summer is filled with the noise from p.i.r. A city park should not be a noise-producing source injurious to our health. The noise report produced and paid for by p.i.r. supports this. The raceway will produce events that exceed state and city allowable noise levels. We must also consider the other noise descriptor not addressed in the noise report -- frequency. The racetrack produces not just loud noise, but also persistent high-frequency noises. The low number and lack of representativeness of monitoring locations during the noise study are a problem. The noise study, I believe, failed to correctly characterize the noise source, the racetrack, as well as the noise receivers, our residences. Yes, we need a more comprehensive noise study as paul mentioned, but we need less noise. Granted, the noise in my yard is not as bad as other more impacted backyards, but I can't enjoy my yard during the summer. I recently spent a lot of money on improvements to my home, including a new deck, which in the summer months is impacted by the noise from p.i.r. The noise pollution goes on all summer long and now p.i.r. has permission to be even louder for longer. I say enough is enough. It's time for the city to unload this liability called p.i.r. and get out of the racing business. And as a little sidebar, too, kind of off the subject, i'd also like to thank the mayor and council for going up against the f.b.i. in an extremely important issue, the discussion that will take place tonight. No matter what the vote is, it's a very important discussion. I thank you.

Leonard: Thank you.

Jan Woodruff: Ok. Good morning. My jan woodruff, a hayden island resident. I appreciate the opportunity to be here before you. You may remember receiving some of my noise news emails, noise has become a serious issue in north Portland, and with the airport wanting to increase noise, we just really need to get this on the agenda. The last time that I was in these chambers I was picking up a spirit of Portland award from mayor katz for my contributions to city and country. So I want you to know i'm not a whiner, i'm a contributor. I'm a late-bloomer to neighborhood activism, so I don't know the entire p.i.r. history, but I understand the noise variances were permitted by the city two decades ago in a compromise with the neighbors. It's my understanding that the city has not upheld its end of the agreement to provide noise mitigation, sound attenuation equipment at the track, and that more and more noisy events have been added to p.i.r., which was originally just for kids to get off the streets. It is shameful that the city would dishonor a contract in good faith with its neighbors, and I submit that after two decades it's time to reevaluate whether an urban neighborhood is the most sensible location for a racetrack that produces harmful levels of noise and creates significant livability issues. A racetrack in an urban neighborhood is ludicrous. Noise pollution under 80 decibels, the level that we experience on varianced race days, releases stress hormones, elevates heart rates, increasing vasoconstriction, heart disease, and learning disabilities for children. I have sources for this information for you in my -- in written testimony. If the release of stress hormones is sustained, the functional integrity of many organs and tissues can be compromised. Sustained release of cortisol is associated with depression, osteoporosis and immunosuppression. For those who cite the tradition of p.i.r., I remind you that smoking, drinking

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and driving, and discharging toxins into the willamette river were traditions, too. Like air and water pollution, noise pollution is now a well-documented health hazard. Things change and humans learn. Just as we once believed that our rivers had unlimited for sewage and toxins we erroneously believed that humans had unlimited capacity for noise. We were wrong about the rivers, and we now know that we're wrong about the noise pollution. Noise increases in north Portland from freeway traffic, industrial activity, air traffic, and the racetrack, over the last 20 years have grown to a level that exceeds our capacity for good health and quality of life. Let me say again that we need less noise, not more. Allowing an incredibly noisy racetrack to operate in the middle of dense populated neighborhoods is absurd. Protect our health and livability and deny these variances. I for one do not care whatsoever about mitigation funds. I care about my health and my livability. Thank you.

Leonard: Thank you very much. Karla? Good morning. Please identify yourself for the record. You have three minutes.

Peter Teneau: Yes. My name is peter tenoh, and I live in kenton neighborhood, 2715 north terry street. Originally I sent you an email, and I emphasized my objection to the fifth event. I understand at this time anyway p.i.r. is not appealing the sound board's decision to deny that, but at some time it may. However, most of my remarks apply to sound generally. And I also support piedmont neighborhood's appeal. I don't know why we're here, because this issue keeps coming up. It came with amphitheatres, came up with p.i.r. On many occasions, and the message should be loud and clear now that we want no more noise. It's an abridgement, I consider previous agreements that parks department or the city -- and the city, had with the neighborhood. North Portland -- north Portland has suffered many burdens, and we've overcome many of them. It's now a neighborhood gaining in livability and securing itself. Now certain arguments are given. I'd like to mention these, just to counter some of the arguments that are given. Economic benefits for large events is mentioned. But i've never seen any evidence that this will benefit our neighborhood, for example, or the city very much at large. He would counter to that, what about land values? Land values in north Portland are lower than any other place in the city. This is one of the reasons why. With regard to the mitigation fund, I consider it myself sugarcoating the pill. We should be talking about abatement, not mitigation. Mitigation is absolutely the last resort. We should be talking about reducing sound. With regard to noise itself, I also -- I also believe that the constancy is equally as important as the decibel limits. Too often the decibel limits become kind of the subject. And the high limits are very important, but it's the constancy. When you add those levels from the racetrack with all other sources of sound, we have just constant sound. Some of the events, which are lower than the prescribed decibel limit, are also a nuisance. So we should be talking about the nuisance of sound there's an inherent contradiction underlying this, that the city owns the -- the parks department owns the racetrack, it's an enterprise, and therefore muss create its own revenues. Well, that's fine, but it shouldn't be at the expense of -- it shouldn't be at the expense of livability. Now in summary, I would like to say what I oppose. I'm opposed to any further noise variances at p.i.r. beyond the four already approved events. In other words, to the applicant's request for further drag races. I'm opposed to any increase of the established high limits or any increase of total events, event days, or noise output during those days from previously approved. I support yearly review prior to approval of all events. I recommend an updated review of event activities at the track for the past eight years to assure that there's been strict compliance with noise limits. There's been a general perception --

Leonard: Sir, your time is up.

Teneau: -- general perception that levels are higher.

Leonard: Sir, you need to wrap it up.

Teneau: Yes, i'm doing that now. I recommend a review of present noise procedures, to determine their validity in assessing the noise problem. I recommend a citizen survey, and I recommend

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finally a study and implementation of all possible measures to reduce noise emanating from the track, and that such effort be substantiated in a report to the community. Thank you.

Leonard: Thank you. Ma'am?

Pam Arden: Thank you. My name is pam arden. I live in the kenton neighborhood. I've lived in my house in kenton for 28 years. So i've been around the p.i.r. dialogue for quite a while. One of the questions that came up with the appeals, and I do support the appeal from piedmont and from steve cox, I think one of the questions that always comes up with the appeal is, "jeez, you've had these races for so long, why bother to appeal now and why bother to come to the noise review board?" I think this was an opportunity for us to express our concerns that have been there over the years, and really we have -- I guess haven't tracked it individually and said, ok, the three-year variance is up. I think because the fifth variance was all of a sudden in the mix, there was an opportunity to say, "wait a minute, this is now getting out of hand." the events over time at p.i.r. have escalated. We have, you know, from 28 years ago to now, you've ended up with a lot more events happening there. I have the annual report from 2004. It talks about you have 643 event days in the year. Now how do you do that? By doubling up obviously. Let's talk about the whole year of what's happening out at p.i.r. You have an impact that happens every wednesday night. You have an impact that happens on the weekends, on friday night. When you can start your day on saturday morning and say "it's 9:00, there's p.i.r.," that is a little bit intrusive into your life. So it becomes an irritant that you're always on the -- kind of on the awareness of when p.i.r. is happening. New folks have shown up at some of the meetings. And these are new residents to the neighborhood, people who haven't shown up before, and I find that incredibly gratifying, that other people besides a few of us old folks to the neighborhood are finally coming up and saying "wait a minute, this is not what I came to this neighborhood for." I myself bought my house in the end of summer, didn't know about p.i.r. until the following year when they had a drag race there, and all the windows shook in my house. It was like a jet airplane going off in my backyard. So I have been around this for a while, and ask that this dialogue start as paul van orden suggested, that we have a dialogue about what's happening over there, how can we mitigate it, reduce it. It's something we need to stop. We're some of the only people in Portland who ask for rain on race days so that we can have kind of a quiet time. I myself went out and bought a noise meter, so I could monitor things from my own house. So it -- you know, it gets to the point where you have this as a constant idea in your head. The trust fund to me, I was one of the first people to ask for some money from the track years ago. And it kind of morphed into this trust fund. It's kind of a ying and yang. Is it good or bad? But right now it's giving money to the community resources. I am on the trust fund committee. This evening we're meeting to try to dole out \$30,000 from last year to -- we have over 30 applications that we're going to have to decide. So it's important to the community, but we also need this dialogue to stop things at p.i.r. Thank you.

Leonard: Thank you.

Larry Fellows: Good morning. My name is larry fellows. I've been a kenton resident since 1960, and beyond that I remember visiting vanport when it was an actual city, in the time after the flood, when it was an open area, where people would go down, fly a kite, learn how to drive. There was a life before p.i.r. I object to the noise from the loudspeakers. I can hear the loudspeakers going during race days. The noise, the added events from the helicopters. My god, the helicopters put out quite a bit of noise. Further than that, I just want to support my neighbors from piedmont and other north Portland neighborhoods. Thank you.

Leonard: Thank you very much. Karla.

Eleza Faison: Hello. Eleza faison, a citizen of piedmont, separate from my previous testimony as a chair. And I wanted to kind of address some of the issues that have come up during the discussion in favor of the le mans and champ car races. As an athlete and a former athlete, I understand the need for warm-up. However, warm-up doesn't mean violation of the law. If you look at the sunday

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operation and the need to warm up your vehicles, then you should look at that as a need to stay within the decibel limits of legality. You're still getting the warm-up that you need, but you don't need to exceed the decibel levels before 10:00 a.m. As they negatively impact the livability of the neighbors. Single variances require the due diligence of the promoter, of the races, to operate as a good neighborhood in accordance to the variance that they were given on a single-year variance. Admittedly so, the champ car testified today that historically these cars have been known to exceed limits of 115, 117, and 119 decibels. And if you cannot guarantee that that won't be the trend in the future, as you cannot guarantee that technology will not change, then you cannot guarantee that you will operate year to year in this contract at the decibel levels required at 112. The application process, I would ask that you implement a requirement on the application process to the review board, that appropriate notification through the office of neighborhood of involvement to all of the neighborhoods that are directly impacted by noise from p.i.r. be done in a timely fashion to allow a unified reaction from all of the neighbors and appropriate notification to all of the residents of the impacted neighborhoods. That was not done. And admittedly by the review board has been a fault of the promotion -- of the promotion criteria and application process of the noise review board. If you make that part of the requirement, we might have circumvented a lot of issues that you hear here today, i.e. The mitigation fund could have been something that never came to commission and could have saved you a lot of time and resources. I encourage you to look at one-year variances. I encourage you to look at the application process itself. And I encourage you to reduce the level of noise that comes in to north Portland. Thank you.

Leonard: Thank you very much. Ma'am?

Edna Riddle: Yes. I'm edna riddle, 9115 --

Leonard: You don't need to give your address.

Riddle: Pardon?

Leonard: You don't need to give your address.

Riddle: Oh, i'm sorry.

Leonard: I don't like in this era for people to give their address publicly.

Riddle: In the portsmouth area, have lived there. We originally bought our house, two rooms with a lean-to from a contractor that built columbia villa in 1942. Have lived there ever since. Even this morning, I got a gentleman call me back twice, the second time, wanting me to sell it. As far as i'm concerned, what this they did on the corner house lot, is tore down a house with a basement, and have put up three houses, cracker boxes on end. There's always cars sitting in the street. They widen the street and took out the corner so that people had to pay extra to have those replaced back in 1980, during the -- the volcano explosion. And it just makes it so that the more housing you have, you hear the neighbors arguing and everything else. So who wants to beside by side unless you are living in an apartment house or a complex that has been built for such. But when we live in our own homes, in our own neighborhood, we want room for and place for -- and especially if you have more than one bedroom, you want a place for the children to play. There's no place to play but the street. And when the tri-met bus tries to make the corner, he has difficulty getting between the cars parked on street because people do not have room to put them in their garage, or they do not use their garage. The cars are sitting on the street. And that is what I have against the noises. Also, the p.i.r., i've heard that, of course, ever since i've been there. Sometimes i've seen the time when -- when I went to open the doors a little more to have company and have dinner, and be so noisy we'd close the door because of the outside noises coming in. Beside what you get on the street. So that's why I object to having you change it and make the variance any higher than what it is. Seems like it's too high now as far as my hearing's concerned, even though I wear a hearing aid and can turn it down, still I can hear quite a bit of noise. And certain tones especially. Thank you.

Leonard: Thank you very much.

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Doretta Schrock: My name is doretta schrock, the chairperson of the kenton neighborhood association. I'm here representing myself, but I do want to speak to some of the issues from the perspective of the people on my board.

Adams: Excuse me. Could you get closer to the mike?

Schrock: Ok.

Adams: Thanks.

Schrock: On my board we have big supporters of racing, for both its recreational and economic benefits, but we also have big concerns about noise. What everyone has in common is that we support racing, but we're against noise. P.i.r., as you've heard, got its beginnings as a local resource for local racers. It grew into a cash cow for the city during the cart heyday with nearby neighborhoods providing a subsidy for the rest of the city. But those days are over. Big money races no longer happen at tracks like p.i.r. The promoters of the proposed northwest nascar track are looking for a square mile or larger area for their track at a cost similar to the proposed Portland baseball stadium. Small tracks like p.i.r. just aren't in the running for big money anymore. Now we're being asked to support increased noise for decreased benefit. I encourage you to look at the p.i.r. annual report and look at where the money is coming from. It actually turns out these late-night drags, which have been developed with participation of the Portland police bureau, and I think have been a really good thing for keeping street racers off the -- off the streets in the city, are bringing in more money to the track than these big, noisy events do. And at a lot less impact to the neighborhoods in terms of livability. So I think compromise is possible. I think p.i.r. can move away from these noisier events instead of the direction they're taking now, toward more noisy events, and benefit everyone in the community. So I just wanted you to keep that framework in mind when you make these decisions about -- about all the variances that are going to be coming up in the future. Look at the economic benefits versus the impacts on the neighborhoods. Thanks.

Leonard: Thank you.

Gary Woodruff: My names gary woodruff. Thanks for hearing us today. I'm a resident of hayden island. There's three reasons that I oppose any p.i.r. noise variance. First, there are no independent noise studies on which to assess the impact of racing on neighborhood livability. P.i.r. has presented data to the noise review board that many people, including noise review board member and acoustics professional carrie stanley found hard to believe is accurate. P.i.r. provided no noise data for east hayden island residential neighborhoods. Second, p.i.r. races produce noise pollution at levels well documented to cause health hazards. According to the world health organization, noise pollution can cause hearing loss, sleep disturbances, performance reduction and adverse social behavior, calling noise a nuisance is like calling smog an irritation. P.i.r.'s own data shows that cart races produce 100-decibel noise level, or 10 decibels louder than a human ear can tolerate without risk of injury. And this is in the surrounding neighborhoods. That's as loud as a firecracker. So you can imagine how you would feel after days and days of firecrackers exploding in your backyard. With the shortage of industrial land in Portland, it makes better sense to use this valuable property for nonpolluting industry that produces jobs and strengthens the city's economy. I'm here today to challenge you, to take this event to, one, consider how Portland has changed over the 20 years since these variances were allowed, and two, draw your own conclusions about whether a racetrack on valuable industrial land in the middle of urban neighborhoods makes sense for the citizens of Portland in 2005. I request that you deny this, and any future p.i.r. noise variance applications. We ask that you put the people before p.i.r. profits and bring livability back to north Portland neighborhoods. We are hopeful that you will protect us. Thank you.

Leonard: Thank you.

Christine Duffy: Good morning. My name is chris duffy. I'm an arbor lodge resident and vice-chair of arbor lodge neighborhood association and head of land use. I'm here to speak as a private citizen today, though. I of course agree that there's too much noise in our environment. This is

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cumulative thing. It's just not the racing, but the growth that north Portland has experienced in the 40-plus years since p.i.r. first started racing. It's time to say enough is enough. Perhaps moving the racing facility would be a solution, but this is no longer a logical area to conduct racing when there are over 60,000 citizens living in north Portland that are affected adversely by it. Not only the quality of life in north Portland is affected, but business is affected. As you can see, hayden meadows has had a hard time developing businesses that are successful in that area, and much is due to the traffic impact. On racing days and days when big events are held there at p.i.r., people don't want to travel to shop, people hesitate to travel north to jantzen beach to shop, because they'll be in a weekend bottleneck, just like they experience on weekdays every afternoon. I would like to propose the idea that we consider totally phasing out racing at p.i.r. after all, this is a part of the Portland parks department, a part of our city, and it should serve the interests of the broadest section of the population as possible instead of catering to the interest of a small group of racing fans and racers themselves. I'm sure you gentlemen have studied the budget reports from p.i.r. and they show that racing is not the most profitable thing to do there. A swap meet actually generated more revenue than the cart races last year. Can we consider alternative uses for this facility that would generate more revenue? To do this I would propose that we direct a study be made to be headed by our office of neighborhood involvement in north Portland. Perhaps over a two, three, or four-year period even to determine the best use for this facility, for the city and for the citizens involved. After all, the neighborhood involvement office has the best interest of the citizens of the town at heart. Thank you.

Leonard: Thank you very much. Karla.

Moore: That's all who signed up.

Leonard: Ok. Do we have -- the principal opponent of the appeal from the noise review board?

van Orden: Traditionally you would have the board come up at this point to answer any questions.

Leonard: Ok.

van Orden: So if the board members are present, why don't you come up.

Leonard: Ok. Thank you very much for being here. We're going to give you 15 minutes.

Jocelyn Cox: Jocelyn cox, I serve as chair of the noise review board. I really have no prepared remarks, nor are we planning to defend our decision. We will ask you to make definitive judgments on what you've heard. There are a number of things here that I know you will want to ask. All of the technical questions can be easily answered by kerry, a professional in acoustics, and originally participated in the noise studies of the 1980's, I think it was, that resulted in resolution 34626. This is the thing that we're battling today. I hope you all have a copy. Ok. One of the things that really needs to be decided today, if I may ask you to do so, is to be sure that we arrive at sharon tracy's question of whether or not the varianced cars can start warm-up in instance before 10:00. The recommendation here that was passed by city council in 1989 states, restrict varianced vehicles to a starting time no earlier than 10:00 a.m. On sundays" to give north Portland, obviously, some sleeping time on sunday morning, quiet time for churches. That was never defined as to whether or not the start should be racing start, start of all activity, or just what. So this is really what we need from you. We, the neighborhood, and the race promoters, and p.i.r.'s management, so we would appreciate your attending to that.

Adams: Madame chair, did you hear any reason why they can't just warm up at 10:00 and the event go later?

Cox: Well, I think it's the scheduling. I think we really need to ask sharon tracy about that.

Adams: Ok.

Cox: If the race is to begin at the champ car races to begin at, what, 1:00 --

*****: 12:30.

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Cox: -- 12:30, then obviously they need a certain amount of time to get their engines warmed up. There are all the support groups that also race, and race at a much lower level than the champ cars. So they also need to warm up. How much adjustability there is, I don't know. This is something that --

Adams: We'll ask that.

Cox: It needs to be decided. I'd like to point out a couple of other things, that just kind of answer a question or two that you had, mr. Adams. Speaking of the decibel levels, the board has attempted very hard to push these down. The variance levels, four different ones, given by city council in 1989's resolution, and we are now requiring that the black flag be deployed should any car exceed by any small increment that 110 or 112 or 115 that has been granted, with the exception of the champ cars, which city council said shall be unlimited. Another thing is that it doesn't matter a whole lot what the sound level is at the racetrack or the perception within the neighborhood. The code of the city of Portland is a receiver-based code, which means that for unvarianced races the sound level within north Portland neighborhoods cannot exceed 65 decibels at the line of any property receiver, residential property receiver. Sunday 10:00 a.m. was one difference between our decision made this year and previous years. The other was to define clearly the black flag maximum decibel level allowed.

Leonard: I want to ask ask a question, but i'm not sure you're actually the right folks to ask this of. I mean, having grown up in the area myself, i'm familiar with the issues. Is this unique in the board's experience to any other kinds of requests that come before you throughout the city, this kind of a request.

Cox: Unique in what way, sir?

Leonard: Are there any other kinds of events that require this high of a level of an exemption of noise standards that occur anywhere else in the city?

Kerry Standlee: I'll answer that. Kerry standlee. In the neighborhood, yes. What we're talking about is --

Leonard: Yes?

Standlee: -- the level in the neighborhood is between 70 and 75 d.b.a. We allow that level, for instance, at waterfront park for events that go on in waterfront park. That's the level that we set --

Leonard: 75.

Standlee: 75.

Leonard: 75 is -- I mean waterfront park is not a neighborhood.

Standlee: But there are residences along, for instance, hotels that have people -- that dwell in those facilities. The fire station across from waterfront park. There are people that live there.

Leonard: You actually think about firefighters?

Standlee: Yes, we do.

Leonard: Wow. [laughter]

Standlee: The other parks in the city, we also use the same kind of rule of thumb.

Leonard: So the 75 is what you've determined the level of noise is in the north Portland neighborhood as a result of the racing?

Standlee: That's -- for those races that are varianced, running between 75 to 80 d.b.a.

Leonard: In the kenton neighborhood?

Standlee: Correct. So yes, we're using -- I mean, we're not subjecting those neighbors -- those citizens to levels not considered acceptable in other areas.

Leonard: Is the frequency more often at this location than other areas?

Standlee: Frequency in terms of number of days or what? Well, waterfront park gets used many weekends during the summer.

Leonard: I guess intuitively I don't think of waterfront park as generating the noise that the racetrack does.

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Standlee: Right. You also have p.g.e. Park that gets used continuously through the summer. And we had the same conditions there.

Leonard: I understand. But you equate the noise level there with the racetrack?

Standlee: In terms of at the receiver. I'm not talking about the source. Obviously p.i.r. Is at the source is much higher than any place else, but it's got a distant factor that helps, too, by the time it gets to the receiver, where the levels that we would find at other events at the city that are varianced.

Leonard: I don't want to get too technical about, this but is there a perception difference in the human ear of say fans at a certain level and eight cylinders pounding out noise? I mean, does that make a difference in terms of the stress level on the -- on humans?

Standlee: Sure.

Leonard: The kind of noise that it gets, the decibel level.

Standlee: Yes. Could I throw in some other factors here, though, that I think the --

Leonard: Uh-huh.

Standlee: The citizens have mentioned, and what has been missed for many years now, and that is the size of the varianced events that go on out there, that are nonvarianced events that generate noise levels, that sometimes we wonder should they be varianced, because there hasn't been a good study to find out what events at the p.i.r. are generating in the neighborhood. In other words, above 65 d.b., as ms. Cox mentioned, and if it's over, past 10:00, they have to come down even lower. I was on board when we first started this discussion about p.i.r. And what variances should be given, and back in that time one of the things that came out was that the citizens were complaining about the amount of noise in general, just the general use of the -- of p.i.r., not just the variance. So the compromise, I think, that came out four variances that they were willing to accept, those addressed what we were told was the money-making events that had to go on out there. But nothing ever happened to address the nonmoney-making events, such as wednesday night drags, the friday night drags, the saturday drags, the other events that were assumed to be in compliance. Nothing was looked at.

Leonard: That wasn't my question so much as I would think that people react differently to hearing crowds cheer at a certain noise level, just like I like certain kinds of music at a certain noise level. If you had other music at that same level, the hair on the back of my neck stands on end. So is that analogous to listening to drag racing at a level and then a crowd cheering at p.g.e. Park? I would think in some ways, I mean it's kind of fun to listen to people at a ballgame, not so fun, same level, same impact on the eardrum, to hear dragsters dragging, drag racing.

Standlee: Frequency of the sound source does influence people's reaction. However, I have to say that during testimony about p.g.e. Park we had people using the same statements.

Leonard: Yeah.

Standlee: Well, you should experience this, because of this condition.

Leonard: Maybe we should just start saying, "you're lucky it's not a drag race." [laughter]

Standlee: Actually there was an event where they were trying to do truck pulls at p.g.e. Park, but it was before it was p.g.e. Park, that's when it was the civic stadium.

Leonard: Yeah, I remember.

Adams: Could I? I think that an argument can be made -- well, first off every neighborhood has its banes. Northwest has p.g.e. Park. East Portland has freeways. Parts of north and northeast Portland have airport noise. Inner southeast has railroads, railroad yards. Linnton has all the industrial stuff across the river. For those of us that live and work all around -- and/or work all around the city, every neighborhood has its issues. There's no question about that. But I would argue that north Portland has sort of the coalescence of particularly unique noise. Airport noise, railroad noise, and the railroad industry is coming back, I can tell you, since I live within eye shot of it, freeway noise, truck noise, industrial noise. I think north Portland is particularly impacted by

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noise. And I think that the city has been neglectful of that, and I think that many residents in north Portland probably have either given up, and so new folks that are moving in sort of renew the fight.

I would like to see staff coming back with the elements of a noise reduction strategy for north Portland. And I do think that part of that is that p.i.r.'s going to have to start looking at the value of having higher-valued events, and this is where i'm jumping off the point you were making, there are lots of event out there that are not on the radar screen, and I think that they're going to have to look at fewer events that are of higher value economically and otherwise, as quiet as we can possibly make them, but definitely fewer events. So I would like you and staff to work on the notion, regardless of what we do today, i'd like you to come back with the outlines of how you would go about -- and how much money it would cost to do a noise reduction strategy, beginning with the baseline, what is the neighborhood in the neighborhood, where are they produced? I haven't had time to dig into it, but i'd be willing to bet that the city could petition the federal government to get a number of the whistles that the trains currently use up and down columbia boulevard since there's a new federal law that allows us as a municipal government on certain crossings to petition the government for them to no longer use i. That would mean a significant reduction noise in the neighborhood, significant. That's not looking at what we can begin to do at p.i.r.

Leonard: Commissioner adams, I wonder if it's appropriate for me -- I know we have rebuttals coming up, and we have other --

Adams: And I have to leave.

Leonard: Are you suggesting that we're going to be requesting that we not act on this today?

Adams: Can I --

Leonard: We have a lot of stuff still scheduled and people here.

Adams: Right.

Leonard: If what i'm inferring from your comments is that ultimately you're going to be suggesting a hiatus here, i'd just as soon as cut to the chase and --

Adams: I'd like to suggest a hiatus. I don't know what the right motion is.

Saltzman: My only concern about that is there is a race in june and has to be some certainty around the parameters. I'll take my advice from parks, or others, as to the need to make a decision. I mean, how far out are we from --

Leonard: How much time are you thinking about, commissioner adams?

Adams: How much time would it take for paul to come back with an outline of a noise reduction strategy?

van Orden: Maybe within a month or two weeks. I think this can be separate from this decision.

Saltzman: Yeah. That's a longer-term look. We have a request for a variance, and there's a timeliness factor involved here, unless somebody corrects me. But the first races are in june, and it's now almost april.

Adams: Well, i'd give you a week, otherwise i'm going to vote no.

Leonard: Well, I was going to unfortunately tip my hand here a little and say that I think it might be in the best interest of the race to consider commissioner adams' request, because i'm feeling at this point, of course, we haven't heard all the testimony, persuaded that this -- these events have crossed the line in terms of impacting what I would consider to be the minimum conditions for livability in a neighborhood. Having said that, and being a fan of racing, I would be -- it would be great if we could have our cake and eat it, too. I don't know that that's possible, but I recommend to the council that we vote for commissioner adams' suggestion, given where everybody is right now, and -- at least --

Saltzman: The suggestion doesn't speak to the immediate issue at hand. The suggestion is a noise reduction strategy.

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Leonard: What i'm saying is I agree with commissioner adams. I don't think I can support the race given the impact at this point from what i've heard. If there's some way to -- so that means the votes aren't here. So i'm looking for something that can be a middle ground.

Adams: Basically I think the -- and I want to underscore that I don't think it the promoters or those of you that are here to support the race. I don't think that it's anything that you've done. I think that it's we on the city side that have to take responsibility for this. And I think that a week's delay in making a decision to come back with what the neighborhood -- I think i'm weaving together some of the -- some of the elements of the comments from the neighborhood. If I see a serious noise reduction strategy for the neighborhood, and that is not just focused on p.i.r., but the neighborhood, then I can support this with the conditions, but unless I see that i'm going to vote no.

Standlee: Could I ask a question on that?

Leonard: Let's hear commissioner Sten.

Sten: This is a tough issue, and I want to compliment that the quality of testimony on both sides. I think people have approached it in a thoughtful way. I think -- I guess i'm very open to a longer discussion of how to handle this. I think the neighborhood has called the question -- I can't remember who it was, but somebody said we haven't been in on this before, but the variance is up now, so the time to come in and call the question. I'm very supportive of that. I would be very supportive if commissioner adams -- of commissioner adams' proposal. Frankly I don't think it's fair to promoters to say there's a bigger neighborhood mitigation issue and we're going to hold you up. The city has a business agreement with champ car. I'd be comfortable at looking at making it a one-year agreement, which is what champ car does not want, in order to buy time, but to say we're going to play chicken with the race itself, with all fairness of the neighborhood, I understand your issue, I think it's fair, but I don't think we can our city to be successful if we do business in that way.

You know, I think we have to -- you know, giving them a one-year and saying we're going to make sure you hold up to these deals, and meanwhile the council is going to take responsibility for a north Portland plan and say to the racing community with a straight face, we'll lead that charge and expect you to take part in it, is reasonable, but to say we're not going to grant the variance until we can up with a bigger plan I think is sending a message that it's very hard to do business in Portland, and past where I can go. But if it's 2-2, obviously i'll support a we.

Leonard: Speaking for myself, i'm not so much focused on the larger plan that commissioner adams is. I do think that I object to be asked to make decisions that apparently are decisions i'm expected to make to back up something some other bureau has done. I mean, i'm asked to decide based on the evidence that I hear. I can't be persuaded that some other entity within the city has made some kind of a deal. My point would be, the thing i'm looking for the forum to say this in, and maybe this is it, is I think the track needs to be moved. I don't understand why, given that the value of that particular piece of property we couldn't interest somebody in trading that -- i'm just -- you know, i'll probably get slammed for saying this, but is there something out in rivergate of equal size that could be traded for this property to move it into an area more compatible with this activity and not in a neighborhood.

Sten: I'm not arguing with that. I think the question is how one votes on the noise variance, I think is a clean vote, what you're saying. What I want to say, the issue I have, i'm actually pretty close to your position in terms of trying to think how can we do something about the racetrack. I don't think it's fair to parks and the promoters to frame this as a decision parks made. It's a recommendation. The noise -- the noise board, who we put in place to study these things, made based on adopted city policy. So there comes a point at which the city policy is wrong, i'm ready to go after that, but I think to start pulling the variance on a business arrangement that's a big deal to a lot of people, they want a three-year variance. They're not happy if I go for a one-year.

Leonard: I appreciate that. I'm looking for something that moves us in the direction i'm talking about. There's four other people that sit here. That would sound acceptable to me, as long as we

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had an understanding that we were moving in a direction, not just to come up with short-term fixes or --

Saltzman: Can we hear from parks?

Sten: There's a gentleman from parks standing up. Can we hear from him? Is that ok, mr. President?

Leonard: Yeah, absolutely.

Robin Grimwade: Robin Grimwade, parks and recreation. I think it's fair to say there's a number of very complex issues with p.i.r. I've only just taken responsibility for p.i.r., so i'm still coming up to speed with it. But there is an issue where we have a contractual arrangement for the champ car event. And it would seem to me at this point in time to respect the business transactions and the business variables, we should go forth with that contract, but we should ask for an annual review of the noise variance. So that the noise variance is not for three years, the contract's for three years, we look at an annual review.

Leonard: I guess just as a process question, i'm wondering why we're even asked to vote on something if a contract's been entered into. I mean, what --

Grimwade: Contract has not been executed at this point in time. It's in the final stages of negotiation. The other thing is the questions -- or the statements that you eluded to, commissioner, about the long-term future, there is a serious policy issue that does need to be addressed by city council in relation to how p.i.r. goes forward into the next five, 10, 15 years. And it would be appropriate, I think, to commission a review process in the next 12 months, where we look at what is the aims, objectives of p.i.r., what is the economic benefits are to the city, how does it impinge upon city livability. We need to weigh out the pros and cons of that. We need to look at the types and frequencies of events. And there's the bigger issue -- does Portland need p.i.r. where p.i.r. is? I don't know, but that is something that we definitely need to move forward on. But there's the two immediate -- well, there's two real issues, how p.i.r. operates and goes forward and the immediate business issue that we've got in hand.

Adams: Clarify for me. I thought one of the reasons that we have to grant a variance today is the way in which events have been managed at p.i.r., that some other events were given, some of the noise variances that normally are used for this race. Is that accurate or not?

Cox: No. There are four racing venues --

Adams: In terms of d.b.a. levels.

Cox: There are only four racing variances granted to p.i.r. There are four different races taking place at p.i.r. Four races have been granted the variances, the four that you allow for this year.

Adams: Ok. Then maybe i'm wrong.

Leonard: See, I actually --

Cox: I'm not sure. I'm not understanding your question.

Leonard: I actually agree with the comments commissioner Sten made, commissioner adams made. This is not about the promoters or the race or anything they've done wrong. That's not my position. My position is I am persuaded that it's in the wrong place, that the track is in the wrong place.

Sten: Mr. President, I think given how many issues we have, I think we actually understand the motion and i'd be prepared to make a motion. If it fails that would settle that, and we'll take another motion.

Leonard: I need to check with our city attorney, because we have kind of leaked ahead of our process here a little bit.

Ben Walters, Office of the City Attorney: Yes, you have. There was a process that was established for the consideration of testimony. We haven't gotten to the end of that testimony yet. I understand that you're under constraints, time constraints --

Leonard: I was trying to expedite this little, because we have other hearings to go on to after this, and then another agenda starting at 2:00. So I guess we -- what would you recommend?

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Walters: I would recommend that if you have no further questions of this panel, that you finish up with the remainder of the testimony and then get into the motions. That way you've completed the record. This is a hearing on an appeal, and therefore you need to complete the record.

Leonard: Yes, ok.

Standlee: Whether you have questions, I think we have some time left, i'd like to focus some comments on some of the statements that were made by the promoter. Is that possible?

Leonard: It is possible. Understand the constraints we're working under here. We have a whole other audience here for a completely separate issue. We have an agenda at 2:00 and 6:00. At some point in there i'd like to have something to eat.

Standlee: Ok. You are -- we're here because of an appeal. The board made a decision. The board decided to approve two variances. So it's not like you're looking at this from the beginning. We've already done that.

Leonard: Right.

Standlee: Our decision is being appealed to you. One, by the neighbors, saying don't allow anything. The other by the promoter saying, allow us to make the noise early in the morning like we've been doing for the last 10 years. That's the one issue I wanted to speak on. Remember, they said the last 10 years, but that was only two hearings' worth. Hearings were held in 1995 and again in 2000 to give five-year variances. Mistakes obviously were made, because prior to 1995 the -- as chairman joslin cox read to you, the city council said that no variances could occur before 10:00 a.m. On sunday morning. A mistake was made in 1995, which proved a proved on sunday for a variances event to occur before 10:00. Going on forward with that, continuing that, doesn't make it right. So we were trying to get back to what the original intent was, and that was always that sunday mornings would be quieter we told the applicant that they could have their warmups, but make as much noise as they could during the race, so they had to meet the city code. So that's the point that I want to bring out relative to the appeal for the race time beginning -- or for the variance.

Leonard: That's very helpful.

Standlee: Ok. On the citizens, we decided there was no change, what we were approving, there was no change for these variances than what they already had for the last 10 years.

Leonard: Right.

Standlee: Keep that in mind.

Leonard: I did.

Standlee: We're not adding noise to the neighborhood. It's already been there. We're approving what was there.

Leonard: But just as you said on the prior issue, just because it's happened before doesn't justify it now.

Standlee: That's correct. But I want you to understand that the variances that were approved didn't make any change.

Leonard: Right, understood.

Standlee: Ok.

Saltzman: I need to ask robin one more question.

Leonard: Ok. Thank you.

Saltzman: I thought that Tracy Sherman with Global Events had said we're in the middle of a three-year contract for the Champ Car, and a two-year for the Le Mans, or vice versa.

Grimwade: As far as I know at the moment, we are still negotiating the three-year Champ Car contract. A point of difference was closed late last night/early this morning, but the contract remains to be executed.

Saltzman: Ok. That's for this coming season and next two seasons?

Grimwade: Yeah.

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Saltzman: What about the le mans?

Grimwade: I'm not aware of the le mans one personally at this point in time, but it would be important to get a decision made sooner than later because all these events link into a whole load of other parties, particularly when it comes to the media. At the end of the day, it's really the media that calls the chain and everyone jumps to the media because of airtime, locking up connections.

Saltzman: Ok, thanks.

Leonard: Thank you. We'll now have opponents of the appeal. Karla?

Moore: Come up three at a time.

Leonard: Thank you for coming. You each have three minutes. Please identify yourself for the record.

Drew Mehalik: Ok. My name is drew mehalik, c.e.o. Of the Oregon sports authority. Good morning, everyone. Representing our nonprofit organization that has a membership of more than 100 corporation, i'm a member of the champ car business coalition, compromising the Portland business alliance, hispanic chamber of commerce, Portland, Oregon, visitors association, and Portland rose festival association. This coalition was formed over a year ago as a major strategy to influence the owners of champ car to make a three-year commitment to the city of Portland. This is an event that Portland cannot afford to lose. Each year the economic impact exceeds \$8 million for the city of Portland and the champ car weekend has been characterized as the best tourist weekend of the year. Both these events, champ car and american le mans, are equivalent to major conventions for the city of Portland that are even more valuable when we can count on them as annual events. The sports event industry is extremely fragile, with event owners awarding their product to cities that they can count on year after year. If the event owner loses confidence with our city it opens the door for other cities that are only too eager and anxious to bring these he wants to their venues. In light of the financial interest of our city and the quality of life for the thousands that attend these -- that attend these events, we ask you to give your highest consideration possible to meeting the fair expectation of the champ car and american le mans event owners. Our coalition has made a tremendous effort to secure this coveted three-year commitment to be here in Portland. Agreeing to the three-year agreement also sends the right signal. It's a signal that Portland knows how to do business. So please join us in the best interest of our city's economy to endorse this multiple-year assurance that are fairly relied upon by the event owners of these events so that we can all work together and host these valuable tourism event in multiple years to come. Thank you.

Brian McCartin: I'm brian mccartin, executive vice president of sales and marketing with the Portland Oregon visitors association. While I can't speak to all the events that occur at Portland international raceway, i'm here today to speak on behalf of the value of the champ car and american le mans events to Portland and region. These are international events that bring tremendous positive attention to Portland, broadcasting on national/international television almost 200 countries worldwide. The natural beauty and many positive attributes of our region are showcased by shots of Portland and the region, whether it be mount hood, the gorge, the city skyline. Emphasizing the wonders of our city to millions of potential visitors. As the agency charged with the responsibility of marketing and promoting the Portland metro region to attract visitors to our region, we can tell you that the value of these events generate for Portland, we would be able -- anything we would be unable to purchase anything from a marketing sales perspective. This television and national coverage is something we just couldn't put a price on, unable to purchase ourselves. These events tremendously increase our marketing ability and reach. Not only do these -- is there value brought by the events to attract future visitors to Portland, but also the immediate value brought by the events themselves. As you know, the champ car event has been a successful event for over 20 years. The hospitality industry knows the value of these events and what they represent to not only their business and to their employees who rely on visitors to support their careers, but also to the

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city of Portland as well. It's not just northeast Portland that benefits. In fact, this year several downtown hotels are participating in a new marketing campaign and package to attract visitors to our city primarily from Vancouver, Canada, whose Champ Car races will not occur this year. I applaud the city for saving these events to Portland. I want to encourage the council to fully recognize the total value and positive economic impact these major racing events bring to Portland and our entire community, now and into the future. I want to encourage you to support Champ Car in its endeavors to be successful by honoring the commitments the city made to this event and being reasonable with any restraints placed on their ability to conduct their events, all this while balancing clearly the important community concerns. Thank you.

Leonard: Thank you.

David Kingston: Good morning. My name is David Kingston, the general manager of the Red Lion Hotel on the river and the Thunderbird Hotel on the river located on Hayden Island. I'm here to speak about the economic impact in our two hotels and what I perceive to be the neighboring businesses' impact. The Champ race alone represents a 10-day period where we run nearly full in occupancy. On a dollar basis, that's worth well over half a million dollars. The room tax base that generates is a little over \$30,000. That isn't just 10 days. That's just one race. The neighboring restaurants and retail businesses do just as well as we do in that short 10-day period of time. The impact on the economy, there just on the island, let alone North Portland, has to be substantial. This is a showcase event that I would hate to see go away, not only for the economic impact and the benefit of our businesses, but for Portland and the region. It draws a number of people into the area that would not normally come to the area perhaps had it not been for this event. That's an opportunity for us to show off, if you will, and it is exposure that as Brian mentioned we could never pay for when it came to a marketing expense to reach those people. This is truly an event for all ages and genders. In our hotels, we not only house anywhere from six to 10 of the race teams, we see families and we see families come and stay in the area, not just on Saturday night to catch the race on Sunday, but for the week previous, sometimes the week following. That again carries an economic impact I can't measure or present for you, but I can assure you it's substantial to North Portland and the region. I think that in the end there is a return on the investment that the city of Portland makes in granting this variance. I think that the return is for North Portland. I think the return is for Portland, Oregon. I think it's for the tri-county area. I think it is exposure that you cannot get, you cannot buy, we cannot afford. Thank you.

Leonard: Thank you.

Adams: Point of privilege, Mr. President -- I'm sorry, go ahead, invite them up. Just a point of privilege. I have to unfortunately leave this hearing. I've been requested to testify before the House Revenue Committee in Salem. This is the only time they meet on the issue that I have to testify about. So I'm going to have to leave early. I apologize in advance for that.

Leonard: Thank you. Go ahead.

Gale Castillo: I was going to say, good morning, but it's now good afternoon. Good afternoon my name is Gale Castillo I'm the executive director of the Hispanic Chamber. The Champ Car Grand Prix of Portland is a very important event to Portland and to Oregon as a state. Not only for the significant economic impact that it brings, but also the tremendous national and international visibility that -- of the television coverage that it gives Oregon. That's been mentioned once before. The Hispanic Chamber, you may wonder, why are you involved, what's your interest? We're particularly interested because several of the drivers in the world class event are Mexican or Latin American drivers. As a result when this race is held in Mexico City, in Monterey, Mexico, there are over 300,000 Latinos in attendance over the race weekend. This Portland event could eventually increase the air travel between Mexico and Portland via Mexicana Airlines, another important international economic development partner that Portland needs to support. Given the large presence of Mexican nationals, Mexican Americans and other Latin Americans in Oregon and the

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northwest region, we understand very clearly that this is an event that holds special significance to latinos locally and internationally. Over the last several years, the hispanic chamber has cohosted a reception with "el hispanic news" to highlight this event in the latino community and encourage our international visitors to promote Oregon as a place to conduct business and as a beautiful destination for leisure travel. The hispanic's chamber proud to support the champ car races and be a member of the business coalition. This is a family-friendly event, and an important international economic development activity for Portland. We urge you to grant the multi-year noise variance to the champ car race so that the champ car race can proceed. Thank you very much.

Leonard: Thank you.

Ron Bennett: Good afternoon I'm ron Bennett. Volunteer director with portland rose festival association and chairman of the auto race committee. The rose festival as you all know was the party who helped bring this event to portland in 1984 and continues to support it and motor sports in the city. Obviously there are some broader issues here you've all recognized than just the two weekends in question. However, I will only speak to the two weekends in question in particular the champ car weekend. The fabric of the history of the rose festival is interwoven within the portland neighborhood community, the business community and motor sports. We support the appeal that global events has made for the multiyear variance. Due primarily to good business practices as some of you gentlemen have said. It makes sense for the event. It makes sense for the city but especially the businesses that often call that weekend their 13-month financially. They can make up a tremendous amount of financial dollars in the course of that weekend. And here's an opportunity for two weekends. That's not just the hotels and restaurants, it's many small businesses. Therefore, good planning, good economic stability, eight days out of 365 that we are asking for not wanting to be redundant from everything that was said, I and the rose festival are here to support the global events appeal and I thank you very much.

Leonard: If we could have the race and have it occur in a location that's more remote, maybe still in north Portland but would that satisfy the neighbors, your concern isn't the site, it's to have the race.

Bennett: Correct.

Leonard: All right.

Moore: Brian gladden and dick eiswick. Was sharon going to read that? Brian gladden? Was there a dan noss?

*******:** He had to leave.

Moore: Thank you.

(Commissioner Adams left at 12:02 p.m.)

Brian Gladden: My name is brian gladden. I am a resident in piedmont and I have a property in mock crest which is near Kenton which has been discussed earlier. I am here because it's been brought to my attention that again there are complaints coming from my neighborhood about the noise from p.i.r., particularly on major race weekends. I have come to represent the ones you don't hear from. The ones who I believe are actually in the majority. I am fortunate enough to be here. Most people can't take this much time out of their day to come in and talk. I have yet to see a negative impact on my neighborhood from p.i.r. My property values are rising faster than my wife ever hoped. I don't see a negative impact. When I brought this meeting up to one of my neighbors her comment was actually I like hearing the races. It means summer's here. It's just part of where we live. As for myself I can see out of my patio when the cars are running on the track and I can look you in the eye and tell that you while I can easily hear the cars they are not that loud. Let's put it in perspective. At my house, the cars are easily drowned out by tri-met buses running a block away. The cars are drowned out by the bells of holy redeemer church. The cars are certainly drowned out by the rattler windows and over the track I can hear the whistle blowing at peninsula park at sporting events three blocks away. It's easy to walk down my street and think you are in

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suburbia. But the fact is we don't. We live in town. And the fact is it's just louder in town. We have buses, trains, sirens, airplanes, helicopters, church bells and, yes, major sporting events and concerts. I wonder do people who live nearby or use the waterfront complain about the blues festival? Do they complain about the noise from the rides during the rose festival? How many complain the rose parade creates unwanted traffic and noise. I'm sure there are some but do they get hearings like this one? This is a time when the city of Portland is facing huge budget woes. As north portland knows all too well. Teachers are being laid off, entire schools are being closed. It's being proposed a middle school be added to a troubled high schools in the district. We don't have the budget for an adequately staffed police force. On the chopping block are community centers, swimming pools, that add to the livability of the neighborhood. With all this going on it boggles my mind that rather than focus on what really matters a vocal few from my neighborhood have decided instead to concentrate on what equates to background noise for a couple of weekends a year. I think you are making a mistake looking at the ticket revenue. There's a much broader impact on the city as many have put quite well. There's money coming through the train stations, the airports, hotels, restaurants, bars, shopping centers and tri-met. This is money coming into the city. We don't even have to spend it. We don't have to have a special vote for an additional tax increase. People come here and spend their money and go home. If they like it here maybe they will come back again and spend more money. Is the city of Portland really in a position to ignore this? Likewise as mentioned previously, the champ car races broadcast worldwide. What would we give to have the rose parade broadcast in its entirety around the world? This is a tremendous opportunity for the city and one that quite largely being ignored. The final irony to me is that the north Portland neighborhood stand to gain if the events are successful and well attended. If major events at p.i.r. are chased away the neighborhoods will lose money as will the city. Please tell me why we are not behind these larger events? Successful events mean more money for our neighborhoods. In addition with someone mentioned kenton earlier.

Leonard: We need to have you wrap up.

Gladden: No problem. Kenton has a great opportunity they have light rail coming through. People can see Kenton that have never seen it before. They have a wonderful opportunity to showcase themselves. But again to sum up, for the sake of some background noise a few days a year are we ready to toss away the added income and the worldwide exposure that these events provide?

Leonard: Thank you.

Tracy (for Dick Eidswick): I many reading a letter submitted by dick eiswick, the president of the champ car world organization. His office is in indianapolis. It says "dear council members, the champ car world series is an international auto racing series that features some of the greatest race cars drivers in the world. Competing on the most diverse racing circuits around the world. Past champions, Sebastian borday, jimmy vasser, christianeau dematta, paul tracy, other internationally recognized drivers battle for the Vanderbilt cup which is awarded to the winner of the series. This title is congestion on oval circuits temporary street circuits and permanent road courses. Champ car is the world's largest, longest running race series and reaches approximately 108 million u.s. Households via network and cable television. The series races are also broadcast to over 180 countries for a total of over 320 million households worldwide. Portland race event is one of the longest running events in the champ car world series calendar. It gives the city a chance to showcase not only Portland international raceway but the city of Portland to a global audience. The event is also one of the largest attended sporting events in the state of Oregon. The 2005 champ car race will be Televised live on cbs. The support race on sunday featuring a toyota atlantic series will be broadcast on the speed channel. In order to showcase the series the event the city of Portland in the best possible manner, it's extremely important the champ care participants are are afforded the opportunity to have a warm-up session on sunday proceeding the race. All professional athletes

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participate in appropriate warmup activities prior to competition. This is true for auto racing as we must preserve the integrity of the event and ensure the highest possible level of safety and prepare. Champ cars are highly specialized machines which require highly specialized service. Without an opportunity for Sunday morning practice, there is a higher likelihood of mechanical failures which would result in less fanfare to the fans. Further a failure to stage such a warmup would be unprecedented in the history of champ car. Owing in large part to live network television coverage, it is virtually impossible to alter Sunday's race schedule. Eliminating warmup sessions would be the only mechanism to alter the schedule to adhere to the noise restriction. As stated above champ car firmly believes this will adversely effect the quality of the presentation which would result in dissatisfied attendees and participants as well as a poor television broadcast. In turn such a negative response to the series event weekend reflects poorly on the city of Portland as well as the corporations that are involved with the event. We urge the city to consider these factors when making a final decision on the issue as it relates to p.i.r. and the champ car world series event in 2005. Sincerely, Richard p. eidswick.

Leonard: Thank you.

Saltzman: Could I ask you a question? I am sorry. I think I referred --

Tracy: It's Sharon Tracy.

Saltzman: I'm sorry. I referred to your name wrong. Is there a reason why a warmup couldn't be accomplished between 10:00 and 12:30?

Tracy: The warmup is supposed to be scheduled four hours before the start of the race to allow them to make any major changes they may have to make to the machines themselves. Like if their car was fine on Saturday, when you finish qualifying, but on Sunday morning all of a sudden their transmission is missing or your suspension, something went wrong with it, or you lost a bearing or something and you have to change an engine, they do a four-hour period where they --

Saltzman: Four-hour period leading up to race time?

Tracy: Before - between the warmup.

Saltzman: 8:30.

Tracy: Before they warmup and the race starts. Our telecast starts at 12:30. The cars will take track at 12:45, the actual green flag is at 1:00. So the legal start of the race is at 1:00.

Saltzman: So they like to have four hours but if they had two hours and 45 minutes could it occur in your opinion, the warmup?

Tracy: I can't answer that. I think that would be adverse to their rules. They may elect not to do a warmup at all. I would think that any --

Saltzman: They want the warmup to be over and done with four hours before the race?

Tracy: Yes. That is what their basic procedures have been. You ask the question earlier, too, about the Le Mans. The variance is for two years. We are in the second year of a three-year variance with Le Mans. The global event staff is. So we had a variance. We had a one-year variance for last year. And then we asked for three years last year. We did not get a three-year because of the issue that confusion and which event was going to get what variance so they put it off until this year.

Saltzman: Ok. Thank you.

Tracy: That's where we are.

Leonard: Thank you.

Moore: Michael Cohen.

*******:** Just briefly, Council.

Leonard: Identify yourself.

*******:** Excuse me?

Leonard: Identify yourself.

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Michael A. Cohen: Michael cohen. I am an attorney representing global events group, the promoter of the champ car event. I would just like to based on some comments that were made from the council, to focus the issues on very briefly what's at issue on a appeal. The issues are primarily three-fold. One is restoration of the \$30,000 which we have all been informed has now been taken care of. Whether or not the noise review board should have granted a multiyear variance versus a single year variance and the issue of when the cars are going to be allowed on the track for warmups on the sunday of the event for the champ car race. I want to make it clear and point out that the issue of whether or not to issue a variance at all is not properly before the council on appeal. The issue that has been raised is whether or not the variance that is going to be issued is going to be a multiyear or single year variance and I wanted to make that statement on the record for purposes of clarification.

Leonard: Ok.

Moore: That's all.

Leonard: That's it. Council discussion.

Saltzman: Well, I think commissioner Sten has a motion which I am probably going to support although I haven't heard it yet but I do think it's important -- [laughter] I mean, I think it's important to recognize that there are a lot of issues around p.i.r. and its impact on north Portland neighborhoods and we need to take the longer look and do that but we also have to recognize there's been a lot of effort gone into, by a lot of people, to get the champ car races here. And I think to do anything that would sort of undercut that at this point for at least next year would not be the prudent thing to do from a business point of view and from a contractual obligation point of view from the city of Portland. So I support the larger look but we need to move ahead and give them at least a clear signal for this season ahead.

Leonard: I am anxiously awaiting the verbiage of commissioner Sten's proposal. I will just throw out one thought. In addition to what I have said earlier I am persuaded that the warmup period before 10:00 a.m. is not justified.

Sten: Well, let me think for a minute. I would make a motion, and the actual motion would be to -- I don't know if I would -- I am upholding parts of the decision and denying other parts. My motion would be to grant the variance for one year with an assumption that it would be renewed if the conditions were met. For the each of the years which we would have to come back for the annual. I think that's fair to the neighborhood. And I actually wouldn't make this part of my motion but I would make a suggestion and a commitment that the council and not just because he left, I would ask commissioner adams to lead this because for a variety of reasons. Make an independent commitment to, because I don't think this is champ cars' problem. I think this is the community's problem. To pursue, with and ask the noise review board, noise officer to pursue with us, the idea of a larger mitigation strategy that would get back to us well before the year is up. And to what whatever extent we can I think this would be through parks, not noise, pursue the broader question of, is this the right location? And because I think the idea of, we have a racetrack there. The neighbors know that. And I think that stopping racing that's, there's a lot of support for out in the greater community on this quick notice is a mistake. But sort of sending the message that the neighbors aren't right on these concerns, the interesting -- I have forgotten your name but the issue of health concerns, those are all real questions and I think there's -- this has moved the some real support on the council to take a look at that. It certainly isn't from my point of view. I don't think it's, you know, verbiage. I think the council is really seriously about taking a look and working on these issues and commissioner Saltzman has joined me in recent years on really pushing on the airport issue. I think we are willing to take this on. I don't think the message we are going to take this on by blocking this permit months before the race is a wise strategy in any way, shape, or form by this council. I guess -- I was going to get there. This one we may have to vote this twice or talk

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this through. I am inclined to give them a 9:00 start based on the argument that it takes four hours for this one race. The champ car series. I don't think it's the end of the world if they get 10:00 so.

Leonard: Can we separate these items? These appeals? We have three separate appeals. Can we consider these individually as motions?

Walters: You have three separate appeals. You could consider them. It depends on, it's commissioner Sten's motion so it depends on how he frames the motion.

Leonard: But i'm just asking, parliamentary procedurally can he give three separate motions given there are three appeals? In other words, the motion that he first spoke to and then a second motion that would support the appeal of sharon tracy and global events group which I understand you want to propose--

Walters: I will confess, I am not -- I am not completely --

Sten: Remind me of the three parts, ben.

Walters: The three parts of the appeal?

Sten: Yeah. I just want to make sure.

Leonard: There's the events that are --

Saltzman: The one-year versus three-year.

Walters: The one year versus the three year, the variance.

Leonard: The time.

Walters: I'm sorry? The mitigation fee which I understand is not part of the appeal at this point in time. And the third -- the 10:00 a.m. start.

Leonard: Right and what I am suggesting is, I can't support a motion that has the sentiments of commissioner Sten with respect to the appeal of the time. I can the other elements of his motion. I am asking can we separate those out as two separate motions?

Sten: I need to ask the attorney a question and then I will revise my question. If that's ok. What is the result of a 2-1 vote on this type of -- just for the audience? Ordinances that pass 2-1 do not pass because you have to have three votes to pass an ordinance.

Walters: Yes. This is not an ordinance.

Sten: That's what i'm asking.

Walters: This is a hearing on an appeal and the council procedures are that it requires three affirmative votes to grant or deny the appeal. So it would have to be held over until you have a quorum again.

Sten: So with that in mind I will state the obvious. I think it's in everybody's interest to pass this, that the motion that will pass with three votes or that it's a possibility of passing is a one-year variance. I am just going to say restore the trust fund in there because even though it's been agreed to I will have the council order it to make sure. And with the 10:00 start time. That's my motion. Based on the fact that we are in a different positions are and we will see when we pass it that could pass. And become as close as we can to solving the various interests at least for a year.

Saltzman: Second.

Leonard: Roll call. I will tentatively support this. Not tentatively as I will change my mind but my reasoning is tentative getting to the place where I will support this. I think I made it clear, and I will be happy to engage my efforts to find -- I thought about this a lot knowing this was coming, this issue. And I have actually discussed it with some people. This is valuable land p.i.r. sits on. It's attractive lands for a number of purposes. I'm not convinced its highest and best use is as a racetrack given its placement. I am aware rivergate may have other problems. I don't know. But by way of example there are equally large tracts of land to swap. I agree this is a valuable race. I don't want to send a message we don't like the races. I would like to see these races and more. But why, hopefully I am not the first one that has thought this was not the right place for this track in the city, that others have been thinking about that and it would be nice as a result of this to inspire some active discussion, and it sounds like commissioner Sten's motion, this is what we are going to

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do, that we will be led by commissioner adams, we will do just that. To me, I appreciate that the one person from the neighborhood who said, noise is not a big deal. I am a person that doesn't like dogs barking at night. Other people I get up I wonder how everybody else in my neighborhood sleeps. Why am it only one standing out here when this dog is barking? I am very sympathetic to people who complain about noise. I do not appreciated loud noise at my home. Outside or inside. And it's a very important issue to me. It's about livability. It's about people, I kind of subscribe to the old engine lick axiom that the home is a castle. Having said that I think we can accomplish this race by looking at a different venue to hold it in, aye.

Saltzman: I think this is a good compromise. My preference would be have been a longer variance, more consistent with what I think the agreements that were implicit in keeping champ car here for the next three years and having said that I think it is time to take a look at the future of p.i.r. and its role here. I am not sure if it's open space property, I am not sure it can ever be probably -- is did not be a racetrack. I doubt it can become industrial land. But nevertheless it is time to look at the larger issues around that. But I am satisfied with this motion that gives a certainty that the races can go on this season, and I think it also gives us certainty to the members of the neighborhood who are opposed to these variances and these races that the council is seriously going to undertake a look at this issue in the larger context but not to hold up this race for that reason. Aye.

Sten: Well, I am always looking for a win-win on these types of things. I don't think -- this is not a win-win in the sense that the two interests are both extremely legitimate and in direct conflict with each other. That's the issue we have with the council that these races are too loud for the neighborhood. They need more time to, not less to be successful as races and I don't think there's anything the council can do to make the race's interests and the neighborhoods of interests exactly in line. 13 a \$30,000 mitigation fund isn't it but it certainly helps. In terms of submitting it up the neighborhood will get the later starting time and the races will have to make that work. I think the race can believe they are going to get a variance at least for the three-year period assuming the rules are met which I think is very fair to expect that there be an annual hearing. And then I think the bigger question is, I found that you know testimony very interesting about what the racetrack was originally set up. I don't think anybody satisfied with quality of the racetrack. And I am not particularly a race fan myself but I know people would like to see a better racetrack, the real race fans would like to see a better racetrack and the non-race fans would like to see no racetrack. I think that argues as commissioner leonard said something different. That's a much longer term project. Needing a lot of thinking and work and hopefully we can set a tone to get that work done and obviously I think to the race supporters, it is very credit cal that as you have, you work aggressively with the neighborhood to try to meet as many of these concerns as possible because I think you are hearing the council is very, very sympathetic to these concerns, almost to the point where we think make a bad decision in terms of our community's ability to get things done by canceling something that was already underway. So I vote aye.

Leonard: Passes. Thank you very much. We're now going to move to our second time certain. I apologize for the delay. Item 250.

Item 250.

Leonard: Warren, can you come forward, please. Warren is from commissioner adams' office.

Warren Jimenez: Thank you, commissioners. My name is warren jimenez from commissioner adams' office. First I would like to do is read a statement from commissioner adams that he left with me. That goes into a little bit of detail about what the resolution is and some of the things that it will accomplish. I will read a statement more specifically about the resolution. First I want to say thank you to those who have helped with the resolution, with this resolution. More specifically mayor Potter, commissioners leonard, Saltzman and Sten, the mayor's office, rob mossen from the president, nancy chapin, the executive director the apnba, Jennifer nolfi of the small business advocate from p.d.c., all the neighborhood business districts, the small business advisory council,

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all the chambers and to those who came and testified today. In summary this resolution will provides hundreds of thousands for small and neighborhood business associations to enhance their ability to serve the city's small businesses. Why is this resolution important? One, small local businesses are the backbone of our economy. In Multnomah county, 94.2% of all firms are small businesses. For the Portland metro area, that percentage increases to 95.2%. Secondly there is a return on investment for this allocation. The stronger the neighborhood business districts, the more Portlanders are likely to shop in town. Plus the more business license fee revenue the city will receive. Third, grant applications will now be made by nonneighborhood business groups such as the native american chamber of commerce, city small business advisory council, and fashion incubator. Fourth, the grant program is the best way to deal with the unique needs of each neighborhood business district as small business association. Fifth, funding the expansion now will allow neighborhood business districts to produce summer festivals that introduce new customers to their districts. And lastly, the grant program is already in place and has been successful at leveraging hundreds of thousands of dollars in the private sector matching funds. That's a statement from commissioner adams. I will go into a little bit more about detail what the resolution does.

Leonard: Warren, be mindful of our agenda. Two seconds here.

Leonard: One one thousand, two one thousand.

Jimenez Maybe at this time I will let those who came to testify, I will let them testify. I just want to --

Leonard: All of a sudden you have three votes again.

Jimenez: I want to thank you for your time for those that took the time out to testify today.

Leonard: Thank you.

Jimenez: Thank you, commissioners.

Leonard: And we are looking forward to hearing if some of our business friends.

Moore: Come up three at a time.

*******:** Good afternoon. This is my city council, I see.

Sten: Much more to come, too. Feel free. We will be here until 10:00 tonight.

Gale Castillo: This is my last one. Good afternoon. My name is gale castillo. I am the executive director of the hispanic metropolitan chamber. The hispanic metropolitan chairman is a nonprofit organization and a local chapter of the u.s. Hispanic chamber, headquartered in Washington, d.c. We are dedicated to working with all members of the community to increase the economic advancement of hip-owned businesses. The hispanic chairman conducts a variety of activities and provides services that assist new or existing small latino businesses throughout Portland. I will say just for your information, we serve people in Portland, Multnomah county, Washington county, we get calls from salem, woodburn, medford, the coast, prineville, and clark county as well. But the subject today is the city of Portland but we do serve a lot of businesses elsewhere as well. We assist businesses to obtain permits and licenses. You can interpret that as revenue, revenue, and more revenue. We develop accounting and bookkeeping systems, develop business and marketing plans. Develop financial statements. Help businesses identify sites for their locations. We help develop loan or bond proposals. Address financing and insurance needs. When I say that we make referrals to people who provide insurance obviously and bonding. We don't do that but we work with a variety of organizations that do. Identify contracting opportunities with the city of Portland. Portland development commission, and other public and private organizations. We identify business resources such as the Portland development commission, the Oregon economic community development department and others. As an example we have a business that was located northeast martin luther king. He needed to move. In fact, it was a collaborative effort with the african-american chamber. They referred this gentleman to us. We helped him identify a new site. We helped him purchase that site from Multnomah county through an auction process. And then we helped him put together financial information so that he could get funding or loan from both p.d.c.

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And Multnomah county. So that's an example where we were able to keep the business in the city of Portland, and then identify some resources that he could take advantage of. In addition to the hispanic chamber conducts employment and contracting trade show. This unique event involves both public and private seconder organizations. The staff of the hispanic chairman is bilingual and bicultural. Therefore we are able to provide important services to a growing community that grew by 144% between 1990 and the year 2000. I know i'm almost out. Although our services are vital to the latino businesses likes other nonprofits we raise dollars through our membership fees and through other public and private sources. We support this resolution.

Leonard: Thank you.

Tom Hampson: Good afternoon. My name is tom hamson. I am the executive director for the native american business network and due to janie millican's absence I represent the board for the Oregon native american chamber. Our monthly meeting is today and janie had to get back to run the meeting. It's a meeting we would all like to invite you to. Every last wednesday at sylvia's restaurant. Let me speak specifically about the native american business network and our role in Portland in business development. We have been providing small business development services for individuals and tribal government since 1991. We are founded by Oregon tribes whose representatives sit on our board including representatives from grand ronde, siletz, warm springs, and umatilla. We have traditionally been focused on reservation, small business and economic development. But our board of directors and our member tribes have recognized that many of their tribal members who are interested in developing small businesses reside in the urban areas of Oregon and the majority of those within the Portland metropolitan area. Therefore we have always had some kind of program, however modest, in Portland in the last decade and a half but in the last for you years we have expanded those programs and in response to the demand to the Portland indian community and most recently in partnership with a number of enterprise providers we are partners with the city of Portland through the bureau of housing community development. Our goal is to support individuals in their pursuit of their dreams to start and successfully operate small businesses and improve their economic conditions and the conditions of their community. We create and support networks of community-based organizations. Private and public sector organizations, and to help them increase the opportunities for native american businesses. We try to integrate business development and community development activities through partnership was sister nonprofit organizations and Oregon tribes who operate their local service centers here in Portland. This represents in my judgment wonderful opportunity for partnership between Oregon tribes and the city through the service to their members who live and work here. Our one dream we have is to coordinate with the anyway at this american youth and family center and the native american chamber of commerce and other native american businesses and service organizations in one location to create a center for native american community development. My experience as one of the chairman directors and the first director of Portland small business incubator and officer and board members of north-northeast small business association, has led me to believe that small business associations are really critical elements in neighborhood revitalization. However, these organizations are always volunteer driven. They are always understaffed. And they are always resource-shy. Given that small business owners have so much to do to stay alive and yet their time for community development is quite limited, therefore, any assistance from private and public sector partners to help these organizations increase their reach and their effectiveness can have substantial positive impacts on the communities that they serve. Therefore, we find this resolution a positive step in supporting these important community organizations. It makes good sense and it makes good business. Thank you.

Leonard: Thank you.

Peggy Anderson: Good afternoon. My name is peggy Anderson with the knob hill business association. I am the president of that fine association on northwest 23rd to 21st. I am also a board

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member of the apnba and also on the grant committee with the apnba and I am here to encourage you to increase the grant money that we provide for the small businesses around Portland, being on the last two years of the grant committee, I have been fortunate to review the grants and give them to deserving business associations to help promote their area. As you know Portland is filled with a lot of small businesses, and I think for where we are in the Knob hill area, we have increased our members from 30 to over 100 paying members. And grant money certainly is, would be welcome for us to help promote the area and bring more visitors into the area. Thanks.

Leonard: Thank you.

*******:** Would you like to go?

Jean Baker: Good afternoon. I am Jean Baker. I am president of the division-clinton business association in inner southeast Portland and secretary-treasurer of the apnba. I think the grant idea is great. My particular business association has, out of 400 and some businesses, I think about five of them that have more than five members. Which means that any kind of organization that we do requires somebody to give up their store time. So any grant that gives us some help and the process of doing an organizing and marketing would be great advantage to us. Thank you.

Leonard: Thank you very much.

Tim Brunner: Good afternoon. I'm Tim Brunner. I am president of east Portland chamber of commerce. I would like to thank you for the city council for allowing me to speak about this. The east Portland chamber of commerce actually relatively new chairman. We have in the last 16 months that we have been started we have over 130 members. We have weekly meetings with anywhere from 65 and up people attending. So it's a very exciting time for us. This increase in fund will allow small and neighborhood business associations that desperately need assistance to help these small businesses thrive. As you know, the large percentage of small businesses in the Portland area, this is a great thing. Our goal is to be as a chairman is to be a vehicle that assists businesses and other associations to thrive in Portland. We completely support the approval of this funding increase to help small businesses. Thank you.

Leonard: Thank you very much.

Moore: Ken Turner, Nancy Chapin and Roger Jones.

Leonard: Hi. Nancy?

Nancy Chapin: I am Nancy, the executive director of the alliance of Portland neighborhood business associations and also the owner of a small business called the support group and we do management services for small business district associations. And that is the chief area that I am speaking from today besides what we have seen through the grant program, these last 10 years, the results, those banners, those benches, the trash containers, the sign caps, practically everything that you see that is notifying that you there's a business district here in this city has come from small seed grant from the apnba, p.b.c., city of Portland business district grant program. The second part of my work is that I have actually in the last 15 years, worked specifically with several small business district associations. And what I have seen in both of these roles is that those associations that, if they do not have some staffing to take care of the basic issues, the mailing list, the meeting times and dates and places and all those basic things that keep an association going, then, they become dormant, unfortunately, too often. And so there's two ways that that can change. One is that there is more staffing, more funds to do marketing, more ability to raise funds within the district. And the second one is that it takes people like Jean Baker who is a very active president and volunteers a lot of time. And there comes a point when that can't happen in an association any longer. You lose your volunteers after a while. The depth as we talk about all the small businesses, the depth is no longer there to have the bankers, the assistant manager do a lot of staffing out of his office. And so we definitely need to have additional funds to help the business districts support themselves. I love the idea of having the chambers be working with the individual business districts

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to get the members of their chambers involve in their business district. I think that's a win o-win for our entire community. So I just definitely support this resolution and look forward to it passing.

Leonard: Thank you.

Roger Jones: City council, I am roger jones. And back in 1986, there was a concept that said there should be an alliance of Portland's neighborhood business associations and a lot of us were there. I was there in 1994, we did a revitalization of that. And over the last 10, 11, 12 years, we have tried to do capacity building consistently and today, the legislation, the ordinance that's on your desk is going to deal a major, major change in that capacity building. I just want to thank the group that's here and you are doing a good job. You are doing the right thing. And I yield my time back to your lunch hour, I hope. [laughter]

Leonard: Thanks. Ken.

Ken Turner: Good afternoon. I'm ken turner and I am here to testify in favor of passage of this resolution. I am representing specifically the small business advisory council but I also serve on the apnba, 82nd business association, post area business association. This grant proposal is long overdue. And building upon the current apnba grant program will provide additional financial means to better serve and promote Portland's many small businesses. This initiative is an investment by the city that, in the long run, will support the economic growth within the small business community. Resulting in the creation of new jobs, and increased revenues for the city. This grant may help business associations promote their business districts through events, projects or fairs such as the founders day event in lents and the 82nd avenue of roses project. Strengthen partnerships between business districts and neighborhood associations and enhance positive relationship between the city and its small business community. An active and successful business district ask only result in having a positive impact on the city's economic well-being. Small business provides thousands of much needed local jobs and a successful business generally means more jobs. This grant is indeed an investment in the future of Portland's small business community. I want to thank you and encourage passage and also express appreciation to the council for recognizing the role that the small business has in the community of Portland. Thank you.

Leonard: Thank you.

Moore: We have rob mawson, mary sellin and bridget bayer.

Rob Mawson: Good afternoon. Rob mawson from heritage consulting, 20 n.w Northrup. I am here as president of apnba. I am been president for several years. I want to thank you for what I consider to be your investment in neighborhood business districts. If you go back to our do you means the city has recognized the importance of neighborhoods and business districts in our city for the last 34 years. That investment or that linkage is important because I think at the end of the day, Portlanders ultimate employee from neighborhoods. And people come from nobody hill. They come from kenton, they come from laurelhurst and they identify with that. And everybody has this embrace of the notion of going to a retail store, coffee shop, grocery store, job in their neighborhood where they can walk, ride their bike, and the vitality is very important. As the president of apnba I want to promise you and make my personal commitment that we recognize that this is a great thing that you are doing. And we are going to make every effort that the money not be squandered. It will be a leverage process so that the organizations coming to get grant funds will be matching it on at least we hope at least a one to one basis. It will be used for building our capacity from neighborhood business associations, neighborhood business association. It will be used to establish a greater network throughout the city bringing in the chairman as well as other organizations. And it will be used to help us build or to move forward on our capacity building workshop so I thank you for this opportunity and I hope that at the end of the road, we will give you a report of how the money was spent and how valuable your investment was. Thank you.

Leonard: Thank you.

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Mary Sellin: Commissioners, my name is mary sellin and I have been a business owner on hawthorne boulevard for 18 years. I am also the vice president of the hawthorne boulevard business association. My first store was that cannon beach and when I decided to open a store in Portland I was drawn to hawthorne boulevard in large part because there was a main street manager there, rob degraff. Even though the area looked a little run down, and there was still some boarded up store fronts I was confident purchasing property on hawthorne because there was a business organization and a manager concerned with the development and success of my business. Portland is so lucky to have over 30 unique business districts and we all need some kind of support. Whether it is to help organize ourselves, to help create our own unique identities, to make ourselves more visible to the public, or to remain competitive in this very challenging economic recession. Collectively, the neighborhood business districts have the economic impact of the downtown business district. We are the spokes in a wheel with the downtown being the hub. You currently support the downtown as you should. For the entire city to thrive, the funds available for the ongoing success of the business districts needs to extend beyond the hub. None of us want any of our districts to revert back to boarded up store fronts. For these reasons, I thank you very much for your consideration and allocating funds to the neighborhood business districts. I am always amazed how far dollars can be stretched when there are hundreds of volunteer hours putting them to good use. You have heard how important small businesses are to the community, both in terms of prosperity and community building. I feel this is the beginning of an awareness of how valuable our neighborhood business districts really are. And this is a vital step to that recognition. Thank you.

Leonard: Thank you.

Bridget Bayer: Hello good afternoon. Bridget bayer. I am the north-northeast business association's secretary, at this time. I have been involved with the association for many, many years starting when I owned bridges restaurant on mlk. The business association neba has been around for 28 years. It's been the recipient of the apnba grant program many times, at least three that I know, as I have been a member for the last 12 years. The last one was for the soul of Portland banners which I am proud to say are now officially hung after receiving the apnba grant money in 2000. It took five years, we received \$5,000, thank you very much. It took five years to leverage the \$20,000 that it actually took to purchase and hang those banners and have a little publicity event around it. The monies always raised with the apnba grant money exceed the one to one in my experience with the other associations that use it. Time and energy that goes into putting those things together is immense and so an additional funding source or greater amount, anyway, that comes to the association will really facilitate the success of any kind of projects and the success of the business district association itself. Thank you.

Leonard: Thank you.

Moore: Reba strickland and Isaiah strickland.

Leonard: Reba and Isaiah. We out waited you.

Moore: That's all who signed up.

Leonard: That's it. Roll call.

Moore: Leonard.

Leonard: I agree with that sentiment that this is an investment and not an expense. Aye.

Saltzman: Good program. Aye.

Sten: Such a pleasure too see all this energy here and I just have even a small sense of what all is happening in the neighborhoods, thanks to all of your work. And I hope we can get to the next level. I think that I won't go on and on in deference to my colleagues who have heard me before but I think that we are always going to need large employers but the way the world is changing I think the ability of cities to do the kind of things that our citizens want to do are wholly dependent on having economies that are not subject to strictly to the whims of those winds that blow and having money circulate locally is the key, having the ability to make your own locally to have ceo of

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businesses of one person on up is the key to having a strong city so I think your efforts really are at the heart of where we are going to be in a world is increasingly losing its individuality and other things that we all treasure so I see this as tied into everything we are doing as well as the great economic move. Thank you. Aye.

Leonard: I would be remiss if I didn't acknowledge on behalf of all of us that worked with commissioner adams in spearheading this and getting it here. We greatly appreciate his work and the staff and wonderful working with him on this, passed. [gavel pounding]

Sten: I second that.

Leonard: Item 268.

Item 268.

Sten: Mr. President, we will see if anyone would like to testify. This is our typical operating support for one of our long-term stalwart nonprofits. It would typically be on consent except we checked the wrong box.

Leonard: Roll call. Anybody want to testify?

Walters: Non-emergency it passes to second.

Leonard: Passed to second. Oh okay item 269.

Item 269.

Walters: You are lacking a critical fourth so my recommendation is you continue this over until this afternoon. When you gain that fourth member to take a vote on this.

Leonard: We will do that. Item 269 will be moved 20 this afternoon's agenda. 270.

Item 270.

Leonard: You have waited patiently since 9:30 this morning. We apologize for the wait. Introduce yourself for the record.

Collin Sears: My name is collin sears. I am a senior project coordinator with Portland development commission. I manage the north-northeast enterprise zone program. And I am here today to talk about the city of milwaukie north clackamas enterprise zone boundary amendment that would only impact their portion of the zone, not the portion of our zone. The city of milwaukie has requested a boundary expansion of 9.5 acres, three tax lots, that were recently rezoned by that city for industrial use. The timing of this resolution is critical because we are looking at a ground breaking for mid-april. And the project is expected to bring two new businesses into the city of milwaukie and those businesses would begin operations this, late this summer. Support of this project is critical to our regional economic development partners in clackamas county. The city of Portland is one of three zone sponsors. In 1997 we went forward and we included that little portion up there, which is 7.9 acres, which is in the northern portion of the precision cast parts titanium plant campus. We brought that piece of property in in case, in future years, precision castparts would want to go forward with a renovation or expansion that would bring additional jobs into the region. And so that's the purpose of that. At this time, clackamas county is looking to bring in a 9.5, just to the sort of in the central part of that map there of the orange zone up on there. And this proposed action would not change anything within our jurisdiction as far as there would not be any direct cost that would be incurred with this in future years. Unless, of course, precision cast parts goes forward with an investment which would bring increased jobs. Thank you for your time and consideration.

Leonard: Thank you. Questions? Testimony?

*******:** Oh, yes.

Renalda Engleberg (?): I'm renalda engleberg with a business and economic development coordinator with the clackamas county business and economic development team. I wanted to add to colin's testimony that the boundary expansion is critical to the marketing and development of the international way business center located on international way and harmony road. This proposed 80,000 square foot industrial center would be constructed by panatoni development and would

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include five light industrial buildings of 12 to 20,000 square feet. It's estimated the development could support the creation of 100 new jobs. This type of flexible light industrial space is in great demand in clackamas county, and will help meet the expansion and relocation needs of our existing businesses and new businesses that are showing interest in this area. The process for the enterprise zone boundary expansion involves an approval of supporting resolutions of all three partners in the program. After all organizations have approved it goes to the Oregon economic and community development department for final approval of the ordinance. If all parties are supportive, it is estimated boundary expansion could be effective within a week. The time frame supports the construction schedule of panatoni and development of the summer 2005 opening date of the developers. Both clackamas county and the city of milwaukie have already supported the enterprise zone amendment, and passed a resolutions within the past two months. Thank you for your time and consideration.

Leonard: Thank you. Questions. Comments. Roll call.

Moore: Leonard.

Leonard: We are happy to help our partners in clackamas county. Aye.

Engleberg: Thank you very much.

Saltzman: Yeah, we are more than pleased to help you. Aye.

Sten: That's terrific. Thanks for coming in and thanks for being patient. Aye.

Engleberg: Not at all.

Item 250 (reconsidered):

Leonard: Thank you very much. We have a little procedural snafu, and we need to have a motion to reconsidering consider item 250 for the purpose of passing a substitute resolution.

Saltzman: Which one is 250?

Leonard: Is the small business --

Moore: A substitute exhibit a. It was in your handouts.

Sten: I would so move.

Saltzman: Second.

Leonard: Hearing no objections. Reconsidered. Council now vote on substitute item 250.

Walters: The motion to substitute?

Leonard: We need a motion to substitute.

Walters: The exhibit a to the resolution.

Sten: I felt that I just moved that.

Walters: Actually I thought you moved to reconsider the vote.

Saltzman: Ok.

Leonard: Roll call.

Sten: As long as you are ok that's what I moved.

Leonard: Aye.

Saltzman: Exhibit a rename it the sam adams small business development? Aye.

Leonard: There's a little money for a statue in there?

Sten: I felt terribly remiss in not having sung commissioner adams's praises more vocally through the last round so this gives me a chance to do. I want to thank sam in advance for getting this together. It was a great move on his part. Aye.

Leonard: That passes. [gavel pounding] Now did we just pass the substitute now we have to pass the ordinance?

Walters: You're fine.

Leonard: We are fine. Adopted. Ok. Moving right along. We are at item 271.

Item 271.

Dan Vizzini: President leonard, members of the council, I am dan vizzini --

Leonard: That's got a ring to it.

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Vizzini: It does, doesn't it? I am dan Vizzini with the bureau of environmental services. Typically, or usually, its andrew abei from pdot would be sitting here but his wife is in labor.

Leonard: Oh.

Vizzini: I am sitting in for him. He is doing work of a higher calling. You may recall that on march 2, council held a hearing and passed a resolution of intent to form this local improvement district at that time. You received quite a bit of testimony. In the intervening time we have sent notices for this formation hearing. This is a formal act to establish the local improvement district. We received one written remonstrance by the code required deadline. Unfortunately, because of the length of the morning session, the property owner in that, who remonstrated had to leave. She is on her way back and we are hoping she gets back before we conclude this hearing. There are property owners who have stayed around throughout the morning and would like to testify. I am going to hold any further comment until they have testified and then come back.

Leonard: You know what we can do, I will ask these two citizens if we can move this to the 2:00 session if that would give you more time for this other person and we can proceed. It's up to you.

Saltzman: They probably want to testify.

Leonard: Are you dependent on this person coming or do you want to testify? Ok. [laughter] ok.

Vizzini: The testimony is in favor. Do we have three individuals who would care to speak on this? So why don't we just call everyone who's in the room up now and then if ms. Claus gets back in time then we can bring her in.

Leonard: All right. I'm sorry?

*******:** She was on the bus mall so she might be here.

Leonard: Come on up.

Leonard: Please identify yourself. You have three minutes.

Lynn Trainer: I am lynn trainer. I live on southwest 28th. I was here four weeks ago for the previous hearing so I will be brief. I'm just here today once again to support the l.i.d. I think you are all she familiar with the situation on the texas area. And this, the green street will really support the issues with the roads, with the water runoff, with flooding, environmental issues and I think it will greatly enhance the neighborhood.

Leonard: Thank you.

Arlene Sachitano: My name is Arlene sachitano, and my husband and I are buying a house at an anonymous address at the corner of 27th and texas. I found that driving texas street and the bisecting streets can be difficult even in my four-wheel drive vehicle. With my keen powers of observation I have noticed erosion is neither self limiting or self-hearing. I only assume it will require an ever more expensive restoration process. I would like to see the described remedy happen sooner rather than later.

Leonard: Thank you.

Lee Johnson: Good afternoon. My name is lee johnson. We are purchasing a home next to arlene. Should be in well before the l.i.d. assessments begin. I am very much in support of this project. It's going to improve the neighborhood. Obviously, improve the water quality from the runoff down the texas street corridor. Just want to note that staff should be justifiably proud of what they have been able to put together here with your transportation and b.e.s. But staff, are you listening? From this point forward, each addition to this project as it gets designed out, which might make staff prouder and prouder of the project is going to cost me more and more money. So I ask staff choose humble when you have to choose and let's keep the assessments down as well as we can from this point forward. We very much, but I very much support your voting to form this l.i.d.

Leonard: Thank you. Questions? I wonder if we can go to the next item and then come back to this. Did you have something?

Vizzini: I was just going to suggest that you continue this hearing and if ms. Claus returns, then we can call it back up before you adjourn or we can --

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*****: Time certain at 2:00. Either one. Thank you.

Saltzman: Staff runs this place.

*****: Yeah.

Leonard: Let's go to 272, Karla, and we will come back.

Item 272.

Leonard: Roll call.

Moore: Leonard.

Leonard: This is a very intelligent way to restructure our service fees to better support land use services, which will allow us to focus and process applications more which will improve our permitting system even more. Thanks for all your work on this. Aye.

Saltzman: Aye.

Sten: I think discussion on this. Aye.

Leonard: Passes. And just in time. We have our witness come forward. We actually skipped over the item voting on it to give you the opportunity to testify.

*****: Thank you.

Leonard: Pull back to 271.

Item 271 (continued).

Jane Marie Claus: First of all I would -- I am jane marie claus. I live on southwest texas street. I first ask if all members of the council received a copy of my remonstrance. It was filed last wednesday.

Leonard: Yes.

Claus: I would ask if you have all actually taken the time to review it.

Leonard: Yes.

Claus: Ok. I am my home is located on 2722 s.w. Texas. My, the lot I live on is located in the heart of this project. And my home is one of the smallest as is my lot. My home being less than 1100 square feet, my lot is one of the smallest and my proposed assessment for this project is \$13,219. And I am objecting to this based on three issues. Specifically, I am objecting to the procedure used to obtain support for this proposal to form another l.i.d. The actual form of the current proposal and the amount of money that the way assessments are being made on those who live in the community to pay for this project. First of all, I wanted to let you all know that meetings regarding this project began in march of last year. I was not invited to attend two of those meetings in march, and I was never given notice of the first official meeting. And it's interesting enough that the people who are my understanding are primarily driving this project are all people that were present at this meeting. And I feel that b.e.s. and department of transportation purposely invited only those who were in favor of this project to the meeting because they wanted support and that is why people like myself who were in opposition to this project were not invited to attend. Secondarily I object to the inadequate and untimely notices that were given. The first notice I was given was of a meeting in november which was held right after the thanksgiving day weekend. I was out of town visiting family and unable to attend. The next meeting we were given less than nine days notice. It was held right after the first of the year. I am an attorney. I have business both in Portland and in the state of illinois, and I am currently, very often out of town and I was unable to attend. I got notice of the meeting the day that I returned from being out of town on business. Let's see. I am also objecting to the manner in which the proposed l.i.d. assesses improvements or cost owner. There are a number of new home that have been constructed in this area. There's new construction on at least eight lots that are on the furthest, I guess it would be, eastern most part of texas, which is the low lands. These new homeowners in this area have decimated the natural habitat and the course of constructing these homes. They have completely cleaned green areas in order to build very large mansions which are out of character of the neighborhood. And they have contributed in my opinion significantly to the drainage problem that we already have in this area.

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Furthermore, southwest 27th which is also an unimproved street is not being included in part of this l.i.d. However, prior to these new homes being constructed, there was a setback on all the homes facing southwest texas. Now they are counting southwest 27th as a street so homes are being built closer to southwest texas.

Leonard: You have to wrap up, your time it's elapsed.

Claus: I am objecting to the fact 27th is being treated as a street for construction but not for this improvement project. And finally, I am objecting to the fact that the row houses on top of the hill that have contributed to the drainage problems significantly are not included in this plan as well. The plan is not well thought out. There have been month plans provided. There are no speed bumps on this bill which is extremely steep. There is no provision for buried utility lines. There has not been an issue of mailboxes that are currently on the row of southwest 27th and texas and those are going to be additional cost that is have not been disclosed to the homeowners in the area. And the individual cost to property owners is excessive. I am suggesting that the council require the department of transportation and bureau of environmental services to go back and include these properties that are receiving these huge breaks on assessments and which are the new construction which are contributing to the biggest problem in the area and that if it was all spread out it would be a more reasonable amount for individual property owners and it wouldn't, shouldn't be just the people on texas street that are paying for this because these flag lots are using texas street to get to their homes and they are the biggest homes in the area. They have ruined the street and I think they should be forced to contribute as much as we are being forced to contribute.

Leonard: Thank you. Questions?

Saltzman: I guess I would like to hear a response from dan to the issues raised.

Vizzini: Dan Vizzini, bureau of environmental services. Let me try and take them one at a time and the report --

Saltzman: I don't need all the issues. First of all, speed bumps aren't included in this l.i.d.

Vizzini: No, they are not and they would typically be considered as a potential traffic calming strategy once the street is improved but the problem with southwest texas is that it's so steep, that speed bumps would not be -- would not be acceptable to p-dot, probably wouldn't be --

Saltzman: Its no part of the problem?

Vizzini: Right, right. The other thing --

Saltzman: On texas issue I guess would be the other issue. 27th street.

Vizzini: The 27th street has a tree grove on it on the east side, and a very lowland that then climbs very quickly. There's a tremendous amount of relief on the west side. The properties that are being developed on the east side of texas on 27th, the ones that were received a reduced, there was only one property actually on that side that received a reduced assessment, has a public works permit to connect the property to texas street via a driveway extension, essentially. And that's being constructed at the developer's expense. So in formulating the assessment method, we, because that property didn't abut the improvement, wouldn't receive any abutting improvements on their property -- there would be no sidewalks on their property, curbs or anything like that -- we felt that we could not assess them at 100% of their land area. For the properties on the west side of 27th, a similar circumstance. They are not going to be, there's never going to be a local street improved there. If they do develop and we don't know if they are going to develop but if they do develop the connection will be via a public works permit where the improvement would be at their expense to connect to texas and so the same situation occurs. So we felt that the apportionment method was reasonable given the fact that all of the abutting property on texas -- on texas, on 26th, on 28th, on 29th, all of the abutting property are being assessed at 100% of their land area. Those properties that are connecting to texas by other means are being assessed at something less than that and we thought that was an appropriate balance. So that's why the -- and then the properties that receive a 75% reduction -- and you may recall this. Those are the properties that are located on california.

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One block away. They are so distant, they are a full block distant from the street improvement. Their only connection to, their only connection to this improvement is that that, their outlet to capitol highway is via 28th and texas. And so we originally we thought that they boon be included at all because they are one block away and there are no street improvements they are seeing directly to their property. But we felt that they should contribute even at a lower amount, they should contribute because they are going to benefit from the improvements. So that's why the assessment was done that way.

Claus: My I respond to that?

Leonard: Quickly.

Claus: The fact of the matter is they don't use southwest california to bring the construction vehicles to build these homes. They are using southwest texas street. They don't use southwest california to access their homes because it's even worse shape than southwest texas. So to say that they are not receiving any benefit, they are going to be using southwest texas every day to access their homes. And they are going to be using southwest texas to bring large heavy construction equipment to come down and make more improvements and because of that I think to give these homeowners that are building new homes in the area and contributing to the drainage problem a 75% reduction is ridiculous. It's this, it's the this department and department of transportation catering to wealthy and big property owners in the area. And it's a perfect example of politics in the city that goes on behind homeowners' backs like myself and building this project.

Vizzini: There really -- i'm sorry.

Leonard: Further discussion. Roll call.

Moore: It's non emergency. This will pass to a second reading.

Leonard: Passes over next Wednesday's calendar.

Vizzini: I think that the council is required to make a decision at this point or next week on remonstrances.

Walters: I think ordinarily is occurs at the time of the hearing.

Vizzini: At the time of the hearing, okay.

Walters: Today.

Vizzini: Today, so the way procedure works in l.i.d.'s you need to rule on this written remonstrance. Before you pass it on to second reading.

Leonard: What's the form of that?

Walters: The president would need to entertain a motion whether to hold the remonstrance or reject the remonstrance.

Leonard: Do I hear a motion?

Saltzman: Um -- well, accept or deny the remonstrance?

Walters: Yes. You could phrase it in that fashion.

Saltzman: I will move to deny the remonstrance.

Sten: Second.

Leonard: Discussion? Roll call.

Moore: Leonard.

Leonard: We did hear this discussion last week. There was discussion as to the assessment on california as I recall.

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

Leonard: Objection by folks that to that because it is somewhat unprecedented. I was actually a little concerned about an assessment at all because I never have been involved in a transaction of this nature before where we assessed anybody, any amount for street not abutting the actual improvement. So I did read your remonstrance. I considered it carefully. But I can't agree with you. Aye.

Claus: Are you denying that on all grounds?

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Leonard: No, we don't do that. We're voting.

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

Leonard: That's adopted. We will recess until 2:00.

At 1:14 p.m., Council recessed.

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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.

MARCH 30, 2005 2:00 PM

[roll taken]

Leonard: Ok. Welcome, everybody, to the afternoon session. We have a 2:00 time certain, item 273. Please read the item.

Parsons: Excuse me, randy, did you want to pick up 269 from this morning?

Leonard: I'm sorry.

Parsons: Oh, we still only have three commissioners.

Leonard: Right, we can't. That was the issue. Yeah.

Item 273.

Thank you. Staff?

Jill Grenda, Bureau of Development Services: Good afternoon. [inaudible] we were jointly assigned as the staff planners to review the sub division and give a recommendation to the hearings officer. Just to refresh council's memory, on January 27, the original hearing date, you asked staff and the applicant to come back to council at a future date with a proposed solution to the problem of limited access to the hill that the subdivision site, as well as three other existing subdivisions, are located on. For the past two months, the office of transportation has been working in conjunction with the applicant, the neighborhood association, the fire bureau, the city attorney's, and b.d.s. Has given input as well on a proposed solution that they're going to tell you about today. And so with that said, stacey and I are here to answer questions about land use issues or anything else that might come up, but I think it would be appropriate to turn over the floor to the applicant, the neighborhood association, and transportation to tell you the proposed solution. And just -- I have brought presentation materials today that can refresh council's memory as to the location of the site, the zoning, the topography, anything else you might need to know, but I don't have a prepared presentation before you. You got some papers passed out that can show a vicinity map and some other things. And we can bring those up on the screen at any point in the discussion if you need to see something.

Leonard: I think we're familiar.

Grenda: Ok.

Leonard: Can we have the applicant? Anybody representing the neighborhood? I understand you've developed a consensus?

Kurt Krueger, Transportation: We have. I believe the neighborhood representative is here, very close to here. I'm hoping she'll join us shortly. We have spent the last six weeks working on a proposal. And if I can take a couple minutes and describe the work that's gone on and how we've gotten to where we are. Transportation went back and looked at a recommended proposed l.i.d. that was put out to the neighborhood about three years ago. And at the time, roughly a third of the development that is on the hill was occupied. Since then we've seen an enormous amount of growth, housing that's been built and traffic that's been generated that brought us here today. And we looked at the need to have a second connection, and where that location would be recommended, and we heard from council and heard from both the -- many of the residents that 152nd looked to be the ideal location for that connection. At that point we started discussions with both the applicant and the neighborhood, and looked at the feasibility of proposing an l.i.d. and how we could fund that, how that may be possible to present to the neighborhood at a later date. We're

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not here today to actually vote on an l.i.d. proposal, but this is how we're working on our conditions before you. The applicant has a requirement from the fire bureau to sprinkle the houses if there is no set -- if there's not a secondary connection to their site. The cost of those improvements, those sprinkling improvements were calculated to be roughly \$225,000. That was a number reached between the applicant and the fire bureau. We felt that that money could be better used toward funding a local improvement district to build 152nd rather than sprinkle 65 homes that actually don't do a lot of benefit to people in emergency situations outside of a fire condition. The applicant crunched those numbers. They felt that was appropriate. We took this proposal to the neighborhood. They've also voiced their support and have spoken limitedly to the residents of the neighborhood. We've got conditions before you today that recommend an option that allows the developer to put this \$225,000 towards a proposed l.i.d. What we would ask council is to direct transportation to go out and put the details of that l.i.d. together over the next approximately eight to 12 months. We've got a condition proposed that by february 1 of 2007, if we have not prepared an l.i.d. and council has not voted on an ordinance to form that l.i.d., then the developer would then take that \$225,000 back and apply it to that sprinkling system to meet the fire bureaus condition. That proposes a lot of work on transportation, we think we can do in that amount of time. We've also included the necessary right-of-way acquisition. There's a challenge of acquiring right-of-way and there's discussion that needs to occur outside of this land use case with some of those residences. The benefit of this also addresses a concern that I believe commissioner leonard and commissioner adams had of a temporary signal at the intersection of southeast foster and southeast barbara welch. We've worked with the neighborhood. We've worked with the applicant, looking at our proposed project scheduled for construction in 2007, where we're replacing one of the bridges across the creek, as well as installing a more permanent signal, we felt if we timed this, and the applicant has agreed to time their development to coincide with our construction of improvements of the intersection of foster and barbara welch, that there would not be a house built and occupied, adding more trips, vehicles to the system, and the road would most likely not be connected at 152nd until those improvements are in place at foster and barbara welch. We think we've identified the two major concerns, both the intersection and the improvement of 152nd by working with the developer to hold off on their construction until 2007. We can go through the specifics of the conditions that are before you. We've worked closely with our city attorney, the fire bureau. The developer's attorney, the neighborhood. I think we're all in general agreement of the conditions before you, and we're here to answer questions that you may have.

Leonard: Great. Thank you. Linda, do you want to say anything?

Linda Bauer: I didn't get a chance to see the final conditions. I would hope that there f there isn't one that already proposes a condition of approval that would require the completion of the fire bureau appeal before granting of a grading or site development permit and limiting ground-disturbing activity to only the summer months, if you could add -- if that's not already in the conditions, if you could --

Krueger: It's not.

Bauer: You didn't do the summer either -- whoops. Excuse me.

Krueger: I apologize. We, transportation, weren't able to put in the conditions of when those construction opportunities would take place. I defer to the applicant's representative to answer that question.

Leonard: Go ahead.

Renee France: Good afternoon. My understanding of what the neighborhood's request was, was twofold. One, that we wouldn't do any site grading or construction or clearing until the spring of 2006. We can accommodate that. We would be looking for something in april 2006 to begin -- to wait for any clearing or site grading. Linda, if you look at the top condition, we would apply for the fire bureau appeal within 45 days of the preliminary plat approval. So that would be the first step in

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the process. In terms of limiting construction to summer months, it's not required by the code. I think as this season shows, an artificial limit based upon months doesn't necessarily make sense and the applicant would be opposed to some sort of limitation in terms of the months of construction, understanding that we do need to comply with our grading permits and erosion control, the grading and erosion control management plan that's included in this application packet, and would certainly do so with care given both the environmental overlays as well as the site topography. So the applicant's position is there enough protections in place that an artificial limitation based upon the calendar year is not necessary, but would be willing, once again, to hold off site clearing or grading until the spring of 2006, being april.

Leonard: Ok.

Bauer: Those pictures are a slide that happened over the weekend on foster road, below this site, and there isn't even any construction happening up there yet.

Leonard: Well, I know. And I appreciate that concern, but we focused on the access issues and the safety issues.

Bauer: Ok.

Leonard: And so what we were clear about, is that's what we wanted to find some consensus on, I didn't expect you to necessarily agree with everything, but that is a standard construction practice.

Bauer: Okay, it was worth a try.

Leonard: We'll do our best to deal with that.

France: In terms of the l.i.d. In front of you, I would first of all like to thank staff, all staff that we've worked with over the past month, as well as the neighborhood, for their efforts and willingness to look at the options to carefully consider the options.

Leonard: Yeah.

France: And I think we've come up with a workable solution here that allows the neighborhood to participate, but that -- but that the new applicant takes a larger portion of the share and I think we've come up with a really workable solution that I hope that you --

Leonard: No, i'm just absolutely totally impressed with all of your work. I mean, it's -- i'm convinced that not only is this a better solution, which I hope you would agree with as well, but I also, hailing back to a former career and firmly convinced that this -- this signal will prevent somebody from being killed. So it really is excellent work by all of you. I appreciate it a lot.

Potter: Any other questions? I apologize for being late.

Sten: We'll forgive you.

Potter: Thank you. Ok, thank you very much. Are we at the deliberating stage? Is there other testimony?

Parsons: No other. No one signed up.

Kathryn Beaumont: I believe you are at the point of council deliberation and a motion.

Potter: Yes.

Beaumont: You may want to consider a motion to omit the current condition, c-14, and add the new conditions passed out by pdot and make a tentative disposition on this appeal. Your decision today on the appeal should be tentative only. We'll need to bring this back for the adoption of findings.

Leonard: So if I were to move to deny the appeal based on the proposal that we received today by pdot as the conditions of the project, would that work?

Beaumont: Yeah. I think your motion would be to adopt omit the current condition, c-14 in the hearings officer decision, replace that condition with the conditions that pdot has proposed.

Leonard: Ok.

Beaumont: And based on those conditions to deny the appeal and to uphold the hearings officer decision as modified.

Leonard: That is my motion. [laughter]

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Saltzman: Could you direct pdot to investigate the formation of l.i.d. in that same motion? Does it need to be a motion.

Beaumont: You might want to make that in a separate motion.

Saltzman: Ok. I'll second.

Potter: Any discussion? Call the vote please, sue.

Leonard: This is an outstanding result. I'm very pleased at the thoughtfulness and creativity of both parties to achieve this solution which I believe will be a much superior product. Aye.

Saltzman: Yeah. I want to thank all the parties for coming to the table. I especially want to thank city staff for going back to the table and making this a good solution for everybody. Thanks to development services, planning, transportation, b.e.s., the b.d.s. support group. Good work. Aye.

Sten: Thanks. Particularly city staff and the developer for being willing to think this far out of the box and to the neighborhood for working with them. This is the kind of thing that you want to have happen and never happens if we try to make the deal, because you can't do it in an adversarial process. And so I think this was a great result and really actually this on ought to be a model for how with a lot of thinking and compromise you can get to a solution so Thank you. I'm glad to vote aye.

Potter: I agree with everything my fellow commission members said. Aye. [gavel pounded]

Saltzman: I guess I would also make a motion to direct the office of transportation to investigate the formation of an l.i.d. on southeast 152nd.

Leonard: Second.

Potter: Discussion? Sue.

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

Potter: Aye. [gavel pounded]

Beaumont: We need to set a date to bring this back for the adoption of findings and a final vote.

Parsons: And you want an afternoon session or -- next thursday, the 7th, we do have items scheduled at 2:00, we could take it on the regular agenda.

Parsons: And is that sufficient time for the staff and applicants to make any modification to the findings?

*******:** Probably need a little more time.

Leonard: Can it be on wednesday?

Parsons: Can it be wednesday morning?

Beaumont: Yes.

Parsons: Then that would be the 13th of april.

Beaumont: Ok, wednesday april 13 at 9:30.

Potter: Ok. I think we have a time certain at 3:00 p.m., so we're adjourned until 3:00.

Parsons: Shall we take that --

Leonard: We had one setover from this morning. Item 269.

Item 269 (continued from 9:30 a.m. session)

Potter: Ok.

Jeff Baer: Good afternoon, mayor Potter, members of city council. I'm jeff baer, the acting director for the bureau of purchases. We're here before you to ask authorization to enter into the flexible services contracts. I just want to take a real brief moment to talk about the selection process very quickly. Because of the magnitude of the project, it's been a length of time in we started the process to which we're actually here to award the contracts. We received 222 different proposals on 10 different service categories, and evaluating all of those different responses takes quite a bit of staff time to go through each one of those, but as a result we have 115 different contract awards in a variety of different service categories. And just to let you know real briefly that the -- the r.f.p. That we sent out was reviewed by the city attorney's office and also by the bureau of purchases. We posted it on our website. And also advertised it in "the daily journal of

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commerce," and also had a very extensive review panel, which was comprised of 38 different individuals, nine from outside the city. So we had a wide perspective as far as reviewing the proposals. With that I'll stop and turn it over to Matt Lampe to talk more about the specifics of the actual contracts that we're asking permission for.

Matt Lampe: Thank you, Mayor Potter and commissioners. I'm Matt Lampe. I'm the chief technology officer for the city. Today we're presenting the ordinance authorizing a series of contracts for i.t. services. These are flexible services contracts. They're designed to create a pool of contractors who are preapproved with contracts for categories of information technology work. The process allows a firm to focus its energy into a single r.f.p. response with the potential of getting access to work over a three-year period. The contracts themselves do not commit work. Rather they position the contractor to be asked for basically mini proposals to respond to small scopes of work, proposals to address specific work in the category for which they've been approved. It simplifies the contracting process, both for the city and for the contractor. This has been something that has been very helpful for some of the smaller contractors who can't really respond to -- aren't equipped to respond to large r.f.p.'s on a regular basis. The city has used this form of contract successfully in the past. Jeff has talked about the selection process through the r.f.p. Responders could respond to one or many categories, and then each category was reviewed by a separate sort of subteam of the evaluation committee. Today we're presenting 115 contracts. The contracts spread across 45 firms. Of the contracts, 22% are to mwesb firms. Funds are committed at the time of the work order and will come from money in bureau budgets, either in our budget or in some of the other bureaus that have used this for funding some of their work. Generally work orders are issued for small projects, where extra help is needed for peak load or fill a temporary vacancy. There are limits included in the contract. So no firm can obtain more than \$75,000 on a contract in any given year. To maximize opportunity for the mwesb firms any work expected to exceed \$25,000 will require that among the three solicited bidders an mwesb is included, and I'll be providing an annual report to the council on the utilization of these contracts, including utilization by the mwesb contractors. Questions?

Potter: Any questions from the council?

Adams: I might.

Potter: We'll give Commissioner Adams a minute.

Adams: Apologize for being tardy. Does this implement a business plan or an operating plan?

Lampe: Not specifically. The different projects would generate generally out of a plan that comes out of a bureau to us in terms of an application, or it may be just doing some of the routine business that we are -- we have responsibility for. So, for example, a large p.c. deployment -- replacement deployment that's in somebody's ongoing replacement schedule may require extra help to get it done in the time frame that the division or bureau wants it done. We've used these projects for a variety of other kind of small projects.

Adams: And are you making a case that this saves money?

Lampe: It primarily saves money in terms of time for us in terms of how we acquire these kind of extra help services and saves time for the small contractors because we --

Adams: You've done no comparative analysis?

Lampe: You mean, compared to going out -- what it would cost -- the basic difference is in the procurement process. It's not -- I don't expect if I went out for a separate r.f.p. for each of those things that the bids I would get would be substantially different.

Adams: No. Versus procuring the expertise internally versus externally. I realize it allows you to move rapidly. Your case is this gives you a ready supply of people to contact to fulfill unanticipated or specialized services. Is that right?

Lampe: Not always specialized. For example, we do not necessarily staff for peak loads on some projects. Some move projects that occur, etc.

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Adams: So also unanticipated peak loads.

Lampe: Right.

Adams: All right.

Lampe: So this really doesn't -- having these in place doesn't affect the issue of whether we set our staffing at one level or another level in terms of being able to fully fulfill what comes up in people's work plans. This is really a way of simplifying the process, both, and reducing sort of overhead expense in acquiring those -- that help, and I think it's one we've heard when we're here on other r.f.p.'s, some of the contractors basically saying one of their concerns was that the normal r.f.p. process can be very, very burdensome on them and sort of forces them out of the market. By doing this once, we actually create a process that allows some of the smaller vendors to more equitably have a good shot at getting work from the city.

Adams: Could this be interpreted as a blank check?

Lampe: No. There are a number of different controls. First, this doesn't give us any budget authority.

Adams: Ok.

Lampe: So we have to meet -- we can only contract where we've got money to spend in the budget process. And that might be through our budget or through another bureau's budget, where they have the work.

Potter: Any other questions? Sue, please call the vote.

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

Potter: Aye. [gavel pounded] thank you. We have a 3:00 p.m. Time certain. We'll go into recess until 3:00. [recess taken]

At 2:30 p.m., Council recessed.

At 3:12 p.m., Council reconvened.

Item 274.

Potter: Council will come to order. Please read the roll call. [roll call taken] [gavel pounded] sue, please read item 274. We first heard this proposed measure 37 resolution and ordinance two weeks ago on march 16. On the resolution, commissioner adams proposed some amendments which were not formally taken up by the council at that time. We agreed to hold the record open for two weeks and consider amendments at today's meeting. Discussion and a few amendments to commissioner adams' amendments, staff will present to you the reflected compromise language that commissioner adams and I both support. It creates a citizens committee and direct staff to come back by may 20 with a proposal for negotiated process to resolve certain valid claims. Both of these amendments will improve the process and are in keeping with my desire to implement measure 37 in a fair and transparent manner. Commissioner adams?

Adams: I just want to thank you, mayor Potter, for your willingness to continue to have the discussions about this issue, which are complex and new territory for all of us, and just also want to up front thank hanna kuhn and the folks in planning, and rebecca and lana and others for their good work. I'm ready to call the question at anytime.

Potter: Staff, please come forward.

Hannah Kuhn: Good afternoon. My name is hanna kuhn, the city of Portland's program manager for measure 37. Mayor Potter, commissioners, once again, thank you for the opportunity to present some amendments to the mayor's proposed resolution on how the city implements measure 37. As before, I will not be showing a powerpoint presentation today. Copies of the proposed amendments are available behind the clerk, if citizens would like to take a copy and follow along. On march 16 the council first considered proposed legislation regarding the implementation of measure 37, and i'd like to very briefly recap that for you and then walk you through the proposed amendments to

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the resolution before you this afternoon. Two weeks ago the council heard a staff presentation on citizen testimony on an ordinance that proposes to establish a filing fee of \$250, and in the event the council should deny an invalid claim reserves the option to bill the claimant for the city's actual processing costs on a case-by-case basis. The council voted to change the record from shall be the claimant for actual costs to may bill the claimant for actual costs. That ordinance also creates a private right of action so that property owners whose property value is reduced by development, that is allowed by a measure 37 waiver of regulations, may recover just compensation from the claimant in circuit court. The council moved that ordinance to second reading two weeks ago. The council also heard a staff presentation on citizen testimony on a resolution that specifies when public notice shall be provided, establishes that waivers of land use regulations are personal to the current owner and not transferable to future owners. This is in keeping with the Oregon attorney general's opinion of february 24 of this year. It also recommends funding for a flexible services contract for property appraisals, economic analysis, and chain of title searches to augment the city's evaluation of some claims as needed. At the hearing 2 weeks ago commissioner adams expressed interest in creating a committee focused on measure 37 implementation and distributed amendment language that would have directed staff to develop an alternative negotiation track for claimants who seek to develop their property, not compensation. The council wanted more time to consider those proposals and held the record open until today. Over the past couple of weeks, we've had discussions with commissioner adams, the mayor, the city attorney, and bonny mcknight, the chair of the citywide land use group. The result is compromised language before you today. If you take a look at the resolution that is in front of you, the following amendments are being proposed to the resolution. A couple of minor changes to the requirements on how public notice should be provided, specifying that notice shall be sent by regular mail, and be sent within five days of the city's determination that a claim is complete. In addition, we recommended notice be sent, not only to neighborhood associations and neighborhood business associations, but also to district coalitions and the citywide land use group. The amendments propose that a citizen measure 37 committee be established, using what I like to call the good offices of the citywide land use group, and would include representatives, not only from that group, but from diverse community stakeholder groups. Just to be clear, I had a question about the use of the term "stakeholder" from someone here today, and want to make that clear this is just another word for a citizen who has an interest in measure 37 issues. This committee that we would establish would inform stakeholders about the measures and how the city implementing it. And provide for citizen input into the claim review process. This committee would also study the city's claim review process from start to finish and return to the council in six months with a written report and recommendations for process and policy improvements. The amendments also direct staff to work with appropriate city bureaus and the citywide land use group and come back to the council no later than may 20 with a proposal for negotiating with certain claimants whose claims are valid and whose preferred solution -- resolution is a waiver of regulations rather than compensation. In developing this proposal, staff are directed to provide opportunities for owners to get development approval outside of the claims process, such as through the city's existing permit and land use processes. Gil kelley and rebecca esa will talk about this in a minute. The proposal should also conform with city council policy guidance on when exemption should apply, when compensation should be paid to resolve a claim, and when an independent analysis of property value or ownership should be sought. The proposal would look at ways for the 180-day review clock to be voluntarily suspended when negotiations are taking place. Finally, any proposal should make clear that public notice of a council hearing to consider a staff recommendation that is based on these negotiations would be provided to owners within 400 feet. As we've mentioned previously, the vast majority of claims Portland has received are challenging environmental regulations. Many of these claimants have not applied for an environmental review, in part because of the high fee or because the process is perceived as being time-consuming and

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overly bureaucratic. I've asked Gill Kelley, director of planning, and Rebecca Esa with the bureau of development services, to join me today to briefly describe some of the proactive steps that their bureaus are taking to make the cities existing environmental regulations and review process more user friendly, accessible, and affordable for all property owners, whether they file claims or not.

Gil Kelley: Thank you, Hanna. Gil Kelley, planning director. I wanted to first of all state our support for the amended language in the resolution. And I wanted to thank Commissioner Adams in particular for being open to the worry that I had frankly the last time, which was to not send a signal unintentionally to the public that the filing of measure 37 claim was an alternative to -- a cheaper one at that -- to getting into the city's normal permitting process. I think the language that Hanna has included in the last -- or next-to-last be it resolved section goes to that question. That, I think, would be augmented by frankly lowering the fee for environmental review and Rebecca will talk about that in a moment. I think that the two of these combined will help us there quite a bit. As she will describe, that does have a fiscal impact that the council will need to be cognizant of. That falls particularly heavily on B.D.S., but involves some of the other bureaus as well. That was really the main concern that I had. I wanted to also apprise you of the fact that even before measure 37, the planning bureau, along with bureau of environmental services, bureau of development services, and Pdot, have been working on a series of zoning code amendments to the environmental regulations contained in the zoning code, in particular, that were really aimed at streamlining the permitting process for environmental reviews. And in fact, that culminated last night in a hearing before the planning commission, which was very well received. They'll be completing their deliberations in about a month's time, and then it will come on to the city council. But I think, knowing that we, as of today, have 12 measure 37 claims, nine of which involve environmental zones, that the combination of reassessing the fee and doing this, streamlining that's now at the planning commission, the two of those combined I think will make it much easier for us to work with applicants in the legitimate environmental review process as opposed to an outlet which some may have sought through the measure 37 process. Thanks.

Rebecca Esa: Rebecca Esa, bureau of development services. Good afternoon. The two areas I'd like to talk about are fees and our process improvements, because those are two areas that have been a source of frustration for our applicants. The fee issue, bureau of development services, is currently doing our annual revisions to our land use services fee schedule, and with those revisions I'm planning on making some drastic reductions to the environmental review fees. The question would be how do we make up that amount? Do we have general fund support to make up that loss in revenue, which would add up to approximately \$118,000, or do we spread the cost to other land use review applicants to try to make up that loss? One idea that's been floated so far is to ruse the fee down to equal what it would cost to file a measure 37 claim. If we did that, again, the fiscal impact -- the loss in revenue would be \$118,000.

Saltzman: What is the fee right now for environmental review?

Esa: There are a variety of fees, depending on what zone you're in and what use you're proposing, depending --

Saltzman: Can you give me an average?

Esa: Probably average, \$3,000.

Saltzman: \$3,000?

Esa: Uh-huh. We'll bring the proposed fee schedule back to you May 25. In the meantime, it would be helpful, as I'm working on the fee schedule, if we could direction on how to subsidize this idea of lowering these fees. I would ask consideration for an annual -- a one-year pilot project that we, as a council, can consider, along with all the other requests for one-time money, which will be decided before you have to file something to come back. At the same time if you would look for opportunities to just reduce the cost we would have to pay. If you could get the cost lower than 118, that would be great, but at the same time I understand for a one-year pilot project that the

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general fund could support the forgone revenue. I just think this is really important to remove all of the barriers and incentives that stand in the way of using our existing process as opposed to people feeling they need to use the measure 37 process. The fee is a big driver for a lot of people. And so what -- at the end of this what we could be offering is actually a competitively priced option potentially cheaper in terms of having to hire development service professionals to help people through the process, what they would need on 37 versus our other process, and also provide a more certain turnaround time for our normal ezone reviews as opposed to the 37 process, which potentially they could have to go to, what, circuit court or something. But we're not -- just be clear, we're not deciding that today. Just wanted some initial direction.

Esa: Thank you. The other perception out in the public is that the environmental reviews take an excessively long time. At this point I would say that they do. They take an average of four months for a type two review. And i'm currently working on staff to address that issue. A lot of the time is taken up with preparing applications. We tell people, you don't need to go out and hire a consultant.

We'll work with you. We're providing early consultation with them, just stepping up the level of suspects we provide on these reviews, because they are complicated and provide some level of --

Saltzman: I'm just curious what percentage of the time do people actually do it themselves, versus consultants? Again, just broad --

Esa: For residential projects, probably 80% of the time.

Saltzman: Do it themselves?

Esa: Uh-huh, which then adds to the staff time spent on assisting them.

Saltzman: Ok.

Esa: We're also doing cross-training between staff, so when the workload fluctuates, we can get additional staff there. Part of the problem has been we've been lacking staff to get the reviews out in a timely way, but with the development services fee and additional staff we should be doing a lot better.

Kuhn: The handout that was distributed to you while rebecca was speaking is perhaps a little busy, but it's intended to be a visual illustration of how, in addition to the claims process, which individual property owners have a right to enter into and see through to completion, that our intent is also as early as possible, even perhaps before a claimant files a claim but has expressed an interest in filing a claim, that we offer the expertise of staff to consult with them, to provide assist to them, to see if our normal review could help them get approval for the development they'd like to pursue. And that, that doesn't stop even if a person files a claim that we we're seeking opportunities to talk with people and help them find a way to get what they need to get without having to get a claim. So the colored boxes on that chart are showing all the different ways that we can help consult and make our existing processes potentially the solution to the problem this they have. It was just for the purposes of illustration, I hope it was a little bit helpful.

Potter: Questions? Commissioner adams, questions for the staff? Thank you very much, staff. You did an excellent job. Thank you. Sue, do we have anybody signed up to testify?

Parsons: We have four.

Potter: Thank you for being here, folks. Please state your name for the record as you testify. You have three minutes.

Dixie Johnston: Ok. I'm dixie johnston, co-land use chair for collinsview neighborhood association. We're the first neighborhood to have a measure 37 claim. I want to support the proposed amendment 274. I think the staff has done an excellent job. And I am very proud of gil kelley and his staff, hanna kuhn, for their additional working on this very difficult situation. As the staff develops this proposal, I would like also addressed -- I don't think we're putting all the pieces together yet -- that the claimants must show that they are entitled to relief, and we need more specificity for the valid claim definition and perhaps a further definition for an invalid claim. We need to clarify the exemptions of measure 37 as noted in part b, and I have the measure here. This

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act shall not apply to land use regulations restricting or prohibiting activities for the protection of public health and safety, also pollution control regulations. This has to do specifically with the city of Portland, and it's not been addressed. As it was pointed out, out of the 12 claims, nine of them are in e zones. The one in our neighborhood is in an e zone. It's not just environmental, to protect a few animals or some trees. It's also protecting people's lives. These are flood zones. These are landslide zones. I really think this needs to be addressed. A few years ago, as we were working on the southwest community plan, as some of you know it was quite contentious. This was a big issue.

As we discussed this, we told people, please, we need your input. They said nothing about the e zone proposals. I know my time is about up. But there was a house that was destroyed as a result of the landslide and turned around and sued the city of Portland. You need to look at lawsuits.

*****: Good afternoon, mayor Potter and city commissioners. I'm here today representing Portland Audubon Society and our 10,000 members.

Potter: State your name, sir.

Bob Sallinger: Bob Sallinger. Sorry for that. First I want to express our appreciation for the measures you've put in place to deal with measure 37, including providing public notice and full hearing on claims, making waivers nontransferable and creating a private right of action for property owners. Today I'm here to request that you take a careful look at the exemptions specifically articulated in measure 37, as already noted nine out of the 12 claims currently before the city challenge environmental regulations. The decision that you make on these claims will set a precedent that could have ramifications far beyond the impacts on individual property owners. The regulations you'll be considering protect water quality, prevent landslides and flooding, and protect wildlife species, many of which are in serious decline. It's hard to imagine that the citizens of Portland would have voted as they did if measure 37 had read government shall waive regulations that prevent water quality degradation, erosion, landslides and flooding, and species decline. Polling time and time again has demonstrated that the vast majority of Portland residents care deeply and passionately about these issues. In considering these issues, it's important to consider exactly what measure 37 did and did not say. There's no question that measure 37 was vague, but did explicitly state that 37 claims would not apply to regulations designed to protect public health and safety or to regulations necessary to comply with federal law. Our environmental zoning serves to meet exactly these objectives. We have environmental zoning because we recognize that environmental degradation is an incremental process and we must protect natural resources in a landscape scale if we want to rent future e.s.a. listings and clean water act violations and health and public safety hazards associated with flooding and landslides. We believe that if you'll look closely at the exemptions explicitly articulated in measure 37, you'll find the natural resource protection is functionally exempted from measure 37 claims. I would end by noting that the voters were concerned about fairness and how regulations are applied. The code review process that the city is currently completing addresses exactly that issue. We believe that this is the most appropriate and effective forum to address fairness issues for all citizens in Portland, granting waivers to a privileged class of property owners undermines the public trust, jeopardizes human health and safety, and puts -- it at risk of falling out of compliance with federal mandates such as the clean water act. It's also not required under a strict reading of the measure 37 language. Thank you.

Potter: Thank you.

Bonny McKnight: Mayor Potter, members of the council, my name is Bonnie McKnight. I live at 1617 Northeast 140th. I do appear before you today as coordinator for citywide land use for a change. I really appreciate your effort to go forward carefully with the measure 37 and with the presumption that there is no right or wrong. I think it's important that because I believe there's many messages that are involved in 37. I do think it's important, as Dixie said, that you define your basic policy options and exemptions before you decide the first claim so it isn't handled as a gift from the council, but as an indicator of what your future requirements for a valid claim would be. I

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think you can protect environmental policies, maintain protections, but you can also use this process to identify ways to keep them reasonable, to those who must deal with them. You should avoid, in my opinion, addressing each claim separately, but view them as part of a whole for the city.

Consider the cumulative effects as decisions are made, which sometimes doesn't get done, but probably really needs to get done in this case. Support the problem-solving approach that's already been started by hanna kuhn and her work. In identifying ways to solve claims before they get to the final step of coming before council. And secondly, thirdly, or whatever, use claims as indicators of the need for system changes, while maintaining the importance of public good. I think this is an evaluation process for how well the code works for those people at the other side of it. I appreciate an approach which sets up public advice, while maintaining reasonable confidentiality for each claimant, as coordinators citywide we will have both of those pieces in our mind as we assist you in any way. I'm very pleased to offer the good services of citywide land use to assist you as we all go forward to try to balance private property rights and public good.

Potter: Thank you.

Parsons: We have one more.

Potter: Thank you for being here, sir. State your name and you have three minutes.

Brooks Koenig: Ok. Thank you. Good afternoon, mayor Potter and commissioners. My name is brooks koenig, southeast harrison street. Thank you for the opportunity to testify today on measure 37. I'm the chair of the hosford-abernethy land use and transportation committee, and i've been part of the southeast uplift land use and transportation committee. And we have been advocating for an open and inclusive claims process, and I think that you have, you know, hit the mark on a number of things. We definitely appreciate the notice that you have done, you know, the private right of action, and we thank you for amendment 274, creating the citizens advisory committee. I did want to, I guess, reemphasize the point that we do think that, you know, a cost recovery policy is reasonable for claims, and I did have a couple of questions, I guess, as I looked at the flow chart here, I shared the previous speaker's concern with, you know, how do you determine it's a valid claim and do you ever get out of consultation, as I look at this flow chart it seems like if you have a valid claim or if you have an invalid claim you keep consulting. It seems like there should be some endpoint when there's a determination that it's an invalid claim. And I would also like to repeat that I think, you know, you do need to read the measure closely and look at those exemptions and have a process to determine if they fall under the exemptions, because I too share that, you know, public health, safety, and welfare are legitimate governmental aims, and if the ordinance does that then it seems as if the claim is not valid. Thank you.

Potter: Thank you very much. Is that it? Do I hear a motion to accept the amendments?

Adams: So moved.

Saltzman: Second.

Potter: Second. Discussion? Sue, please call the vote on adopting the amendments to the resolution.

Adams: Just want to add thanks to bonny, dixie, ty kovatch, and Jacob brostof, as well as maria thi mai on my staff. Aye.

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

Sten: I appreciate all your work. Aye.

Potter: Likewise, so do i. Really appreciate the community and our different bureaus working together on this. I think it's been very difficult because of the vague wording of that particular statute, but I think you've done yeoman's service, and I appreciate it. Aye. [gavel pounded] now we'll accept a motion to pass the resolution.

Saltzman: So moved.

Sten: Second.

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

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Potter: Aye. [gavel pounded] sue, would you please read item 275.

Item 275.

Adams: Move to adopt.

Saltzman: Second.

Potter: Is there -- do we have staff come up and talk about this, or because it's a second reading it will go to the vote?

Parsons: Right.

Potter: Ok. Second. Discussion? Sue?

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

Potter: Aye. [gavel pounded] so I think that's it until 4:00.

*******:** Correct.

Potter: City council is adjourned until 4:00 p.m. [gavel pounded]

At 3:41 p.m., Council recessed.

At 4:10p.m., Council reconvened.

Item 276.

[roll taken]

Potter: Ok. Staff, please come forward.

Gary Blackmer: Good afternoon mayor, members of council. My name is gary blackmer, I'm the portland city auditor. One of my responsibilities is the division of independent police review, and I have richard rosenthal with me and hank miggans the chair of our citizen's review committee is going to be joining us. We are presenting an ordinance today that results from a study that we completed in september on the city of Portland's handling of tort claims alleging police misconduct.

And what this recommendation does is -- the ordinance follows the recommendations of our report addressing issues around how tort claims are reviewed consistent with other complaints that are filed against the police by citizens. So what we are proposing is these changes for you to consider, and i'll turn it over to richard and he can continue in more detail.

Richard Rosenthal, Director, Independent Police Review: I'll be brief, but basically as gary mentioned, on september 4 of 2004, we released this report, and although the major title was the city of Portland's handling of tort claims alleging police misconduct, the next subtitle was a need for consistent referrals to the internal affairs division, and that's why we're here. The proposed ordinance before council today would allow the i.p.r. and the Portland police bureau to implement the primary recommendation of the report, which is the tort claims and lawsuits alleging police misconduct would be subject to the same form of manager review as any other citizen complaint with respect to internal affairs investigations and the disciplinary process. And since january of 2002 the i.p.r. has been the primary clearinghouse for citizen complaints except we've not been able to look at tort claims alleged police misconduct where the complainant has not also filed a specific complaint with us. And that is because the ordinance did not provide us the jurisdiction to do so. Instead, until march of 2004, unless the complainant filed an i.p.r. complaint as well as a tort claim, the only managerial review that would be received of the tort claim alleging misconduct was by city employees who were charged with defending the city against potential liability. In other words, by city employees with the duty of loyalty to the involved officers. In march of 2004, based in part on our concerns, the mayor requested the bureau initiate a process where in fact they have a tort review committee which identifies performance training and policy issues relating to tort claims. It's a good concept and it should continue, but what we're asking now is city council to give the opportunity to i.p.r. to get the jurisdiction to review, refer, or decline tort claims alleging misconduct in order to ensure a consistency in the handling and reporting of all citizen complaints. This concept is consistent with the long-term risk management philosophy that if all citizen

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complaints are handled appropriately the city's liability in the long term will be reduced. Let me just point out other cities in the pacific northwest already subscribe to this philosophy, seattle, boise have processes that ensure consistent review of all complaints including those that involve tort claims, and in addition, many cities throughout the country have had imposed upon them the obligation to conduct administrative investigations of tort claims that have been imposed by the department of justice as a result of pattern of practice law suits. We believe the auditor and I believe that it's our duty to our officers and citizens alike to ensure that the Portland police bureau police itself in a credible fashion, that this important work is monitored and reported on by an independent authority, and this ordinance will permit the i.p.r. to create a fair process that includes consistent handling of complaints filed in the form of tort claims or litigation.

Potter: Thank you.

Hank Miggins: My name is hank meagans, chair of the citizen review committee. I'm representing myself today. In support of the auditor's proposal, I am of the opinion this proposal is just another step forward in gaining more citizens' confidence and accountability to police. I believe the tort claim allegation -- alleging misconduct should be reviewed to identify and address any deficiencies in training or any deficits in policy and for the city to be able to take corrective action as necessary. I am aware that there are some concerns about additional payouts as a result of this, but I believe that over the long run identifying those conditions, those behaviors have resulted in tort claims having city take correction -- corrective action would be reduced, thus review could become a cost avoidance issue, and I recommend that you take the recommendation of the city auditor.

Potter: Thank you.

Blackmer: Let me add one quick thing in terms of workload, already one-third of the tort claims are coming into our office because the complainant will file a complaint with our office as well as file a tort claim. So this means that we would look at the other two-thirds and it really comes down to a little more than five complaints a month added to our workload. So it's not something that we're going to come back and say we need more staff, because it's something we're handling about 770 complaints a year right now, and this would add about another 60 or 65 during the year.

Rosenthal: And in fact, actually in the past three months exactly 16 tort claims alleging police misconduct that were not filed with i.p.r. have been received by risk, so we're averaging exactly five per month as we anticipated. That workload, we can handle that.

Potter: Is there anybody from the police bureau here?

Rosenthal: The chief had said he was going to be here, but he doesn't appear to be.

Potter: Auditor blackmer, did you have a conversation with the police bureau?

Blackmer: Yes. During the course of this study we've had a series of meetings to go over the recommendations here. The conversations that the most recent one I had with the chief was that he was all right with the recommendations. We had also had a conversation with the city attorney's office who had concerns about it earlier, and ultimately they resolved that -- they didn't see any substantial increase in risk to the city in terms of -- or cost to the city in terms of going forward with something like this. We had processed this report like we do audits, though it is not an audit per se, it doesn't -- i.p.r. isn't an audit function like audit services in my division, but we find that going through draft reports with the organizations that have -- are affected by our reviews is an important process, so they had an opportunity to look at a draft of this report and in fact there were responses in the back of this report that was issued in september. We had several further conversations to work through some of the issues with them, and our understanding at that time was that they were acceptable to these recommendations. I had two conversations with the chief to that effect.

Potter: Ok. Thank you very much. Any questions of the auditor? Ok. Thank you, folks. Has anyone signed up to testify?

Parsons: We have two.

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Potter: Please state your name. You have three minutes.

Diane Lane Woodcock: I'm Diane Lane Woodcock, I've been police accountability activist for quite a few years. I sat on the mayor's task force for making improvements to PIIAC and help write the majority report for that. I have attended a lot of PIIAC hearings, I've attended a lot of CRC and I.P.R. meetings, and hearings. It's based on that experience and researching other review boards across the nation that I come with the opinion and a sore throat today. My concerns -- basically this proposal sounds pretty good on the surface. I have some concerns, though. My concern is that the I.P.R. review will be primarily to protect the city from liability rather than really for the reasons that are given. The reason that I state that is because this director and auditor Blackmer have found -- have declined more cases than PIIAC ever did, including use of force cases. At a higher rate each and every year. And they have found no problem or they have found certain complaints to be merit less that the citizen panel would subsequently look at and would find legitimate concerns. This is a real concern of mine, is that will this review be truly a review that will be looking for problems in misconduct, or a review that will be protecting the city? The I.P.R. is not a truly independent review board. It does depend on police officers to do the investigations. If this was a truly independent review board, as the majority group report recommended, I would have a little bit more trust for this. I would trust the process if the majority of citizens who have used this process were satisfied with it. As it is, they're not. There's a great distrust here, and one of the reasons is what -- from what I just said, that there's been so many exonerated findings without justification. Also, people who choose to go the tort claim route, to go the lawsuit route without filing citizen complaints are making a conscious choice to suddenly have the I.P.R. and I.A.D. look at that. I think it's a violation of that choice and that trust that they are trying to create for this process. If we allow them to do this without the citizen having chosen to file a citizen complaint, aren't we taking something away from the citizen? And if indeed they decline those tort claims with as high a rate as the citizen complaints, I'm afraid of what that's going to do to weaken that particular case. Thank you.

Potter: Thank you.

Dan Handelman: Good afternoon, Mayor Potter and commissioners. Dan Handelman with Portland Cop Watch. I'd say in general we support the idea of handling tort claims as misconduct complaints, but we're afraid the language that's being put before you is not going to necessarily make that happen. It just creates the ability for the director to make protocols to handle those complaints and it doesn't say these complaints should be handled like other complaints. We're also worried that this amendment is the third one being made piecemeal to the ordinance when the whole ordinance hasn't been reviewed, and we're also wondering why it's being put on the agenda as an emergency ordinance when there's so much -- so little time for the public to debate this. Even though the report came out last September, this was introduced on the city council agenda last Thursday, I think. So the report and this issue I want to say, we don't always agree with the I.P.R., but it does highlight an important loophole which is when you file a lawsuit, and even if you win, the officer doesn't necessarily get found guilty of misconduct, and nothing happens, there's no punishment because the city pays out of their pocket. Nothing happens to the officer. So that's an important loophole that needs to be addressed. But as I said, the language in the intake section calls for the director to develop procedures for dealing with this and it doesn't say that these cases should be handled as other cases. And as the director and the auditor have mentioned, they have rightfully said this will save the city money in the long run, even if it costs you money in the short run, so that I think is good. The other thing that probably should be addressed is the fact the same city attorney is advising the I.P.R. that is defending the city. And we've been saying for a long time that if you're going to change the ordinance, you should probably look at giving them the right to hire an outside attorney that can deal with issues where the city's interests and the I.P.R.'s interests may not be the same. In addition to that, the people who file a tort claim, their attorneys will sometimes advise them not to file a lawsuit -- a complaint also because it might affect their lawsuit, and there should

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be some kind of provision. This could be in the protocols, but if it's in the ordinance it will be memorialized, a provision that if they're told, if the complainant is told to wait until after the lawsuit is over, that shouldn't prohibit an investigation into what the officer -- whether the officer's conduct was within policy. So I want to get back to my -- the second point that is on here is about the -- is denying the director the ability to investigate these complaints if internal affairs refuses to do an investigation. I don't really understand the logical reason for that. If everything else said is true, they should be handled like other complaints, and if internal affairs refuses the director is allowed to investigate those. I just want to repeat again this is the third -- this will be the third minor change to the ordinance without any review, without any of our proposals being considered before council, and we don't really understand the reason for the ordinance being an emergency, since the year is already three months in and the reports are published quarterly.

Potter: Any questions? Does the director or auditor wish to respond? Why don't you come back up.

Blackmer: In terms of the role of i.p.r. and public trust and so forth i'm looking forward to having a review done of our office in the coming years so that we can get an independent assessment from an expert on what we're doing relative to what other programs are doing around the country, because we haven't found anyone doing better work than we are. If they were, we -- they would have lost their director of i.p.r., we wouldn't have. So to that degree I -- i'm willing to match us up with anybody. In terms of the emergency ordinance, from our standpoint we would like to start at the beginning of this quarter, which starts april 1. So it's not something that we did to slip it through quickly, since this report was published and there are a couple of news reports on it, and we really got very few comments on it since it was published. It was more just that this was an issue that we have -- we wanted to bring before council quite a while ago, but you've been very busy with the budget, we did want to start at a quarterly point so that we've got a nice point where we can start tracking our data. There was nothing -- no other motive beyond that in terms of putting the emergency ordinance on. Are there any other issues?

Potter: Thank you very much. Any discussion? Karla? Did you want to say anything?

Parsons: Are you ready for the roll?

Adams: Team b as part of the budget process, it included proposed including the resources for the outside review, but those resources don't become available until july 1. I appreciate the concerns that was indicated in some of the testimony, but I do think that on the whole this is a positive step and one moving forward that until we have that outside review I don't want tort claims to continue to sort of proceed under the radar of i.p.r. So I vote yes. Aye.

Leonard: I do agree with dan when he said this is actually pointing out a loophole that frankly I was unaware of. I remember when we were talking about this early on, I can't remember if it was the auditor, who I was discussing this with, but I remember we had this incident that occurred sometime back where the 71-year-old woman, blind, was tasered by two officers, and -- in north Portland, and I guess cases like that that then would not have any review with respect to disciplinary procedures by the police bureau. It does cause me concern, and so I think this is an important -- one more kind of check and balance, if you will, of the activities of our police that is an important one, that I appreciate. Aye.

Saltzman: This does sound like it's an important change to make, and -- but I also think it is time as we promised long ago, to do the comprehensive review of our i.p.r./c.r.c. process. So i'm glad to hear team b has earmarked or thought about that in its budget recommendations, because it is overdue compared to what we originally told people. So I think this is a good step in the right direction. I just wanted to take this opportunity to thank richard Rosenthal for his capable leadership of our first i.p.r. office, and wish him well in his next job. Aye.

Sten: I agree. I think this is the right move, and we do have some money in our recommendations, which is the council -- which as the council sees fit to do will be there. We had not expected during

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those conversations for reasons we did not expect, the timing is very appropriate because we'll be changing directors, and unfortunately, and I wanted to thank richard for his work, though I expect we'll see him many times before he -- he told me today he's starting in may but he's going to continue working here to make sure things work smoothly. Thanks and thanks to cop watch as well for their paying attention. Aye.

Potter: I too want to extend my thanks to richard, and wish him well in denver. I think this is a good direction for the city, and like some of the other commissioners have indicated, mr. Handleman and others have made a good recommendation in terms of reviewing the ordinance and to see how things are going, and I look forward to that review. I vote aye. [gavel pounded] this is the last item for the afternoon. We're adjourned until 6:00 p.m. tonight. [gavel pounded]

At 4:30 p.m., Council recessed.

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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.

MARCH 30, 2005 6:00 PM

Potter: Portland city council will come to order. Karla, please call the roll. [roll call taken] [gavel pounded] this public hearing today is on the resolution regarding the city of Portland's involvement in federal task forces such as jttf. We will conduct this meeting so that all sides have the opportunity to express their point of view. We will be civil to each other. There will be no yelling, no slapping, no waving of signs that disrupt other people's views. In the council we have a history or tradition, that if you like something someone says, you can wave your hands like that. That's as far as we go with expression. [laughter] no, not that. If anyone acts out or is rude, they'll be warned once. Then they will be required to leave this chamber. People in this room can remember with horror the bombing of the federal building in Oklahoma City, and we all watched TV in disbelief as planes flew into the twin towers and the Pentagon. Portland, we have seen antiabortion extremists' bomb clinics, the arrest of the Portland Seven, and the prosecution of Brandon Mayfield. The discussion tonight is not about the reality of terror or hatred. We understand that firsthand. Instead, we are here tonight to talk about how our community can best ensure the safety of all of us while protecting the rights of each of us. It is about the appropriate role local elected officials have in rooting out terrorism in all its forms. Before we begin, it is important to correct some perceptions about the purpose of this resolution. First, this resolution does not automatically remove Portland police officers from the jttf. That is not the purpose of this resolution. It is designed to ensure Portland police, who are assigned to the jttf, have the proper checks and balances in place. Our city charter provides that its elected leaders shall have control and supervision over all resources of the city, including those Portland police officers assigned to the jttf. What constitutes proper local control and supervision cannot be determined by the federal government. It must and will be decided by the duly-elected officials of Portland who are responsible for all Portland police officers, including those assigned to jttf. Second this resolution requires the commissioner in charge to negotiate with the federal government for resolving several concerns. First, to provide the same clearance and access to the city attorney, commissioner in charge, and police chief, as police officers assigned to federal task forces. Two, acknowledge the limitations on Portland police assigned to federal task forces under state laws that prohibit police officers from collecting information about individuals based solely on their social, political, or religious beliefs or country of origin. Three, require the commissioner in charge to be a member of any group overseeing the policies and actions of such task forces. Last and most important, regardless of the outcome of negotiations, the city of Portland will do everything within our power to protect Portlanders' lives, their property, and their rights. This resolution is consistent with that requirement. We will continue to work in partnership with our regional, state, and federal partners for a safer Portland. We expect nothing less from them. At this point I'd like to have -- introduce commissioner Randy Leonard.

Leonard: Thank you, Mayor Potter. And I appreciate your remarks. Thank you all for attending this effects. I do want to make a couple of important points before we begin the hearing, much along the lines that Mayor Potter just did. I served 25 years as a Portland firefighter. 19 of those years I spent as a fire lieutenant. I know the importance of the chain of command. And that is that subordinates, especially in emergency services, must be held accountable by their supervisors

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through effective oversight and supervision. The current arrangement that has two Portland police officers assigned to the joint terrorism task force violates that command and control principle. This proposal upon its passage will require that any officer assigned to the joint terrorism task force have no higher security clearance than does the mayor or the police chief. And contrary to what the special agent in charge of the f.b.i. and others have said, let me tell you what this resolution does not say. We are not proposing to withdraw from the joint terrorism task force. The resolution, as I will explain, places reasonable and prudent conditions on Portland police officers assigned to the joint terrorism task force. Second, we are not asking for top-secret security clearance for the mayor, the police chief or the city attorney. We are asking for the same level of clearance for the mayor, police chief and city attorney, as are given to the police officers assigned to the joint terrorism task force. As I will explain, I believe that can happen while respecting the f.b.i.'s position regarding giving the mayor top-secret clearance, but while also respecting the city of Portland's need to have its officers 100% accountable, 100% of the time to the mayor and police chief. Third, we're not asking to inquire of the f.b.i. what types of investigation they're conducting here in Portland. We only want to know what the activities are of Portland police officers assigned to the joint terrorism task force. Whether it's a part of this task force, or for that matter any activity a police officer is involved in while employed at the city of Portland. Why is this resolution important? It's important because Portland police officers certified in Oregon are bound by laws adopted by the state of Oregon. These same requirements may not apply and often do not to federal officials, however police officers in Oregon, such as the Portland police bureau officers assigned to the jtff, must follow all of this state's statutes. This is their sworn to the, as it is ours here at the city council. Oregon is a special place, and not just because we say so. But because it is so. One example, we have a free speech provision in the Oregon constitution that by all accounts allows for freedom of speeches that the united states constitution does not. And especially as it pertains to the right to congregate, protest and worship at the place of your choice, Oregon has statutes that prohibit police officers in Oregon from conducting investigations that relate to an individual's political or social views. The special agent in charge, robert jordan -- at robert jordan's press conference on march 23, 2003, he said, and I quote "the f.b.i. does not supervise their investigations to see if they comply with state law." further, o.r.s. 181.575 prohibits any police officer in Oregon from conducting violations of federal immigration laws. That law notwithstanding, in "the tribune" on january 21, 2005, special agent jordan said "if we get a lead that two undocumented aliens just jumped ship in the columbia and talk to the owner and find out they're from a country that's of interest to us, we're going to start looking for those folks, and it's absolutely key to be able to plug into the Portland police bureau to put out alerts and plug into their information systems." ironically, it is special agent jordan and his public comments, attempting to refute the need for this resolution that has made the strongest case for the mayor and police chief to have the ability to ascertain that our police officers, who we pay, who we uniform, and who we expect to obey our laws are in fact not involved in any investigation that would violate the principles of the Oregon statutes i've cited here. This is a simple -- there is a simple solution to this disagreement between us and the federal government. The f.b.i. has said that Portland officers are not involved in top-secret investigations. However, they may have access to top-secret information in and around f.b.i. offices. And that's fine. Provide secret security clearance to our officers, that is secret, not top-secret, and as the f.b.i. has already agreed to do so, provide that same clearance to the mayor and police chief. That will allow our officers to stay on the joint terrorism task force, involved in the exact same kinds of investigations as they are today. I believe this proposal, as i've just outlined it, would work. However, after one year, i'm willing to look at how this arrangement has worked to see what, if any modification may be needed. We are a nation of laws, not of men. So those who say "just trust us" miss the entire point of the united states system of government. My family fought to create this country, my family

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has fought and died defending this country. And it is for those principles that they put their all on the line for that I demand be respected here tonight. Thank you.

Potter: Thank you, commissioner. Karla, please read item number 277.

Item 277.

Potter: I've explained the highlights of the resolution and the issues that are concerning us. I think we've articulated them tonight. And I would like to start off with a staff presentation by the police chief, derrick foxworth.

Derrick Foxworth: Good evening, mayor, members of the city council. My name is derrick foxworth. I'm chief of the Portland police bureau. I'm here tonight to speak toward the memorandum of understanding between the Portland police bureau and the f.b.i. this memorandum of understanding formalizes the agreement for the Portland police bureau's involvement on the Portland joint terrorism task force, or as it is commonly referred to jttf. The joint terrorism task force is a partnership between many law enforcement agencies, including the beaverton police department, the vancouver, Washington, police department, the Oregon state police, the port of Portland, the Portland police bureau, and the federal bureau of investigation. The task force concept is a cost effective, efficient way for local law enforcement agencies to work in a coordinated fashion with other law enforcement agencies. Task forces are proven methods of a focused approach to responding and reducing crime. It uses a multidiscipline, multijurisdictional approach. The task force provides for the following -- timely information flow, coordination of efforts, sharing of individual expertise, and ability to bring to the table different perspectives and the leveraging of resources. We are primarily discussing the joint terrorism task force tonight, but it's important to note that the police bureau is a partner in a number of task forces which I will briefly describe. We currently have two detectives assigned to work with the a.t.f., the alcohol, tobacco and firearms. These detectives investigate local violations of federal law. These cases are referred by local law enforcement. The police bureau also has one detective assigned to the f.b.i. safe streets task force, which does follow-up investigations of bank robberies. We have one detective assigned to the u.s. marshal's office who works on a fugitive apprehension detail. A police bureau has one detective assigned to the drug enforcement administration or d.e.a., to assist in ongoing narcotics investigations. On the regional organized crime and narcotics task force, the police bureau has one sergeant and two officers who work on large scale interstate drug trafficking investigations. In the area of computer forensics, the police bureau has assigned one sergeant, one detective, and one officer to assist with the northwest computer forensics laboratory. This task force investigates everything from fraud to child pornography. And on a reciprocal basis, two federal agents are assigned to the police bureau. One f.b.i. agent is assigned to assist with ongoing homicide investigations in the cold case homicide squad, and one d.e.a. agent assists the drug and vice division with local drug investigations. In regard to the jttf, last year the police bureau made some changes that I would like to highlight. In consultation with the f.b.i. Special agent in charge, robert jordan, the decision was made in june of 2004 to reduce the number of Portland police bureau personnel assigned to the jttf. This decision was made after carefully considering the needs of the Portland police bureau and balancing them with the need to work cooperatively with the f.b.i. on criminal investigations. Prior to that decision, the police bureau staff assigned to the jttf totaled eight, which included five officers, one sergeant, one lieutenant, and one police administrative support specialist. Currently there are only two officers assigned to jttf. The f.b.i. reimburses the police bureau for its overtime expenses. The overtime billed for the fiscal year 2003-2004 was \$13,679. As of march 9, 2005, overtime expenses for the fiscal year 2004-2005 are \$2,044. The word "terrorism" now strikes fear in all of us as it conjures up images of 9/11 and all the emotions we feel in regard to that day, but it is important to understand the definition of "terrorism." terrorism is defined as the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or

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social objectives. That said, the Portland police bureau has participated in a number of terrorism investigations in the city of Portland. Criminal acts of terrorism have also taken place locally, throughout animal research facilities, financial institutions, and government buildings. In addition, criminal factions have been responsible for attacks on abortion clinics. I believe that our present day number of two officers assigned to the jtff strikes a good compromise between providing public safety for the city of Portland and assisting the f.b.i. with the investigation of local and international acts of terrorism. Another change last year was in regards to oversight. Since the council last voted on the memorandum of understanding for the joint terrorism task force, I have received a secret clearance. In addition, the assistant chief seated to my left, who oversees the investigation branch also has a secret clearance. This clearance allows us to be briefed in great detail on the case that these two officers are working on. Secret clearance provides us with enough information to ensure that case Portland officers become involved in have a criminal predicate offense. It also allows us to know the basis of knowledge and the reliability of the information source. It allows us to be briefed on the case to the point that we can be assured that the Portland officers' involvement is in compliance with city policy and the laws of the state of Oregon. Lieutenant Keith Morris, who also directly oversees the officers, and the criminal intelligence unit, also has a secret clearance. And his first priority is to ensure that on the front end of these investigations, before the officers become involved, that the Portland officers are in compliance with city policy and Oregon revised statute 181.575, which states, "no law enforcement agency as defined in o.r.s. 181.010 may collect or maintain information about the political, religious, or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct." Lieutenant Morris briefed his supervisor, the assistant chief, on these officers' activities. I also receive briefings directly by the officers on the cases they're working on, and in the past briefed the police commissioner. In addition, I've also been briefed by special agent in charge Robert Jordan from the f.b.i. on these cases. I would like to assure the citizens of Portland and the city council that this oversight is taken very, very seriously. The officers, as well as everyone else previously mentioned throughout our chain of command, has taken an oath to uphold the constitution of the state of Oregon and the United States of America. We are sworn to abide by local, state, and federal law. As I mentioned before, I believe in the task force concept. Working on a task force such as jtff does not take away from our community policing goals or activities, but rather is an extension of the police bureau's responsibility as law enforcement officers to assist in conducting criminal investigations. This partnership with the f.b.i. is one of many that the police purr maintains in order to continue our primary goal to reduce crime and the fear of crime. My goal tonight is to provide you with information, to assist in your discussions regarding the Portland police bureau and its involvement in task forces such as the joint terrorism task force. We understand, and I understand and appreciate the thoughts, the concerns, and the strong feelings of everyone in regard to oversight and the police bureau's involvement with federal task force. It is my desire that we will be able to work together, with our community, and federal partners, to address the concerns and develop an agreement that will provide for the best possible approach to ensure the safety and security of the citizens of Portland. In closing, I would like to ensure the city council and the citizens of Portland that whatever the outcome we will carry out the directions set by the city council, and most importantly we will do everything within our means to protect and ensure the safety of the citizens of Portland. Thank you. At this time special agent in charge --

Potter: I'll introduce them, chief. Thank you. Our next person is the special agent in charge, f.b.i. for Oregon, Mr. Robert Jordan. Mr. Jordan?

Robert Jordan, Special Agent, Federal Bureau of Investigation Oregon : Thank you, Mayor. And thank you, Commissioners, for inviting me here to speak tonight. I've been here in the past, and

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I look forward to coming here tonight. The federal bureau of investigation places tremendous value on the continued participation of the Portland police bureau in our joint terrorism task force, as well as our violent crimes task force and our regional computer forensics laboratory. Portland police bureau personnel serve on these federal task forces with honor and distinction. They are our vital partners and they provide an invaluable communications and operational link between the police bureau, the f.b.i., and 15 other member agencies on our task forces. We appreciate your responsibility to ensure that Portland police bureau officers serving on federal task forces comply with Oregon law. We would like to discuss your oversight needs to more fully understand your concerns and we are hopeful that through appear informed, meaningful dialogue we can reach a mutually satisfactory accommodation. Regardless of what steps you take, we remain absolutely committed to providing the police chief and other officials any and all information needed to ensure the safety and security of the people of Portland. Again, thank you for having me here tonight.

Potter: Next speaker will be the united states attorney, karen immergut.

Karin Immergut, Unites States Attorney's Office - District of Oregon: Thank you, mr. Mayor, and thank you, commissioners. I appreciate the opportunity to come here and address this group. As you know, i'm the united states attorney for the district of Oregon, which covers the entire state. In that capacity, i'm responsible for protecting all Oregonians from federal crimes, as well as protecting their constitutional and civil rights, and I can tell you that when I took my oath of office to do this job I swore to do both of those things, and i'm committed to doing that. Again, i'd like to address this -- the -- this council, as well as you, mr. Mayor, about the recently-filed resolution about which applies to Portland police bureau's participation on federal task forces. And I wanted to speak briefly just about two topics. The first, the need for oversight and accountability, and secondly the importance for the community's safety of maintaining joint, federal and state task forces in the city. And finally, i'm going to ultimately ask you to possibly postpone a vote on this resolution, because I think that we have now a dialogue going that would be very helpful, where I think ultimately we can assure you, mr. Mayor, and the commissioners, that we can give you the level of accountability and oversight that we feel you need, and that you feel you need, in order to make sure the Portland police bureau's participation on the jttf, as well as other federal task forces is in compliance with Oregon law and is appropriate. First i'd like to emphasize that I fully glee that you, mr. Mayor, as police commissioner, need to be able to oversee your people on the police force. That's clear to me, and that's something that it's -- i'm committed to trying to reach that goal for you. It's my belief, though, that a secret clearance, which I understand that you may be in the process of applying for, that you can receive the level of briefings and the regularity of briefings that you will need to perform that oversight function that it's clear that you need. I've spoken with mr. Jordan about it and discussed that we could give you very detailed briefings, along with chief foxworth, about the kinds of cases that your officers are involved with, and of a level of detail that I believe would be sufficient -- that you would find sufficient. The reason I believe that in particular is because as we've had some discussions about, although the officers assigned to work in the f.b.i. space have a top-secret clearance, they actually only look at secret information -- or information that is at a secret level. So that the distinction between the top-secret clearance and the secret clearance actually becomes a distinction without a difference in terms of the information that's actually available to those officers. And even that holds true, not only for the task force, the bank robbery task force or violent crimes squad, as well as the other task forces that chief foxworth spoke about, but that's also true with the jttf, that they are -- all of the information that, as I understand it, that the officers have been involved with to date has been on the secret level or below, which would then allow you still to have access to that information. In addition, I think we can also assure you a sufficient protocol that your officer, and work with you to develop a protocol that you would find acceptable to make sure that your officers are not subjected to top-secret information, but also that the work that they do is in compliance with Oregon law. And that's something that I know mr.

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Jordan is committed to working out, some kind of a protocol with chief foxworth and with you, mr. Mayor, your staff, that I believe would assure you that those laws are not violated. Now I can also say that in terms -- in response just to commissioner leonard's comment about what the federal government allows us to do in terms of investigating people based on first amendment rights, actually the federal regulation that we operate are actually almost identical to the Oregon statute that prohibits collection of information on people based on their first amendment rights. What the jtff works on are all matters relating to criminal violations. They don't work on matters that are solely based on people's first amendment -- the exercise of people's first amendment rights. But again, that's something we could discuss further and describe for you those regulations and how the jtff operates, which I think, again, would give you a level of comfort that I think you deserve to have and, you know, you could ask any questions about that that you would have. Also in terms of accountability, it's important to recognize that the courts provide a very significant level of oversight. Virtually every significant step that we take in investigation is reviewed by a court, whether that's a search warrant, wiretap, material, witness warrant, those are all took place, if you will, that must be reviewed by a court, and the court must make a finding that there's sufficient evidence for us to take any of those investigative steps. I'd also like to talk just briefly, and although chief foxworth has covered this, about the importance of the joint task forces that we have. For decades task forces that involved state and federal enforcement and local enforcement agencies have been proven to be a very, very effective tool, not only because it allows us to leverage resources, which obviously in tight fiscal times is critical, but also the expertise and the -- the intelligence of the various agencies. And I can tell you that the Portland police bureau, as the biggest police agency in the state, their involvement in these task forces, and their knowledge of the streets and the people here in Portland is invaluable on any of these task forces, and frankly makes the public, both in Portland and the rest of Oregon, safer when they participate in any of these task forces. Now the resolution that's being proposed appears to affect all federally-directed task forces, not just the jtff. And that's also important to keep in mind, because obviously the jtff has developed a controversy of its own, whereas these other task forces, I don't believe, have ever been cited as being particularly controversial. As chief foxworth mentioned, there's the violent crime task force, which investigates bank robberies, kidnappings and other violent crimes, the regional computer forensics lab which performs forensics analyses in connection with identity theft, child exploitation, sexual predators, among other things, and then there's the jtff. In addition, Portland police bureau officers are assigned to a d.e.a. task force, which has proven effective on large-scale methamphetamine cases, and also an a.t.f. task force where they work on domestic violence with firearms and armed criminal cases. Certainly those are task forces that are very, very important. My office has done very insignificant prosecutions out of all of those task forces, and we would hate to see the integrity of those task forces dismantled because we can't arrive at a solution we can all live with. Finally, I appreciate that you, mr. Mayor, and the city council members, have afforded me an opportunity to meet with you about the proposed resolution. I think that the communication is very useful, and I would like to have more opportunity to work with you, and actually try out some of the briefings, and make sure that you feel that you're getting the kind of information that you need for the oversight. So that's why I think that deciding on this particular resolution right now is essentially premature, because it may lock us into positions where I think we might be able to come up with something, again, that I think you would find satisfactory, without -- without the resolution as it is now written. Again, I appreciate your need for the information. And I appreciate the opportunity to be here to both answer questions, but also to state my position. Thank you.

Potter: I'd like to -- excuse me, go ahead.

Saltzman: I guess i'd like to ask the u.s. attorney. I sense from commissioner leonard's statement, but there's been an important but subtle shift in our position here, that we're now willing to have our officers on the joint terrorism task force have a security clearance rather than a top security

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clearance, and afford that same clearance to our police chief and to our mayor. Is that an acceptable outcome?

Immergut: The only problem, as I see it, now is that those Portland police bureau officers have a top-secret clearance because they're colocated at the f.b.i. and apparently f.b.i. policy requires that anybody who has free access, 24-hour access to an f.b.i. facility have top-secret clearance. Although they wouldn't be looking at top-secret information, but having access to the facility requires the top-secret clearance. And again, I should say that this is -- we've come a long way from the old days where there wasn't the kind of information-sharing that we now have. And there's a complete reciprocal information-sharing and it's a big step forward, frankly, to allow local officers to be located at a federal site. So that's what you would lose. They couldn't be at the site without a top-secret clearance.

Saltzman: But they could still be part of the task force, but for actually entering the f.b.i.'s facility?

Immergut: They couldn't be unescorted, which would essentially make them not the same level of membership, if you will, on the joint terrorism task force, or the other task forces.

Leonard: Can I follow up on that?

Saltzman: Well, let me finish here. I guess the other issue that has come up in the discussion that's been ongoing is the issue of who determines what information, under the rubric of secret clearance, the mayor or police chief has the right to know. And I guess it's under the whole rubric of need to know. I guess that's an issue, too. So how can we be assured, if we were to move to some level of a reduced clearance for our officers, afford the same clearance for the chief and the mayor, that there won't be unilateral determination of this is what you need to know and no more? How do we have that two-way -- is that what you're suggesting, by having this period of negotiation, is to try to define the parameters of what the ground rules would be for that need to know?

Immergut: Yes, commissioner Saltzman, because I think right now we're talking more in hypotheticals, whereas if we actually had the opportunity to provide the mayor with some briefings, then it depends what the questions are, I think, in part. I mean, what we can provide the mayor is of a significant level of detail. If there are other questions that we get to the point that simply can't be answered because it's so sensitive -- or the information is so sensitive that there may not be a perceived need to know, I think we reach that point and make a determination at that time. But I think there is --

Saltzman: You're willing at this point to have a discussion with the mayor about these parameters, as well as other issues, our participation in the jtff?

Immergut: Absolutely, absolutely. I believe chief foxworth could probably attest to the level of briefings that he's received so far and whether he feels that's been sufficient for him to perform the oversight of his Portland police bureau officers as well.

Saltzman: Ok, thank you.

Leonard: If I could follow up on that.

Potter: Commissioner Leonard.

Leonard: Thank you very much. I've appreciated it since you've become involved in these discussions, because you've been a breath of fresh air and have been very clear that you want to find a resolution, as do I, but the point that commissioner Saltzman raised, I'm just not quite understanding why -- because the resolution is not drafted to say that the mayor, as has been unfortunately mischaracterized by some, that the mayor and police chief need to have top-secret clearance. It says they need to have the same level of clearance. It was drafted specifically that way for the reasons we're having this discussion right now, recognizing that two things could happen. Either the mayor's clearance could be increased to top-secret or the officers assigned could be reduced to secret. From what you're saying, my understanding is that the officers involved really it's a question of whether they're housed at the f.b.i., not whether they could be involved in the task

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force. So I guess i'm not quite understanding why passing a resolution as is wouldn't allow for those discussions to continue with the resolution adopted, understanding that from a statement that you made, is they have never -- these officers have never been involved in any top-secret investigation up to now. So I don't understand the significance of this issue.

Immergut: Commissioner Leonard, as I see it the difference is really the colocation issue.

Leonard: Right.

Immergut: And you're correct, that it's clearly the resolution does state just the same level of clearance.

Leonard: Uh-huh.

Immergut: Again, if we want the officers collocated at the f.b.i. space, again, that would be the regional forensic lab, which you couldn't probably have Portland police bureau participate if they're not actually at the site where the computer facilities are, that -- and same with the bank robbery squad. Part of it is the onsite information sharing, the immediate access. There's a real benefit. I think if you speak to the law enforcement officers involved, that there's a real benefit, and perhaps one of the biggest benefits of the task force concept, is to actually be located at the same site. And that's what you would lose, because they are at the f.b.i.'s site, even if they don't have access to the information, because they're located there they have to have top-secret clearance.

Leonard: I've understood that throughout this discussion. The part that disturbs me is that some on your side have characterized this debate as to why Portland needs to participate in the jtff, when it more accurately should be why a Portland officer should show up to work every morning at f.b.i. Headquarters, not whether we should participate in the jtff. Because the issue for me consistently has been we should participate and cooperate on the jtff. I believe that there's a means by which we do that, respecting the concerns you've raised and respecting the city and our chain of command. And I guess -- I guess i'm not clear why we wouldn't go ahead and adopt the resolution, make our policy clear, and work towards precisely what you're talking about. The only thing I want to mention was that -- and I appreciated you saying that you, too, swore to protect the constitution. The only distinction I would make is your oath is to the u.s. Constitution, not to the state. And I understand that. But that's not in dispute here. I mean, we're not questioning our officers not following the u.s. Constitution, as our own state constitution and statutes that i'm trying to draw -- i've been consistently trying to draw the distinction on, that the concern is around. It's not whether the f.b.i. complies with the u.s. constitution or not, or our officers. That's not in question. It is our own constitution, our own state laws. And again, thank you for your involvement. It's been very helpful. I've just sensed a big change since you've become involved.

Immergut: Thank you, commissioner.

Potter: I have a question for either you or mr. Jordan. Some of the task forces have oversight committees or groups, and I was advised by mr. Jordan that as the mayor, and even with the secret clearance, I would not be allowed to participate in that oversight committee. I was wondering why.

Immergut: I believe mr. Jordan might be better able to respond.

Potter: Ok.

Jordan: Well, right now the joint terrorism task force executive board is comprised of the folks who are full-time law enforcement executives, which would be chiefs or sheriffs, and heads of federal agencies, special agents in charge, and some representatives from the intelligence community. And we haven't had an elected official on that, and that was of interest to the mayor we could pursue that.

Potter: I'd like you to know that i'm a full-time police commissioner. And I am concerned about that. That's one of the issues I think that we can discuss. I'd like to thank both of you for coming in tonight and giving us your points of view. I respect those points of view. I'm sure that over the

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next few weeks we're going to have some conversations and see what we can do to clarify the position, if there's a way to negotiate a conclusion to this. Thank you very much.

Sten: Mayor, one short question. I do want to say particularly in the spirit that the mayor asked people to follow this hearing, that I have seen a lot of work by the u.s. Attorney's office, and I appreciate that. I do also want to say that -- i've had a lot of concerns over this over the years -- that several years ago the position was that we could have no oversight whatsoever. And I think there has been a move. And I recognize special agent Jordan has been working on that. I want to put that on the table. I think it's important, particularly as we continue to argue on these issues. I guess I just want to ask a direct question of u.s. Federal policy, that I think I need to understand, before I can make up my mind, which is -- and I don't want to be long-winded, but particularly given your testimony tonight, which I buy, I think this is for the u.s. Attorney's office, that in this case we may be talking about a distinction without a difference in terms of secret versus top-secret. The question then is why is the federal government opposed to the mayor having that clearance?

Immergut: I think here we have the unique situation where the mayor is also the police commissioner, which makes it a little bit different from the hundreds of other mayors around the country. In general, the top-secret clearance, you don't -- as I understand it, and I may not be really the best person to answer the question, but as I understand it there has to be a need for a top-secret clearance before f.b.i. Headquarters will offer a top-secret clearance. And because there's not the information need for it in this case, they just don't give out top-secret clearances. I don't know if mr. Jordan has more to add than that.

Jordan: I will say that from my own review of how we handle top-secret information in the office, I can tell you that the files that the Portland police officers assigned to the task force, those files that they've been assigned to, none of them have had top-secret information. So I believe that they could brief up all the information they're exposed to, which would be secret, and their top-secret really resolves around their unfettered unescorted access to our space, which I think makes them full partners in the task force. So that's kind of the reason behind it. You know, that's --

Sten: I guess one more question for the u.s. Attorney's office. I want to get to the public testimony. But this is -- I need this to help frame my thinking on this tonight. I mean, what I hear you saying, and please correct me if I misinterpret it, is essentially we're dealing with a matter of federal policy, that you cannot offer the top-secret clearance. At the same time we have to trust that although our officers can see something if it's offered, that the mayor cannot, that you may -- that they won't. So I guess my real question to you is, given that I think it's -- I think it's pretty unarguable, the basic premise, that the police officers ought to be -- police commissioner should be what the officers see. I don't think I should see it. We're not arguing for a broad run here. Is there anything you can bring us in terms of a federal willingness to revisit this? Because I think this policy has run out of steam. I don't think this will be the only place in the can you please that this becomes an issue. It seems rather than have a debate in which I think we've got a great point, but you can't respond, we need to find some way to have this conversation. Is there anything you can bring us to say that if we were to take the position that we're going to keep working on this, that the federal government is interested in working on it, beyond just -- it sounds to me the pitch is convince the mayor he doesn't need the same clearance. Frankly I don't think that's going to work. How do we get to a middle ground?

Immergut: I can tell you that it's -- actually I have nothing to do with granting the clearances.

Sten: Well, you get my question.

Immergut: Yeah, I get your question. Certainly that's something we should discuss. Again, you know, the mayor is police commissioner here, and we recognize that. In terms of top-secret clearance, very few -- for example, in my office, I think only about five people have top-secret clearances, but otherwise everything we do is on a secret level or below. So it's not necessary, but I know that they're not handed out with any degree of frequency nationally, but I can't really address

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the national policy. It's something certainly -- I would say it's within the parameters of what we should be discussing. I'm not prepared now to say what --

Sten: I just have to assume that preparing for this hearing, this has been discussed in forums back east. [laughter]

Jordan: If I could respond to that. As I mentioned earlier, the officers haven't seen any top-secret information.

Sten: I get that.

Jordan: I would guarantee the council that in the event they were to see top-secret information, it would have my assurance that I would intercede with the mayor as police commissioner to try to either get an exemption for purposes of that case or that information, or if that was unsatisfactory just ensure, guarantee, the mayor that the officers would not work on that. I might also add, as some degree of assurance here, that it not a secret of any kind that somebody's seen top-secret. I'm certain the mayor, his role as police commissioner, or the chief, would be able to ask the affected officers "have you seen this stuff?," and they would be in a position that they'd have to answer truthfully. Because it's not an issue that they've seen it. But I can say that since the inception of the task force in 1997, I can find no record that they've seen any of that. And without going into a whole lot of detail relative to my own role, that stuff is rare as hen's teeth, and so I wasn't particularly surprised that the officers hadn't seen that.

Sten: Thank you.

Saltzman: Does the mayor of New York or the police commissioner of New York have a top-secret clearance?

Jordan: I don't know that. I don't know that.

Saltzman: What about the mayor of Washington, d.c. Or the police chief of Washington, d.c.?

Jordan: I don't know the answer to that.

Saltzman: What would you guess?

Jordan: Well, you know, I don't like to guess about something like this. I mean, I know that the new york city police department has this hundreds of folks assigned there as does Washington, as does the Washington metro p.d.

Saltzman: With top-secret clearances?

Jordan: Yes, I believe so. But I don't know the answer to that. I don't want to represent that I do.

Saltzman: I take it you don't know?

Immergut: No, but that's something we could obviously find out.

Adams: If I could ask one to provide an observation and maybe ask a question before we get on to the testimony, and i'll try to be brief. I think we can make a case that the city of Portland, with our commission form of government, where the day-to-day administrative responsibilities for the police reside ultimately with the commissioner in charge, who at his or her delegation can give the police chief as much day-to-day delegated responsibility as he or she wants, that we are unique among city governments across the united states, and that whatever concerns that you have about, if you open it for top-secret clearance for our police commissioner, you'll have to do so for everyone. I think that there is an argument to be made that could allay your concerns. Having said that, however, I don't think it's necessarily a bad thing that police chiefs across the country have access to top-secret clearance, but we're dealing with Portland, the Portland city council. The other clarifying question I think is for you, the u.s. Attorney. Since we first started participating in the joint terrorism task force, arguably the federal government has passed legislation that I think takes it further away from our state laws, the u.s.a. Patriot act includes provisions, including section 215 that allows for searches with no judicial review, section 213, you can search someone's office without having to necessarily tell that individual, section 505, disclose internet use without judicial review, and section 412, noncitizens can be detained without judicial review and are. So for me, it underscores

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the need, since our relationship first began in the jtff, to provide for -- and again, I think it goes further away from our state law -- the need to provide heightened security clearance for the police commissioner, who in this city will always be elected. And if they screw up, we can vote them out.

Immergut: Commissioner Adams, I appreciate -- and it's too much to get into a kind of a discussion of the various provisions of the patriot act obviously in this forum. Again, whether something is conducted under the -- I mean, the patriot act provision or not, that still would be typically of the secret level. So I'm not suggesting the mayor shouldn't know the information. I'm simply saying that he can have the same information, but not --

Adams: I guess if I could the federal definition of criminal predicate has become even more different than our local definition of criminal predicate. And I guess I appreciate your reaction, but just to summarize my concern it leaves me wanting even more oversight, the kind that the police commissioner in this city is asking for.

Saltzman: Can I ask chief Foxworth a question?

Potter: Sure.

Saltzman: Chief Foxworth, I'm just curious, do you feel a scenario where our two assigned officers to the joint terrorism task force had a security clearance as opposed to a top -- secret clearance as opposed to a top-secret clearance, perhaps meaning they can't necessarily operate within the facilities of the f.b.i., you already have the clearance, I guess, affording that same clearance to the mayor, and perhaps then negotiating about the need to know parameters, do you feel this is -- would hamper our ability to participate effectively in terrorism-related activities, or fighting terrorism-related activities?

Foxworth: Commissioner Saltzman, it's my opinion -- and I participated in different task forces as well -- that the most effective and efficient way is to be able to be there, working side by side with members of the task force. That being said, I think we could go back and we could look at, are there other ways that we could do things different and still participate in jtff and if our officers were not colocated there at the jtff offices, how would that work. And I think we'd have to go back and have further discussion about that.

Saltzman: Ok.

Leonard: I did have one more question and I'm done.

Potter: Yes.

Leonard: I was hoping that special agent Jordan was going to respond to my opening comment, when I quoted you a couple times. I'm interested in your response to that. The one quote had to do with the example you used of undocumented aliens getting off a ship in Portland and using the resource of the Portland police bureau to conduct that investigation. And I have cited the statute in Oregon that is even different from the one the u.s. Attorney talked about that is probably analogous to your own procedures with respect to respecting political activities, but this is an immigration statute that prohibits any Oregon officer from not just investigating, but using any resources. So the example you used seemed to be in clear violation of Oregon law. What's your response to that?

Jordan: We've actually had this issue done as a hypothetical, but it's actually happened where we've had case wherein -- on a couple of different scales. The officer assigned have turned to the supervisor of the task force at that level and said "you know, this lead that's come in, I'm not sure I can be involved in this," and they exited.

Leonard: That's not the question I'm asking. The question I'm asking, specifically you said as one of the examples as to the need for Portland to participate in the jtff, is to have local officers available and their equipment in order to pursue a lead of two undocumented aliens jumping off a ship. The example you used on its face is a violation of the statute I cited. I'm just curious in your response to that. I mean, I get your other point, but that's not the question I'm asking.

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Jordan: Well, I can tell you that when the chief has told me that -- you know, on occasions he said "here's a case you have that we shouldn't be involved with," that discussion has been very short. I say "I understand that, chief, no problem." we go on without them.

Leonard: Have you used officers in this way, the example you used?

Jordan: No, not that particular example. It's a hypothetical.

Leonard: Thank you.

Potter: Other questions? Thank you.

*****: Thank you.

Potter: Chief, I understand you folks have to leave. But i'd like the chief to stand by.

Leonard: Thank you.

Potter: You can return to your seat, chief. I just want to make sure you're in the neighborhood.

*****: Not going anywhere.

Potter: I've invited the American Civil Liberties Union to address this body. Could you folks please come forward?

Andrea Meyer, American Civil Liberties Union of Oregon (ACLU): Good evening, Mayor Potter, commissioners. Andrea Meyer, the legislative director for the ACLU of Oregon. We support this resolution. We applaud your efforts to ensure that the city will be both safe and free. At the same time local and federal law enforcement officials are taking all necessary steps to make us safe, this resolution will allow our city to provide the necessary local oversight to ensure that our local officers comply with Oregon law and Oregon constitution. This resolution sets forth the very same oversight that currently is provided all other Portland police bureau activity. Indeed, the oversight requirements set forth in this resolution are identical to the level of oversight put in place in Portland because of past violations of the Oregon law that prohibits police spying on lawful religious and political activity. That Oregon law, O.R.S. 181.575, was adopted in 1981, largely because of the widespread political spying which was carried out in the 1960's and 1970's by the Portland police bureau. Those abuses were directed at the ACLU of Oregon and hundreds of other local organizations engaged in lawful political activity. Portland established a level of oversight through the chief, the mayor, and the city attorney to make sure we never go back to the days of political and religious spying. We now know that the FBI has used the JTTF's across the country to spy on political organizations and religious and peace groups with no evidence of wrongdoing. We have documented this activity in Missouri, Kansas, Iowa, California, and Colorado. As part of an effort to understand the activity of our local JTTF, the ACLU of Oregon filed a Freedom of Information Act request in the beginning of December on behalf of 17 individuals and organizations representing the peace, Muslim, environmental, and animal rights communities. We have just been informed -- I have directly been informed -- that while there are no records on a few of our clients, the FBI, the Joint Terrorism Task Force of the FBI, does have documents responsive to our request on at least eight, but possibly as many as 10 of our clients. And we know that for one client the file is 227 pages long. We don't have the information yet on our other clients. Until we receive those files, it is premature to speculate as to the contents for a number of reasons, though, we believe that it is highly likely that the contents would violate Oregon law if they had been collected or being maintained by an Oregon police agency. It is important for the council to recall that former U.S. Attorney General John Ashcroft significantly weakened the attorney general guidelines for terrorism investigation in May 2002. I believe Mr. Fadenke will discuss this more. But as a result federal agents can monitor lawful political and religious activities, even when there is no suspicion of criminal activity. It is just that type of abuse that the federal guidelines were originally intended to prevent and which are prohibited under Oregon law. It is not the job of the FBI and the U.S. Attorney to monitor compliance with Oregon law as part of their oversight of JTTF police officers. It is the job of the mayor as commissioner in charge of the bureau and the city attorney to provide that oversight. Indeed, in 1996 a court in Portland ordered that level of review after the city was found

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to be in violation of the Oregon law. It required the city attorney to review the activities and files of Portland police intelligence officers, the same officers who operate as the jttf officers, to ensure that these violations do not happen again. It is crucial for the city attorney, not only to review the activities of the officers, but to be available to provide the consent and advice to ensure that they indeed comply with the Oregon law on the front end. While the federal government is relying more and more on local law enforcement agencies to carry out its mission, the justice department has been obsessed with maintaining an unprecedented level of secrecy. The city is right to insist that this shroud of secrecy should not be allowed to prevent elected officials and the city attorney from doing their jobs of ensuring that city employees comply with Oregon law and the Oregon constitution. The city should not be required to abdicate its oversight responsibilities as a condition of its cooperation with the federal government. This resolution will help ensure that the city meets its obligations under Oregon law and makes it more likely that everyone who lives, works, and visits our city remains safe and free. We urge you to pass this resolution tonight. Thank you. [applause]

Potter: Remember the hands.

David Fidanque, Executive Director ACLU: Thank you, mr. Mayor, commissioners. I want to begin by applauding the leadership of commissioner Leonard and you, mr. Mayor, in bringing this resolution forward. The ACLU has been talking about this oversight issue with city staff and members of the council since before 9/11, when we first became aware that the city was involved with the jttf. So we're very pleased to be here once again to address this important issue this evening. Some of your constituents have questioned the need for this resolution. In essence, they argue that the city should have faith that its officers and the police bureau can be relied upon to comply with Oregon laws and the Oregon constitution in carrying out their activities on the jttf. Others have argued that the threat of terrorism is so great that we should sacrifice essential safeguards designed to protect innocent people from being subjected to surveillance and investigation by the jttf. Indeed, congress and the Bush administration have greatly weakened the safeguards that had historically been in place since the 1970's at the federal level. This council is already on record, urging Oregon members of congress and our senators, to exercise greater oversight over those powers granted to the executive branch by the U.S.A. Patriot Act and other developments since 9/11. The council passed its resolution calling for reform of the Patriot Act unanimously on the same day that you last considered the city's participation in the jttf in October of 2003. Why is greater oversight by the mayor and city attorney so important? The history of this country repeatedly has proven that when police operate in complete secrecy and without being held accountable, police surveillance does not focus on acts of violence and other illegal activity. I want to discuss for a second the changes that were made to the U.S. Attorney General guidelines by former attorney general Ashcroft. One of the most important changes was to allow federal agents and those acting as federal agents, and Portland police officers act as deputy F.B.I. agents when they are serving on the jttf, to be able to go any place that a member of the public can go, even if there is no evidence of unlawful activity. Those activities directly would violate the Oregon law that has been cited here tonight were those activities to be carried out by Portland police officers. U.S. Attorney Immergut also mentioned in trying to allay your fears and your concerns that you would be able to have access to the same kinds of information that the Portland police officers who are members of the jttf would have. I just want to point out one provision of the U.S.A. Patriot Act that was greatly expanded when that law was passed by congress, and that's the provision related to national security letters. I think it's section 505, commissioner Adams, but I'm not positive. That law prohibits any person who has knowledge of a national security letter order from disclosing the existence of that order to any other person unless it is necessary to produce the documents that have been ordered by the F.B.I. Special Agent in Charge. There is no judicial supervision before national security letters are issued by special agents in charge of the F.B.I. The ACLU has filed a lawsuit

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challenging the constitutionality of that provision, which we won in the trial court, and is now on appeal. And I mention that lawsuit, because for the first three weeks after that lawsuit was filed the aclu lawyers could not disclose, even to aclu staff like me, that they had filed the lawsuit, because the justice department insisted that even disclosing the fact that the lawsuit had been filed would violate the security act. So I just want to emphasize we believe that it is absolutely critical that you have the same level of security clearance as the Portland officers. And we believe that ought to be top-secret clearance. So you can really know what your officers are up to. A report in today's "the Oregonian" confirmed for the first time that the extraordinary powers of the patriot act were used in the investigation of brandon mayfield to secretly break into his family's home. During those searches, copies were made of computer hard drives, d.n.a. samples were obtained, and federal agents took hundreds of photographs. I assume it was federal agents. We don't -- we certainly don't know. I don't know if you do, mr. Mayor, or the other commissioners, the extent of the involvement of the Portland police officers who were -- who may have been involved in the mayfield investigation, or whether they were involved in that investigation. Mayfield, of course, was later proven innocent by spanish authorities of any involvement in terrorist activity. In addition to the mistaken fingerprint evidence that originally led to the f.b.i.'s suspicion of mr. Mayfield, court records released at the time of his exoneration by u.s. District judge jones showed that the f.b.i. affidavits that led to later searches and seizure of evidence from mr. Mayfield's home and law office included evidence of his probable guilt that was as damning as the mosque that he attended, and at least one of his law clients that he had represented in a child custody dispute. I know you all recall many of the abuses carried out in the distant past by the f.b.i. and the police bureau's intelligence division, but I have brought with me tonight copies of the files that were gathered on the aclu of Oregon beginning in the 1940's, and that continued well into the 1980's, even after the passage of the Oregon law that prohibits police spying on lawful political activity. This is the aclu's f.b.i. file that we obtained under the federal freedom of information act in the 1970's. Among other things, it included membership rolls of the Oregon aclu. It included reports from informants on what took place in meetings of the aclu. And much other information, none of which showed any involvement in illegal activity, I might add. I hope you're not surprised by that assertion. [laughter]

Leonard: A little bit, a little bit.

Fidanque: The Portland police bureau disclosed to my predecessor, stvie remington, in the 1970's, that indeed the intelligence division also had files on the aclu. And I brought that file with me this evening as well, a copy of that file. It includes lots of information, mostly news clippings, but some other information that we might have considered confidential.

Leonard: What was the date of that, david?

Fidanque: That was 1975.

Leonard: Any notations from an officer Potter? [laughter]

Fidanque: Not that i'm aware of, commissioner leonard. We were assured by the police bureau and the mayor's office at that time that this was the entire aclu file and that anything that we were not given was destroyed and that the reason we were not given it was because it included information on sources and methods of intelligence, which is the usual out for turning over information. In 2002 the "Portland tribune" by other means came upon archival files of the intelligence division that had been secreted off the premises of the intelligence division at the time then police chief penny harrington gave instructions to disband the division. One of the overzealous officers involved in the intelligence division at that time decided to take all of the files out of the office and take them to a barn on some property that he had in east Multnomah county. "the tribune" was given those files, and this is that file. And in this file is material that preceded 1975, that was not turned over to us, and obviously was not destroyed, as well as material that was gathered after 1975 by the intelligence division in direct contravention of the guidelines that had

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been adopted by the chief of police in 1975. I remind you of all of this because they are evidence of how precious law enforcement resources can be squandered when police investigations focus on the innocent instead of the guilty. They're also evidence of the importance of meaningful oversight by not only the police chief, but also the commissioner in charge, and the city attorney of the activities of Portland police officers. The safeguards in Oregon law and in our constitution are designed to keep law enforcement officials on the right track, especially when political pressures are intense to cut corners and undermine basic freedoms. The resolution before you tonight is essential to help you do your job of protecting everyone important. We strongly urge you to approve it tonight.

Thank you.

Potter: Thank you.

Saltzman: A question?

Potter: Yes.

Saltzman: So if we provide -- if we pass a resolution or otherwise through some negotiation provide the same access and clearance to the chief of police, commissioner in charge, and city attorney, does that mean you support our participation in the joint terrorism task force?

Fidanque: Commissioner Saltzman, we will still have concerns about city involvement in the task force, but there's no question that this would be a major step forward in having meaningful oversight, if it's implemented as we hope it would be.

Saltzman: So that's kind of a yes, I guess? I mean I guess I met with -- I got a pretty definitive answer that that would be --

Fidanque: Let me elaborate. We have always supported cooperation between the city and federal law enforcement agencies in terrorism investigations. Our concerns rely around this dissidence between the lack standards that apply to federal agents compared to the more stringent standards that apply to the Portland police bureau, and other state and local police in Oregon. We have always been concerned that if -- if police bureau and other state and local officers work side by side with federal agents, creating files that are f.b.i. files, there that will be violations of state law and the state constitution. I don't think anyone can tell you tonight that passage of this resolution alone will ensure that there would be no violations of Oregon law and the Oregon constitution by police bureau officers, but it would be a major step forward to have meaningful oversight from the mayor and the city attorney. And that is desperately needed.

Saltzman: Ok, thank you.

Potter: Other questions? Thank you. From this point forward, because of the large number of people who wish to testify, i'm going to impose a three-minute time limit. So please contain your comments to three minutes. Karla, could you please read off the names on the sign-up list.

Moore: Come up three at a time.

Potter: Thank you for being here. Please state your name when you testify. You have three minutes.

Henry Sakamoto: My name is henry sakamoto, representing the Portland chapter of the japanese american citizens league. Mayor Potter and city council members, thank you for the opportunity. We support the proposed resolution to enable oversight of the Portland police representation on the joint terrorism task force. These are the reasons -- history shows that the united states government has violated the civil rights of its citizens from the time of the civil war. It is a fact that the civil rights of united states citizens have been violated by the administrations of the united states patriot act. Through its oversight, recent rulings by the united states criticized our government's actions under the patriot act. On june 28, 2004, the supreme court ruled that the president of the united states exceeded his power by jailing "enemy combatants" indefinitely without charges. In another ruling, the supreme court said that an american citizen seized in afghanistan in 2001 was entitled to a meaningful opportunity to contest the factual basis for his incarceration. In support of these rulings, justice sandra day o'connor wrote "a state of war is not a blank check for the president when

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it comes to the rights of the nation's citizens." she also invoked what she described as a stain -- a stain on the united states record for the world war ii detention of japanese americans. I am an american citizen of japanese ancestry, and I was interred by the united states government. The rulings by the supreme court just cited are the benefits of the oversight of governmental actions. Oversight serves to protect the civil liberties of united states citizens. The world war ii detention of japanese americans is a tragic example of the absence of oversight and review. When the government of japan attacked -- attacked pearl harbor on december 7, 1941, the f.b.i. Immediately began arresting legal resident japanese aliens. The f.b.i. worked from earlier prepared lists, naming leaders of the japanese communities, those arrested were not charged with a crime, and the arrests continued on december 8, and on throughout the week on the west coast. There was very little criticism of these f.b.i. actions from a compliant public, the compliant press, and the compliant political leadership. It would have been politically incorrect to do so in the wartime atmosphere. By may 1942, the united states government had imposed nighttime curfews, imposed travel restrictions, conducted searches of private homes without warrants, and evacuated and interred 120,000 persons of japanese ancestry from the west coast. The pretense was that of wartime necessity. There was no oversight of these violations of civil rights as we left our homes and properties to be put behind barbed wire fences. We were not charged with a crime. We were denied due process. There was no oversight until 1980 when a congressional commission was created to analyze this, to see the internment was justified by military necessity. Its report in 1983 repudiated the pretense of military necessity as a reason for the denial of constitutional rights. The commission concluded that the reasons the united states government caused the internment were race, prejudice, wartime hysteria, and a lack of political leadership. We support the leadership demonstrated by your resolution. Thank you.

Potter: Thank you, mr. Sakamoto.

Scott Sakamoto: Mayor Potter, council members, my name is scott sakamoto, the vice governor of Oregon for the pacific northwest district council of the japanese american citizens league. Tonight i'm representing the Portland chapter of the japanese american citizens league, founded in 1929, with roots in Portland. Our organization is the largest and oldest asian civil rights organization in the country. Today I can proudly testify that we're in support of the proposed resolution that will provide reasonable and meaningful oversight to the Portland joint terrorism task force. As you heard from my father's testimony, he and thousands of other citizens and residents of Portland in the 1940's were victims of a system that violated their civil liberties without due process. Ours is a nation governed by checks and balances. Though it is vile to our security that we -- vital to our security that we apprehend those who would destroy us, it is equally vital that we provide safeguards against having innocent people targeted, spied upon, and harassed by law enforcement and our government. We realized that these are modern times and with it a new era of vigilance toward the protection of our great country's heritage. And the history of protecting our rights and liberties as american citizens are even more paramount today. While in office, as you've heard, attorney general john ashcroft, slipped away protections in place since the 1970's that were adopted to prevent political spying and other abuses carried out extensively by the f.b.i., c.i.a., and other federal agencies in the 1940's through the 1970's. These revised gals from attorney general john ashcroft allowed the government to spy, even when there is no suspicion of wrongdoing. Portland police officers should have no connection to such broad investigative techniques, but as members of the joint terrorism task force they very likely will. There must be meaningful oversight of the access of the members of the Portland joint terrorism task force. That is why the japanese american citizens league is in favor of your resolution. We must establish a forum that allows us to hold the Portland police and joint terrorism task force accountable to its deeds and methods. We must have the means to ensure that our basic civil rights, the rights on which this country was founded, are not

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attacked in the name of protecting citizens from harm. I applaud your leadership and thank you for listening to our -- the concerns of our community. Thank you.

Potter: Thank you, mr. Sakamoto.

Jan Wolf: Mayor Potter, and council members, I'm Jan Wolf representing the League of Women Voters of Portland. Over its 85-year history the League of Women Voters has developed a set of fundamental principles upon which we act. Two of those principles directly relate to the city's relationship to the Joint Terrorism Task Force. The League promotes an open governmental system that is representative, accountable and responsive, and that protects individual liberties established by the Constitution. Furthermore, it promotes political responsibility through informed and active participation of citizens in government. These principles have enabled us to come before City Council to share our concerns each time this issue has come before you. As an organization that promotes political involvement, we value prohibitions on the collection and unlimited retention of police files on those engaged in political and other noncriminal First Amendment activities. Federal guidelines do not offer such protection. Oregon law does. In our view, without local oversight of our Portland police officers, it is impossible to know if individuals participating in lawful political or religious activities are benefitting from those protections. The F.B.I. is not responsible for ensuring our local officers comply with state law and asking our officers to monitor their own behavior is impractical and lacks accountability. This year we're pleased to be able to support the JTTF resolution under consideration. Designating the police chief, commissioner in charge of police, and the city attorney as the officials responsible for ensuring that our local officers are following state law will incorporate local accountability into the agreement. If the F.B.I. is unable to grant necessary clearances we support your intention to work with them on a case-by-case basis. Finally, we would like to thank you for continuing to ask questions, listening to community concerns, and keeping an open mind on this issue. It has been a long learning process for everyone as new information emerged each year on the workings of the task force. Once again, you have our support on this resolution, and we encourage you to pass it tonight. Thank you.

Potter: Thank you. Thank you for being here. You each have three minutes. Please introduce yourself by your name when you testify.

*******:** Why don't you go first.

Tia Plympton: To Mayor Tom Potter, Portland City Commissioners, good afternoon, good evening. My name is Tia Plympton, president of Portland N.O.W. The occurrence of diminishing liberties in our country is a significant and deep concern to the National Organization for Women. The Bush administration's undermining of the First and the Fourth Amendments, including such phenomenon as the F.B.I.'s preemptive interrogation over demonstrators has a chilling power over political speech. Such tactics have ushered an era of fear that has no place in America. Justice William Brennan said "we've always known, the framers have known, liberty is a fragile thing." N.O.W. is the largest feminist organization in America. Now's struggle for civil rights are best represented by local and direct action. These political actions taken by all N.O.W. members, female, male, child, are of great political freedom that is operational 24/7/365, not just on election days. To quell, omit, or minimize the voices of freedom and resistance is to create the idea that power only rests with those who have the wealth, possess the guns, who own the newspapers and television stations. Please vote to keep organized legal protests possible. The overbroad powers of the Portland Joint Terrorism Task Force suppress N.O.W.'s and people's power of expression. As was recently reported, America's intelligence agencies are still not sharing their information with each other. At the very least, this Portland resolution could set a national example and support of Mayor Potter's demand to share the privileged federal secrets with appropriate local officials. The National Organization for Women continues to oppose the city of Portland's participation in the Portland Joint Terrorism Task Force.

Potter: Thank you.

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Kayse Jama: Good evening, mayor Potter, commissioners. My name is Casey Jama. I'm a Portland resident and founder of the community language and cultural bank, a grassroots, nonprofit organization that aims to preach the linguistic and cultural boundaries in order to strengthen our collective struggle. I'm also a member of Alliance of Portland and Community Accountability, which is a local agency also who deal with law enforcement issues in Portland. I'm representing tonight APCA, and also as individual. I think the evidence of 9/11 has challenged in our community in many different aspects. Particularly Muslim community has been greatly affected. Upon the 9/11 event, the F.B.I. and the local federal agencies arrested hundreds, perhaps thousands, of immigrant and refugee community members across the nation with no connection of the activities that took place in 9/11. Those individuals spent more than 200 days in jail. Sometimes to clear their names, spending more than 200 days. Those individuals were not charged on a crime or are not connected to the evidence of 9/11. I think I'm here to support you on this resolution. I think this resolution clearly clarifies the role of the law enforcement agencies and also the elected officials. By you proposing this resolution, it makes clear that the law enforcement officials do not have higher authority than the elected officials. This is important to understand, because I myself as a refugee from Somalia, I lived under the state police state. Those issues are important, as I said, to understand, because it allows you, Tom Potter, the police commissioner, and the city attorney, to access and have a clearance for the files of the F.B.I. I think my time's up, but I think I want to encourage you and I want to show you that the Muslim community is supporting this resolution. Just a month ago I was planning to send my friend -- I took him to the airport. By him giving his I.D., showing that he has a Muslim name, the lady just collected the I.D.'s without saying a word, go back to her office, come back 15 minutes later without telling us why and what she was doing. The other citizens who were checking were not treated the same. So I encourage you to pass this resolution, because the treatment we're facing as a Muslim community in this country and this city, it's real for us. It's a matter of whether the law enforcement is breaking the laws, but we have our civil liberties. Thank you.

Dan Handelman: Good evening, mayor Potter and city council members. My name is Dan Handelman, with Peace and Justice Works and Portland Copwatch. This is the fifth time that we've come to express concerns about the Portland Joint Terrorism Task Force. It's gratifying to finally be able to express support for the city council's proposal, in this case the ability for the police commissioner, the chief, and city attorney to be able to review the work being done by their employees, particularly when civil liberties are in question. We need to be clear that the cooperation between the F.B.I. and Portland police can go on without a formal agreement to be part of the JTF, which requires the Portland officers to be deputized. Even if the F.B.I. grants the request, the city should consider assigning officers only on a case-by-case basis and when evidence exists that violent criminal activity is involved. Questions raised by the F.B.I., the media. It is because the activity of those officers is secret. As an example, our organization has been improperly spied on at least twice by undercover agents of the police bureau's criminal intelligence unit, the same officers who work with the JTF. The first time in 1992, an informant attended our general meeting and reported on our discussion regarding an independent police review board. The second time several officers attended a protest against the Clinton administration's bombing of Iraq. No hint whatsoever was made of criminal activity. After that, all we know is that the bureau held a small number of documents, about which -- about us, which it handed over to the city attorney after we filed a legal action. We have never seen those documents. In fact, the only reason we know about the first two incidents is that those documents surfaced when people were arrested on minor charges at events that were not related. The documents which came out during those criminal trials would otherwise not have seen the light of day. We can only guess how many other people and groups have files on them. In 1996 lawsuit based on the first spying incident, the judge directed the city to conduct regular reviews of these files for compliance with state law. Such local activity, but not joint

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activity with f.b.i., was subject to the judge's ruling, and supposed reviewed by the i.p.r. director and city attorney. Again we're pleased that council is demanding more oversight of the jtff's activities to get them more in line with our local standards. If the f.b.i. does grant you the clearances you requested, we hope some thought might go into how the city would act if the jtff is found to be wrongly investigating people. Would the subject of the surveillance be informed? Would the city then fully withdraw from the task force snow long as f.b.i. director jordan continues to insist there's no reason to grant security clearance to those we've elected to run our city, these questions might moot. The frightening implications of director jordan's reasoning are this -- if our elected leaders are having secrets kept from them and request the so-called terrorist really despise america because of its democracy, they might have already won. You don't wait till the f.b.i. comes after you to speak out. We he don't want to come to the point of writing letters to the newspaper or expressing opinions to your elected officials is enough for law enforcement to keep files on you.

Potter: Thank you. Thank you for being here. You each have three minutes. Please state your name when you begin your testimony.

Larry Tuttle: My name is larry tuttle. Glad to be here in front of the city council. Each time a resolution has been proposed to either continue or enable the participation of the city of Portland in a joint terrorism task force i've offered either written or oral testimony in opposition. I'm happy to say that my primary objections are dissolved with the proposed resolution before you today. When in fact we have a resolution and participation -- participation conditioned on limited security clearances for the mayor, chief of police, and the city attorney. I'm a founding director for the center for environmental equity. I recently awarded myself a 25-year pin for social justice and environmental advocacy. Like others, my advocacy has not always been popular, but I rely on elected officials and their designees, not the f.b.i., nor the u.s. Attorney, to assure that my rights to carry out lawful activities are not abridged. Oregonians witnessed at a front seat what happens when the u.s. Department of justice fails the public trust, mystifying to me more than anything else i've heard tonight is why the f.b.i. is not anxious to embrace the city of Portland resolution as a way to rebuild public confidence. Please adopt the resolution as it's proposed.

Leslie Hickcox: Commissioners, i'm leslie hickcox, speaking on behalf of the Multnomah monthly meeting of the religious society of friends. Quakers have been at the forefront of social justice movements since the 17th century. Quakers have participated in, among others, the abolition movement, the movement for women's suffrage, prison reform, the civil rights movement, and resistance to every war. Though our participation in these movements often placed us at odds with the federal government, the principles and social changes for which quakers worked are now seen as fundamental to our civil society. Despite our long history of commitment to nonviolent social change, members of our community have in the last several decades been subject to unwarranted and politically motivated investigation, and in some cases harassment by the f.b.i. we understand the need for the Portland police bureau to communicate and cooperate with the f.b.i. in investigating both threats of violence and crimes that have been committed, however we believe that a standing task force is a different matter altogether. We believe that the Portland police officers should not be deputized as f.b.i. agents and invested with the authority to investigate the political activities of Portland citizens. We are now -- we are additionally concerned that the task force is not subject to civil review. This city/federal agreement compromises the ability of Portland police officers to perform their most fundamental functions as peacekeepers and officers of the law. When the city entrusts police officers with responsibility for investigating and documenting the activities of local activists, it places these officers in an adversarial relationship with citizens engaged in the public exercise of their first amendment rights. The city thereby places additional stress on the relationship between citizens, the police department, and the city government. It is critical to remind ourselves moreover that our system of government is founded on a distinction between federal and state law, and in entrusting the Portland police with both the task force risk blurring the

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boundary between the two. In so doing, the task force risks undermining the primary function of the Portland police bureau to enforce Oregon state law. In the current climate of national anxiety, it is more incumbent upon us than ever to remain vigilant in protecting the democratic principles we hold so dear. We must not allow the terrorist attack of september 11 to diminish our commitment to democracy and to the civil rights and liberty that define it. Thank you.

Jim Cowing: My name is jim cowing. I'm here today speaking as the proud member of an embattled union, but my views are my own. First of all, i'd like to thank you all. I'm very pleased that you take seriously your oversight responsibilities. It's nice to know that a few of those that I voted for don't just sign off on whatever's waived under their nose when somebody yells war on terror. Washington D.C. could learn a few things from you guys. Washington views terrorism not as a well-defined dictionary term, such as the one that mr. Foxworth cited, but as a political label to attach to its enemies. Therein lies a great danger of special powers and task forces to fight terror. I'd rather not have our resources redirected by the likes of the f.b.i. From its birth the f.b.i. has used anti-terrorism as an excuse to disrupt grassroots political movements. In its early days the union organizers that went after were demonized as not only aliens and anarchists but also specifically as terrorists. Decades later during the Reagan years, the f.b.i. was still at it, stretching the definition of terrorism to ridiculous lengths so that it could be used to go after those speaking out about reagan's pals. Doubtless the misuse of the word continues. When the homeland security department was formed, bush took the opportunity to bust several unions so he could start stacking the deck at d.h.s. Indeed, all the national security agencies are being politicalized. Even the pentagon is busting unions. Bush has completely outlawed unions in iraq, and soldiers have been busting down doors, breaking up workers rallies and arresting their leaders. The excuse? Terrorism. What does all this have to do with you? The war on terrorism is fast becoming a war on workers, even here at home. I'm counting on you to protect my sisters and brothers from our enemies in Washington as well as from those we can all agree are terrorists. This resolution is a definite step in the right direction, that is toward accountability, but i'd prefer that we kept our funds and our officers under our own direct control, focused on our own priorities. Thank you.

Potter: Thank you. Thank you for being here. You each have three minutes. State your name when you start beginning.

Greg Peden: Good evening, mayor Potter, members of council. My name is greg peden with the Portland business alliance, 520 southwest yamhill in Portland. Thank you for the opportunity to speak to you this evening. This is obviously an enormously important and significant issue for our community and our country as a whole. I appreciate the leadership that all of you have shown in debating this issue in the public manner in which that it should be debated. At the Portland business alliance, we're proud of our local police force. We're also proud to be part of this community and this discussion and we're proud of the city council for bringing this to the forefront. Based on the conversation that I heard earlier this evening, the dialogue between city council members and particularly the u.s. Attorney, I think what I would ask each of you to consider tonight is a delay on this vote. I'm unclear, based on the dialogue, exactly what the next steps would be if we pass this resolution. And I think based on the dialogue that there's opportunity for resolution and compromise. I would ask that we keep negotiating, and that both sides continue a good faith negotiation and in a place where we can ultimately participate in the joint terrorism task force. Thank you.

Potter: Thank you.

Diane Lane Woodcock: My name is diane lane woodcock. I'm representing the alliance for police and community accountability. Otherwise known as the apca. I'm a longtime police accountability activist. And the apca appreciates the efforts of the mayor and other members of the council to bring forth this proposal, which lends a little bit of improvement toward oversight over the pjttf, however we urge you to go beyond this. We really urge the council to think about the participation

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of the Portland police officers in this task force. We believe that -- we understand that investigating acts of possible terrorism is very important, but we believe that Portland police can cooperate with the f.b.i., without being members of this task force. The problem is that this f.b.i.-led task force uses the attorney general guidelines, which permit preliminary inquiries. Please look at your these guidelines yourself. These go far beyond what Oregon law allows. Without oversight we cannot be sure that our officers are not using those same guidelines. Also, in san francisco, prior to 9/11, san francisco officers cooperated with their local task force without being official members. They sat in on meetings, they discussed investigations, but they were not officially part of the task force so there is already appear example out there without the need of deputizing them as special agents. This allowed the san francisco independent review board to provide oversight of their officers, making sure that they were not violating state law, which is very similar to Oregon state law, as well as first amendment rights. It was only the panic of 9/11 that led to the san francisco officers being swept into the task force. For all of these reasons, as well as the reasons that we outlined in our letter to you, the apca urges that you go beyond your proposal and reconsider Portland police officers' participation, as it stands today, in the task force. Thank you.

Leel Sundet: My name is leel sundet. I'm the president of the international longshore and warehouse local eight here in Portland. I represent about 700 longshoremen that work on the Portland docks. I also sit on the area of maritime security committee, which is a committee that's under federal law. It advises the captain of the port for the coast guard on maritime security matters. I also am an author of the equivalent law, if you will, that's put forth by the international labor organization, which is a function of the united nations on maritime security. I sit on a maritime security committee within my union -- larger union on a coast-wise level, and we do that because we as longshoremen really believe that we need to ensure a safe workplace on the docks. We believe that the docks, if you will, are a target possibly. We believe that the communities surrounding the docks are possibly a target. So we cooperate the best that we can with the united states government on security matters. We don't always agree with the united states government on the approach. We have differences of agreement on whether cargo integrity should be the primary issue or watchdog of the local work force should be the primary issue. We believe that the local work force actually is the -- should be the first -- first defense, if you will, the people that will notice something first on the docks, and it should be utilized accordingly. Instead what we're finding is the united states government is looking at us as the terrorists almost. We're being scrutinized more and more and cargo integrity is being overlooked, but that's getting off in another tangent. I say this because at the same time that we're doing this i'm also an accused terrorist. Why do I say that? You guys recall in the 2002 we were locked out by our employers. We were put back to work by push under taft-hartley, where it was used for the first time in a lockout situation to put the workers back to work for an 80-day cooling-off period. During that process, our leadership was personally called by tom ridge and others from the homeland security department, and we were threatened under the patriot act and told that any economic action against our employer would be construed to be economic terrorism. Now if we -- we heard earlier the f.b.i. agent read the definition of what a terrorist is. I don't have that in front of me, but i'm sure you do. You read that, you look at that, it's very, very broad. Very broad. And you read that and look in there, that an economic terrorist could be construed to be a terrorist? In other words, myself as a leader of an longshore union in an economic struggle with my employer, that is otherwise lawful, could be spied on, data collected on, under the patriot act. That's exactly what we were accused of, and that's exactly, I believe, what happened. Tom ridge himself threatened to bring the national guard on to the docks shortly -- you know, during the lockout if we persisted in our economic terrorism activity. Thank you.

Potter: Thank you.

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Irene Steiner: Thank you. Thank you mayor potter and commissioners thank you so much for raising this very important issue. When I read in the newspaper what you were attempting to do I was astounded and delighted and thought wow a little crack in the door. Were starting to do something I believe that's incredibly important for not only portland but for the country. I'd like to tell you a little bit about my personal story. I came to this country as a small child from Europe right after world war II a ravaged country because of war. Because of Stalinism where my parents lived and because of Nazi occupation. I grew up hearing stories from my parents what it was like to live under stalin and what it was like to live under a nazi occupation. And as a small child I thought, i'm safe here. It won't happen here. This is a free country. And as I grew older, I held on to that child dream that i'm safe here, those things won't happen to me. Not that many years ago I went to live in an asian country, and it was very obvious that many of the things I took for granted here in terms of freedom and liberties that are of an everyday nature, I didn't have there. For example, my letters were opened. My emails were read. I could have been arrested by forming in a group and standing around and protesting that particular form of government. And I understood that because it was not a democracy, it didn't have the rules we have in this country. When I came back, it became very clear to me that my letters could be opened, my emails could be read, and in certain cases of protesting, or demonstrating, I wouldn't feel safe. So for the first time I said to myself, I don't feel safe in this country. I don't feel the things I grew up with, my childhood dreams, are here any longer. I guess this is my first moment in many years that I feel that locally we're doing something about the overreach, the overreach of the federal government, and I guess i'm feeling very hopeful, and i'd like to also say that i'm not afraid of terrorism. Either before 9-11 or after. I'm not afraid of terrorism. But I am afraid of the overreach of the federal government. And what you're doing here today in trying to bring accountability, in trying to make sure that the kinds of laws and rights that we all have, that we all believe in, that I had as a small child, that we will continue to do that. So thank you so much for what you're attempting to do.

Betsy Toll: My name is betsy toll and I'm here today, I work with an organization, we haven't had an opportunity to take a position as an organization on this, so i'm representing my own opinions as a citizen, as a mother, as a concerned human being. The resolution that mayor Potter has put forward is I believe very conservative, and is vital at minimum to upholding the Oregon constitution. When our local public servants, when our local civil employees or police officers are working with federal agents, that the police commissioner and their superiors have at least access to the same information and level of clearance as their subordinates do. The nations that have had or currently have national police forces we have heard firsthand accounts of the abuses that take place. It's clear that these are alarming examples of what happens when an over concentration of centralized police power is allowed to occur. A climate of culture and fear have been created in our country to convince us the greatest threat to our nation comes from terrorists. Some nefarious, vague, evil other, and very often that other we might remember are people of color, which are not represented well in the institutions of power. That these vague terrorists are what can bring our nation down, but I feel a far greater danger to the principles that are the foundation of our country lies in the growing and consistent abuse of power and overreach of those institutions of power. As the daughter of someone who was questioned under oath and harassed in another time of manipulated and manufactured fear during the mccarthy era, I know the first -- I know the grievous abuse of power that such a climate and such manipulation of public sentiment can generate. The duplicity and distrust can corrode society in a way that no terrorist act possibly, possibly can. Maintaining the power and authority of democratically elected local and state officials is key to maintaining those fundamental principles that are the basis of our country. In a democratic society, our greatest safeguard is in transparency in accountability to the will of the people. Locally elected public officials are vested with that responsibility to ensure that local and state laws are upheld.

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Federal agents do not have that same mandate, and therefore cannot be trusted in that same way. Thank you.

Andy Olshin: Good evening. My name is andy, i'm a liberal democrat who's spent most of my career working on children's issues and homelessness. I'm also the father of two young boys, which is why I will be brief. I believe in our police commissioner and count on the trusty and all of us place in our police chief and his command all -- I read all the issues I could read, i've listened to carefully to everything that's been said and I encourage to you delay voting on this resolution until dialogue with the u.s. attorney and f.b.i. can continue on two important issues. One, whether top secret clearances have been given to police commissioners in other cities and if so, whether such clearance can be offered to our commissioner as opposed to our mayor. It seems to me that the u.s. Attorney was open to supporting this distinction and **I** think that should be explored before this resolution is voted on. Number two, it is viable -- whether it is viable or meaningful for our officers to participate at all in the task forces under discussion, not just the jtff, without having access to f.b.i. offices.

Potter: Thank you. Please state your name. You each have three minutes.

Irwin Mandel: Irwin mandel. Good evening. James madison warned of, quote -- the abridgement of the freedom of the people by the gradual and silent encroachments of those in power. Keep this in mind. In today's Oregonian, robert j. Jordan, f.b.i. Special agent in charge of the Portland division, complains about the present resolutions's requirement that top security clearance be given to, "politicians without any discussion of what those clearances really are or what sacrifices they require." first of all, I never realized that the chief of police and the city attorney are considered to be politicians by the f.b.i. Mr. Jordan as special agent in charge is no less a political appointment than is our police chief. Second, if there has been no discussion of what top secret clearances really are, and the attended sacrifices, it is due to mr. Jordan's failure to initiate that discussion. Mr. Jordan attempts to reassure us that there are many, "redundant levels of oversight required through the u.s. Attorney's office, the u.s. Department of justice, the federal court system, and congress." however, none of these levels are specifically charged with ensuring our rights under Oregon statutes and the Oregon constitution. He also asks us to, "look past the rhetoric" before we judge the work they do. My dictionary defines "rhetoric" as skim in the use of language. We must also look past mr. Jordan's rhetoric. Finally, mr. Jordan tells us to do our own research and check out the local f.b.i. website. My question is, has this website been constructed by those all-too-clever people the government has paid to produce those wonderfully informative and well-disguised news releases? [laughter] thank you commissioner leonard, and mayor Potter for this resolution, designed to protect our freedom from in madison's words, I'll remind you again the silent encroachment of those in power. I am delighted to be living in the bluest city in a blue state on the left coast of this country. Thank you.

*****: I have to follow that. Ok.

I. Mandel: She can.

Leonard: It's usually the other way around.

Lili Mandel: Hi. Lili mandel. I am totally in agreement with this resolution. There's a drastic need for it. Obviously at least one Portland citizen, brandon mayfield, has been terrorized by the terrorism task force that is supposed to protect us against terrorism. With the strong emphasis on secrecy, we don't know if others have been or are right now being terrorized. Let's not forget that the methods we use to protect ourselves against terrorism are just as important as the protection itself. Lots of scare tactics are already stampeding and the bull is running wild. We are being terrorized by the threat that we will not be protected against terrorism if we don't go long with the f.b.i.'s terrorism task force rules and regulations. What infuriates me is the attitude that mayor Potter and commissioner leonard have no right to question the rules. Citizen opinions are irrelevant, big brother knows best. Oh, and the world will come to an end if Portland is allowed any

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change in the rules. In order to guarantee the rights that we have under the Oregon constitution, it is imperative we have civilian oversight. Yes, Portland is acting up again, and I am proud to be living in the squirrely city where our city council listens to its citizens and is concerned that their rights are fully protected. I lived under nazism and through the mccarthy era and I don't want to live under a government sanctioned -- under a government sanctioned federal police force that operates without civilian oversight. Lefties unite, you have nothing to lose but your rights.

Robert Morris Smith: I'm robert morris smith. My ancestors came to this country in 1677 as quakers having been in prison for refusing to pay taxes to the church of gland. So I guess we've been troublemakers for a long time. I am particularly wish to thank mayor Potter and the members of the council who are questioning the authority of the f.b.i. in effect and yet supporting protecting the citizens of this country. I think that I have two major concerns. One is that the envision -- invasion of homes, businesses, and personal effects by the f.b.i. is why I thought we broke away from england. I thought there were rights that we were protected, and it appears that as of late, this is not true. So I question the f.b.i. I have much more confidence in the police of the city of Portland than I do in the f.b.i. I would say that I do have a concern, because during the vietnam war, I was chair of the american friends service committee peace committee for about 10 years. Also at that time I was treasurer of the Multnomah county democratic party. And I have a file in the file that the aclu referred to because whenever we had a peace march, it was usually that I went down to get the permits from the police for the american friends service committee, who as one of the more, quote, respectable organizations, was the one who got the permit. I think during that time that I was audited, my taxes were audited seven times. Later my job was terminated because the company I worked for said that the other employee criticized my activism on behalf of peace. I think that I have a concern about civil liberties that supercedes just this issue. But I would like to be protected by the government and not made a scapegoat as could easily happen to any of us. I was a conscientious objector, and during the time of the vietnam war, a person in the office who was in the navy, knowing that I was a conscientious objector, had used my name in his proceedings, unbeknownst to me, although I remember him and the f.b.i. investigated. I felt this was a personal threat. Perhaps it was not intend to be, but I felt that it was. So again, I thank you for your leadership, your questioning, and also for your protection of the citizens. Thank you.

Potter: Thank you.

Potter: Each of you have three minutes and please state your name for the record.

Paul Maresh: Good evening. My name is paul maresh, and i'd like to start off by quoting james brown. I feel good: [laughter] it's refreshing to have some elected officials here who understand the Oregon constitution and have expressed their intent to uphold, protect, and defend it. Thank you very much. And dare I say that understand the rule of law. This is something that's been referred to several times tonight. And i'm not surprised that mayor Potter and commissioner leonard, with the combined service record in excess of 50 years as, quote, first responders, understand that a chain of command cannot function properly when people at or near the bottom have more power or authority than those who bear the ultimate responsibility for their actions. And I appreciate the wisdom that you two have both so well articulated in this matter. Although I would prefer Portland not participate in the task force, unfortunately the f.b.i. in Portland has a history that's less than stellar, a couple recent examples, harassing brandon mayfield, virtually destroying his little one-person law practice, probably, making statements to the press that his luggage contained explosives residue, statement charlie sitton were later found to be false after the damage had been done. And regarding the comment by chief foxworth, yes, terrorism strikes fear in people the way being labeled a communist struck fear in people in the 1950's. So once again I salute you. Robert jordan has admitted that Portland pjttf has violated o.r.s. 181.575, and I can't tell you how much I appreciate your standing on this. The u.s. attorney has been installing hedging, trying to whittle away at everything. They've had five months to know this was coming up. I salute your dialogue, your

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diligence and implore to you stand firm in your requirements for accountability for the sake of our children and our grandchildren. Please stand firm and do not allow it to be whittled away or watered down. Thank you very much.

Charles Flake: My name is Charles Flake. I'm a resident of Woodland Neighborhood Association. I've been a resident there for quite some time. I used to be a member of the Northeast Coalition of Neighborhoods for which I was a member of 21 -- for 21 years. I only came here to just say one thing, and that is, keep Portland being a part of the Neighborhood Task Force Terrorism. That's all I have to say. No strings attached, no ifs, ands or buts about it. That's it.

*****: I don't know if I can be that short and sweet, I'm not going to try to regurgitate everybody's comments. Excellent comments.

Potter: State your name.

Larry Norton: Sure. Larry Norton. I live in Old Town. Everybody did an excellent -- I support the resolution, I support Commissioner Leonard's remarks, Commissioner Adams' remarks, yourself's remarks, Mayor Potter. I did furnish you a J.A.O. document, an email which seems to have a paragraph in there that solves this problem, maybe doesn't, there's an I.E.O. initiative that's supposed to allow officials have access to these files. You can read for yourself. I would mention that it's your duty to have this civilian oversight. I don't think you have a choice. It's not like you can decide that you could or shouldn't, you have to. It's our police officers there doing this, you have to have this oversight, period. Police chief, fine man, but he wasn't elected. You were, the rest of you guys were. The U.S. Federal attorney was concerned about her remarks about how the regulations are sort of in line with U.S. -- the Oregon constitution, but again, I refer to that Mayfield article in "The Oregonian" today where the F.B.I. went in, secretly took pictures, secretly took D.N.A. samples, everything secretly. That's not Oregon statutes or Oregon constitution. I don't think she speaks for the F.B.I., so what she's saying may not be necessary what the F.B.I. would agree to and didn't seem Mr. Jordan was going along with it. I would only say one more thing, that is, if you google the JTTF, you'll find a host of articles, and places to look that tells you a good story about the JTTF, what they're doing wrong in this country. That's it.

Potter: Thank you very much.

Adams: Thanks.

Potter: Thank you folks for being here. You each have three minutes.

Norm Costa: Norm Costa, thank you, Mr. Mayor, thank you city councilmen for having us testify here and give us what we think might be right or wrong. As a current member of the Portland Police Bureau's Chiefs Forum and past co-chair of the Chiefs Forum, I want to say that since Chief Foxworth has been put in as police chief, our police bureau and our police association has done a wonderful job and responding to reforms and everything else. I trust them completely. With that said, when I was co-chair of the Chiefs Forum, I voted for the task force. Giving it much thought and what has happened in especially in my activism in my private and public life, I could not vote for it as it stands this time. I think any organization, and I think we have a good police force, we have an excellent police force, still needs oversight. And if you don't have the power of that oversight, it isn't a democracy. And we do live in one, and we -- and Portland is a great city, and a great place to live, and I thank you.

Pam Allee: My name is Pam Allee, and I live in North Portland. First of all, I want to thank you, Mayor Potter, and city councilors for having this at 6:00 in the evening when normal working people most normal working people can attend. It's a refreshing change. I hope that you are all aware by now that the F.B.I.'s history from World War II, World War I, excuse me, to the present, is hardly reassuring when held up to standards of constitutionality, justice, and impartiality. Certainly a lot of testimony has been presented to council during the last four years apprising you of some of this history. So forgive me if I cap sue late it here. From the Palmer Raids to the present, this taxpayer funded bureaucracy has spied on, lied about, and entrapped citizen and immigrants alike.

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Generally those of the liberal persuasion. This is a matter of history. Innocent people have been and are being imprisoned, executed, assassinated, and deported, their reputations destroyed. All with direct and indirect often with direct and indirect f.b.i. involvement. Two words here, brandon mayfield. If he had not had an experienced attorney, I have no doubt that he would have joined the Portland seven, maybe they would be the Portland eight. And i'm going to refrain from discussing that here because it would take quite a while. We all need to be a little bit better informed about that case. I do have a question to the mayor and chief foxworth -- do you really think that your oversight will actually protect Portland's civil rights? The f.b.i.'s track record is abominable. Obviously I can't dissuade from you going this route and a lot of people seem to think it is a really good step forward. I'm a little bit more skeptical. I'm a lot more skeptical. And I do have another question somewhat tangential. Why are citizens being photographed by police at peaceful public events as we were on march 19, this last march 19? I don't see any reason for uniformed police officers to be photographing us with cams, cameras. My own preference regarding this jttf is the same today as it was four years ago. Stop cooperating with the f.b.i. If you lie down with these people, you might get up with more than just fleas. Thank you. [applause]

Potter: Excuse me. Remember just this for expression.

Katherine Smith: My name is katherine smith, and i'm here because I am a victim of somebody creating a lot of rumors about me that they passed through the joint terrorism task force. And she spread rumors saying different things to make them think I was part of al qaeda, to purposely destroy my life and my relationship with my family and my community. This was about a year ago. I cooperated at first when I realized it was happening, because i'm patriotic, and I felt like I needed to just tolerate the surveillance. Within a couple of weeks I went to the -- I talked to the f.b.i. to tell them I wasn't part of al qaeda, I asked them to do an interrogation to get it over quickly because it was very stressful at first. And it still is occasionally. They told me that they don't do interrogations, they just have to watch me. So I tolerated that several weeks more. It still continued, and then about last summer around july or august it tapered off a bit, and I still was calling the f.b.i. about every three weeks to tell them I wasn't a terrorist, I couldn't figure out why it was taking them so long to figure it out. And I think they did figure out i'm not part of al qaeda. But I am still under surveillance. I go out almost every day and today including, and they know i'm here today, people involved in the surveillance, i'm harassed, i'm threatened, i've had several death threats, and certain people attached to the joint terrorism task force, one particular police officer, has continually, whenever I try to stop this, has continually threatened me. I have been told that -- by certain people involved with the surveillance, people in the community, that if I go to the police in their in person, I will be arrested. He has -- that particular officer and others connected with him, based on his lies, have told me that if I complain too much, either I will be put in jail or he will put me in a mental institution. This is almost a year that i've been under surveillance. And i've told different police officers about it. That one particular officer often covers up, saying i'm just imagining it. There's too much evidence. I have been under surveillance, and I agree with the resolution that you should be given information about what they're doing. But also, there has to be a place for somebody like me can go and have them stop it when I haven't done anything wrong. I don't have criminal record. My son's traumatized, i'm traumatized, I try to go out every day so I can be around people, and I don't know if you know this, you probably do, but the task force uses thousands of people in the community to help out. The problem is most of those people don't know why they're following me. Most of them don't know that many things they do are harassing and threats. And some of the people, that particular officer, has used the media, including "the Oregonian," to spread rumors about me. I have tried to go to "the Oregonian" a few times, and have them print my story so they could hear my side of the story.

Potter: Ma'am, you're going to have to wind up now.

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Smith: Ok. So I agree with this, that you should have clearance, but there has to be some kind of a citizen board where somebody like me can go in there and get help to have them stop this. Because it's like I don't have any rights to even walk around and feel safe.

Potter: Thank you.

Potter: You each have three minutes. Please state your name when you speak.

Martin Cude: Good evening, my name is martin cude, i'm a north Portland citizen. Not representing any association or political agenda.

Potter: Could you speak up, sir?

Cude: Yes.

Potter: Thank you.

Cude: I'm a native son here of Portland, born and raised. And I love this city. I love the passion of the people of the city. And i've had the opportunity in my life to do quite a bit of traveling around the country and overseas. And that's allowed me to have I guess a perspective that's somewhat outside of that of the typical Portlander. I've had the opportunity to work -- I was in the navy after high school, worked in a search and rescue squadron in san diego, and picked up a trade of aircraft mechanic. So that's what i've done with my life professionally. Over the years i've had the opportunity to work in the south pacific, indonesia, and I lived for three years in saudi arabia with my wife, working on helicopters for saudi arabian oil company. We were there on 9-11. My exposure to different cultures and different team and different issues -- people and different issues, like I said, have allowed me to have a perspective that's I think a bit broader than most people that I live around. And I agree with what you're doing, and I support what you're doing, but go forward with the understanding of what the f.b.i. is trying to accomplish, all of their mistakes aside. I don't know if you all read your insurance notifications of change in your insurance policies for your automobile insurance. I received mine I think it was november, and there's a small clause that the insurance company has added that they will not cover your automobile for damage resulting from nuclear explosion or any radioactive emissions of any kind. Now, if the insurance companies are betting that something like this potentially can happen, then it's a viable, real threat. And it should not be trivialized by anybody, anybody here, anybody living here in this city, especially. It's a beautiful target for what terrorists want to do. And I tell you what, any time I drive across the steel bridge on the way into chinatown to have dim sum on sunday and I see a photographer on the northeast side of the bridge taking pictures of the cargo ships taking on grain, I wonder about where that picture will end up. It's a picture with the background of our coliseum, a railroad, a very high yielding target for any kind of explosion.

Potter: You're going to have to wind up.

Cude: I just want to stress the importance, and I know you've stated they at the beginning of this meeting, and although our federal government is full of mistakes of big bureaucracy, they are trying to protect us.

Potter: Thank you.

Cude: Thank you.

Adrian McEldery: Hello. My name is Adrian mceldery, and i'm a citizen of Portland. In regards to this discussion on the involvement of Portland police officers accession to information collected by the joint terrorism task force in Oregon, I believe it was stated initially that there were eight city cops that were assigned to work with the f.b.i. in cases of suspected terrorists locally. For whatever reason, that number has been lowered to two and they communicate directly with federal investigators that have access to secret information that is then shared with the chief who then informs those he feels has a need to know, has a need to know of the findings reported. Now, my issue is this -- the separation of this secret and top secret information involved, information being shared. A person -- the two parties involved are officers and the f.b.i. should work and be willing to

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assist each other in any way possible. Now, this cannot be achieved if we are not allowed access to all evidence and information being viewed by the federal agents.

James B. Jeddeloh: Mayor Potter, commissioners, my name is James B. Jeddeloh and I'm chairman of the Citizens Crime Commission. The Crime Commission has been here many times in the past to discuss this very same issue. We do this because we believe it's important to our community to maintain our involvement in the Joint Terrorism Task Force. We at the Crime Commission believe in the civil liberties for all people, including the right to be safe. Which is one of the paramount civil liberties of living in America. Our concern is that the city council -- the city withdrawals from the JTF, we're concerned that it will adversely affect our fragile economy, deny access to some potential future funding, deny participation in drug-related efforts, such as -- internet child predatory task force and other task forces as well and further isolate us in the state and the nation. We also believe today the single greatest threat to the United States and Portland is terrorism, both international and domestic. It makes no sense to us that the largest police agency in the state withdraw its participation in the JTF and we urge your deferral on the vote until a compromise with federal officials can be reached as was discussed earlier today. Thanks so much for your time.

Potter: Thank you.

Potter: Thank you for being here. You have three minutes, and when you testify, please state your name.

John Kroger: Good evening, my name is John Kroger, I'm a law professor at Lewis and Clark Law School from 1997 to 2003 I was a federal prosecutor in New York City, and on the Enron Task Force in Houston, Texas. On September 11th of 2001, I watched the World Trade Center burn and collapse from my office in New York City. And in the weeks after that attack, I worked on the Emergency Justice Department team to investigate the attack. That role I worked very closely with federal agents and local police officers on the Joint Terrorism Task Force in New York City. I am convinced that local participation in JTF is extraordinarily important both in preventing potential terrorist attacks and in responding and investigating quickly and effectively if God forbid there should be another attack here. I think the primary lesson of 9-11 was that we increase our risk of terrorism when we build bureaucratic walls that prevent law enforcement agencies communicating effectively, one with another. JTF was specifically designed to tear down that wall between the F.B.I. and local law enforcement. My concern is that if eventually we pull out of JTF for whatever reason, we're going to be building that wall anew. I am in full support of very aggressive civilian oversight by the Mayor and City Council of the Police Officers' Surfing on JTF, and I commend you for your efforts to ensure that happens. As someone who had a secret but not a top secret clearance for many years, I'm aware of the level of detail the information civilian authorities can get if they have that level of access. And I am 100% convinced that will provide very effective oversight of all the activities that our police officers would engage in as part of JTF. Accordingly, I just want to urge you, no matter what you do, to make sure the Portland Police Bureau remains a full and effective partner in the Joint Terrorism Task Force here in Portland. Thank you very much.

Potter: Thank you.

Leonard: Did -- I was writing as you were talking, I just want to make sure I got the point that you said that with secret clearance, it's your opinion that an officer would have access to the information needed to fully participate in the JTF?

Kroger: What I said was that I think civilian oversight can be provided effectively if the civilians who are overseeing the activity have a secret clearance, because I think that gives you an immense amount of detail about ongoing law enforcement activities. I think the top secret clearance is important for the agents and police officers to have so they can work in the same building. It sounds trivial if you're not involved in law enforcement to think that being housed under the same roof makes a lot of difference. But I've worked very closely with squad was federal and local

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agents and that kind of teamwork where you're able to work together, communicate effectively and brainstorm together is I think remarkably important.

Potter: Thank you.

Scott Forrester: Mr. Mayor, council. My name is scott forrester, I live in gresham. I think what you're doing today is important for people outside of Portland. I'm in full support of the resolution. I think it's a rather tame step, a very logical one. I think the whole idea of remaining in the jtff needs to be rethought. Cooperation of course, but that might come in the future. There is a quote, the riches of a city are its citizens, and I think you're listening to the citizens, and I don't want to be diminished in our richness by having fewer freedoms guaranteed under both the state and federal constitution. The price of liberty is eternal vigilance was once said, the citizens of Portland will be better to give up potential terrorists than a small group of secret task force members. It's the tens of thousands of eyes and ears, it's the activists working on bull run issues, power issues, environmental issues, those people, law abiding citizens are more likely if there is a cooperation among the citizenry and they don't feel terrorized in effect or that they're under scrutiny for legal behavior, they're more likely to communicate possible threats in the community. I might say I would draw an equivalent to the u.s. Government and the city council in this way -- george bush as president gets pdb's, presidential daily briefings, which are intelligence. There is no limit. It's the highest secrets possible. He is an elected official. He's a politician. You, mayor Potter, are an elected official and a politician, yes, but you are the civilian that exercises ultimate authority. We wouldn't want to have a general or the chairman of the joint chiefs of staff exercising all of the authority over what to allow the president of the united states to have, and neither would I want anyone in the joint terrorism task force or robert jordan of the f.b.i. to determine what you may or may not know on behalf of us citizens. Foxworth, chief foxworth is quoted in "the Oregonian," at least paraphrased, that a secret clearance for police chief and mayor is enough. I haven't seen the memo, but it is absolutely not. To get into the room you have a top secret clearance with the two officers currently have. I've had a secret clearance, i've been a military policeman 20 years ago in panama. We were fighting drug problems down there as you know with norega. If you go into the same building, whether you're looking at a computer or raw data, let's say they go in and take the hard drives of three folks like maybe brandon mayfield, you're look at raw material, you don't know since it's unclassified whether it's going to be top secret or secret. So officers can't take a look at raw data, you talk about this gentleman here, that's going to have strategy sessions. You can have a mental line between secret and top secret. So my in closing statement would be, don't accept anything less than top secret clearance. No one in the chain of command and under the right to know concept should ever have any inequality. It's either top secret for everyone, that you demand, and I support your resolution, or none at all. And I do appreciate your time and your guts.

Scotty Fairchild: Good evening. My name is scotty fairchild. I support the wonderful words we've been hearing from the council, the mayor, but also from the citizenry that has been testifying tonight. I would encourage you to support the resolution, support it tonight and let's get on with it. I think we've been working on this for far too long with the joint terrorism task force. I think you have some very good ideas, I think it's time to accept them, show the citizens of this city that there is some power here, there is some vision here, and go forward. I've come with a different vision also. I think our government is way out of control now. It was initially founded with administrative executive, a judicial branch, I now see it dictated with a military industrial complex and a corporate complex that is really dictating what's happening. I think we can all visualize some form of government that is now way beyond what we thought it should be. We have imperialistic regimes abroad, erosion of our social services, which we all know, and we have a tax on our civil liberties and our civil rights. I think what you're doing tonight is taking a small step forward and really taking this community and saying we do have leadership, we do have vision. We do -- we can do something different and we will do it differently. I think the next thing we do, I think the

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government is creating terrorism, and it's terrorism i'm not necessarily afraid of, but I think a lot of people are. By doing the things I smoke of earlier, the actual imperialism and the erosion of our civil liberties and our civil services, is that we don't have a lot of faith in government. We don't have a lot of faith in each other. People are taking very drastic measures. I think other things this council can do, and I think you will do, we can start looking at some of our health care issues, educational issues, affordable housing issues. And I think this will really calm the citizenry and especially locally, I think terrorism will be once again not looked at as a great threat because we're starting to deal with issues we need to deal with at home. And I thank you for your time. I encourage you to pass this resolution tonight.

Potter: Thank you.

John Sherman: My name is John Sherman, i'm the terminal manager for Conoco Phillips in Portland. My comments this evening are not on the oversight of personal rights, but from a different perspective. The JTTF provides an extremely valuable service not only to the city of Portland, but the entire northwest. They are responsible for identifying, investigating, and mitigating threats against our society. This includes our infrastructure. Bridges, buildings, power distribution systems, water systems, fuel distribution systems, communication, agriculture, banking, transportation, and on and on and on. A tax against the infrastructure don't just affect the city of Portland, but the entire state and many cases the effect of the attack would extend far beyond the borders of the state of Oregon. An attack on any of these systems affects all the systems. It takes a concerted effort to combat terrorism, whether it is domestic or international. If a community is significant and influential as the city of Portland doesn't completely participate, it's seriously weakens the effectiveness of the JTTF. The U.S. attorney has offered a solution to your concerns and I strongly encourage you to consider their offer. Their proposal can effectively address your concerns and protect our personal rights, the failure of Portland to completely participate in the JTTF runs the risks of putting the community at a much greater risk albeit physical as opposed to personal rights. Thank you.

Potter: Thank you.

Bonnie Tinker: Good evening, i'm Bonnie Tinker, the director of Love Makes a Family. Also a member of Multnomah monthly meeting of the religious society of friends and other -- another Quaker up here. And i'm also one of those folks who receive their police file from the Portland Tribune. Not too long ago. So I know about police spying right here in our own good city with some of our favorite police officers on the force. I also grew up in an activist family and was taught how to protect myself from the F.B.I. and was also taught that whatever we did to protect ourselves we should assume that the F.B.I. would engage in illegal spying on political activists, which they did, and which they do. So my preference would be that Portland would not cooperate by deputizing our police officers as F.B.I. agents. That said, I cannot tell you how good it feels to be in this chamber and feel that our elected officials are concerned about maintaining civilian oversight of this effort. It's your job. And I am so glad you're doing it. I read in the paper this morning that somebody at least is concerned that our mayor has become a control freak. And I want to thank you, Tom. [laughter] you know, it's about time some elected official decided to be a control freak and take control over the police and the F.B.I. so more power to you. [applause] I also want to --

Potter: Please.

Tinker: I want to encourage you all to vote on this resolution tonight. It is so reasonable. There is no need to negotiate over your resolution. All of you -- all you have asked is for fair oversight. I cannot for the life of me understand why someone would believe that a supervisor can adequately supervise someone if they can't walk into the work space unescorted. It's crazy. The other thing i'd like to point out is, it's not that Portland is withdrawing from the joint terrorism task force, although I wish you would, the question is whether the F.B.I. is going to withdraw from participation in the joint terrorism task force. And I think it's perfectly appropriate to set out the rules of the game,

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which are that there is civilian oversight for following our state laws, and then they decide whether they're going to participate with us. Thank you very much.

Fran Kohler: My name is fran kohler, and i'd like to thank everyone for the opportunity to speak in a free society. I'd like to applaud the city council for its courage, its political courage to do this sort of thing, but i'd also like to thank the Portland police department, because they are the enforcement of our political will, and I think it's important that people understand that and remember that the choice that's we make have to be enforced and they have to be done correctly. I'm not here to represent any organization. I'm here representing my children. I started late in life and I have young children now, and I find that my political representatives are the stewards of my children's future. It's up to you guys to provide the moral symbols of our democracy, and I think it's important for everybody to remember that history is comprised of clear turning points such as the one we find ourselves in right now. I think everyone should consider the unheeded cries of freedom, loving citizens during -- of german citizens and russian citizens during the 1930's. When things were actually changing. I think we find ourselves in those times now. Not democracies, someone tonight said democracy -- that things were needed to be simple and effective, but that's not possible in a democracy. We're complex humans, and we move at the speed of human thought, perception, and action. And we can operate either in an atmosphere of wisdom and cooperation, or one of paranoia, fear, and hate. In closing, I would ask everyone, everybody, to remember for our children's sake, which is really what this is all about, that the framers of our civil rights had the framers of our civil rights decided to delay the implementation of the first amendment, we wouldn't be here tonight. Thank you.

Potter: Thank you.

Potter: Please state your name when you testify and please limit it to three minutes.

Beth Woodward: Thank you for being here. My name is beth woodward, i'm here as a citizen. I'm probably representing my family too, they've encouraged me to come and I do have grandchildren and that's probably why i'm here. This is such an important hearing, and I appreciate your taking the time to listen to all these citizens who have spoken so well. You've heard a lot of testimony about the documented abuses of government power. There have been many, and just in recent years a lot of abuses of the federal power by this administration, and when I first read about the jtff in the papers a few years ago, I didn't think we should be involved. But I think Portland can be a good influence on it, and we have to really watch what these forces, what other abuses may be occurring and do what we can to keep the lights on and I appreciate your efforts in that regard. Mr. Jordan said in the -- in his editorial in the paper that we have to balance security and civil liberties and a number of people have said that here tonight. I don't think we need to balance them. To me civil liberties come first, and i'm much more concerned about the abuse of our civil liberties than my physical safety. There's always going to be physical risks. There's a lot of things we can do about those besides this jtff. There's a lot of things the federal government can be doing differently to reduce the threat of the kind of terrorism that this force was put together to deal with. I'll just leave it at that, but i'm very proud to be a citizen in Portland, and being able to participate here. Thank you.

Potter: Thank you.

Thomas Nelson: I'm thomas nelson, an attorney, i've worked with a number of the individuals that have been subjected to some process by the jtff. I've witnessed the impact that those processes have had upon the community, particularly the muslim community here in Portland and in Oregon, for that matter. My concern isn't so much with what the jtff is trying to do, but rather with how it is doing it. And by extension how the city of Portland is assisting the jtff in doing that. I'm not going to sit here and say the terrorism is a concern, but I think if you look at how the terrorism issue has been handled by the jtff, specifically by the representatives of the administration in Oregon, you'll get a sense that things are not going well here. Basically I from what I've witnessed I've seen the

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use of terrorism as a fear tactic to number one stigmatize people unjustifiably and here I'll use the example of sheik mohammad karea, use the example Brandon Mayfield to put the entire community at risk by making statements such as mr. Jordan recently said quote that "there are jihadist running around who have been trained at terrorist training camps in Oregon". I asked him where I don't think he will tell you. These are inflammatory things so basically have a tremendous impact upon the community. And I'm speaking about the muslim community specifically here. I have a number of very good friends who have already left the united states who were naturalized American citizens never to come back. I have others who are planning on leaving and those who are not planning on leaving saying it is not good. I just came back from a trip to Saudi Arabia where I met a number of native born Americans who converted to islam and who over there said I'm never going back to the united states because of the atmosphere in the united states. The atmosphere of fear the atmosphere, the atmosphere of selecting out individuals because of what they happen to believe. How does this tie into the jtff, well obviously the more civilian oversight we have from the local area, from the local politicians is excellent. I think tip o'neil once said all politics is local. We need more of this type of oversight because it's our community that's being affected by the Brandon Mayfield cases, by the sheik mohamad cases, by cases that have yet to come up publicly that will be arising shortly, the Al Harriman case down in Ashland with indictment in Eugene. These are cases that are having tremendous impacts on individuals and communities in the state. These are our people that are being affected. So I think we need more oversight. I would hope that portland would reconsider its participation. Finally my comments tonight are my own, I'm not speaking on behalf of any client or any extended group. These are my thoughts but I've been there I've seen some of the terrible consequences of the attitude of the federal administration and by extension because of Portland's participation in the jtff. Thank you.

Dr. Herman Frankel: My name is doctor herman frankel. I'm a pediatrician live in portland with my wife since 1965. We learned from the Oregonian and from the new york times just a few months ago that almost half of all Americans believe the u.s. government should restrict the civil liberties of muslim Americans according to a nation wide poll. Mayor potter, commissioner Leonard, commissioner adams, commissioner Saltzman, commissioner sten thank you for your wisdom and your courage. In 1789 before agreeing to sign the constitution representatives of the 13 colonies created our bill of rights to protect the rights of people from assault by a powerful central government. This stands at the heart of our democracy. On October 29th of 2003 the portland city council unanimously passed a resolution expressing concerns about the u.s.a. patriot act. On December 9th, 2004, the Multnomah board of commissioners passed a similar resolution expressing explicit commitment to protect civil rights in the era of the u.s.a. patriot act. By now four states and 371 local and county governments have passed similar resolutions. Were meeting today to discuss protecting civil rights by maintaining local civilian oversight of law enforcement personnel rather than assigning such oversight to any federal agency. If we are civil rights our constitution, our democracy are to be protected from the actions of federal agencies our local elected officials must maintain civilian oversight over the activities of all city employees including our local law enforcement professionals. This is a matter of priority and principal not a matter of yielding to threats of punishment or offers of payment. Your familiar with the words of astin martin niemoeller; first they came for the communist, but I was not a communist so I did not speak out, then they came for the socialist and the trade unionist but I was neither, so I did not speak out, then they came for the Jews, but I was not a Jew, so I did not speak out, and then when they came for me there was no one left to speak out for me. And your familiar also I think with the words of james Baldwin; 30 years after niemoeller, 30 years ago, james Baldwin to sister angela davis; if they take you in the morning they'll be coming for us that night. Thank you for your wisdom and your courage.

Potter: Thank you.

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Alan Graf: Alan graf. Mayor potter, commissioners esteemed citizens I appreciate you having this forum we listening to hours on end to the people here it's a good thing. I want to first of all let you know I appreciate your guts and courage. Its for me, somebody skeptical about politicians, generally I'm just tickled to death that your taking this stand. And what are you doing anyway? What's the big deal? You're asking - we're asking for the commissioner of police, the chief of police and the city attorney to have - know confidential information. I trust that you know what the confidential information - what confidences are about. You're not going to go leak it to anybody. I just don't see the problem. So why has it been such a full court press even by the press to try to persuade you not to do that? What's going on? The people who abuse power sometimes are scared of this kind of message. It's a message that's sent out there that municipalities can have power over their own lives. If you look at a definition of terrorism that was propounded by the chief tonight, its one definition, there are two definitions under the patriot act. One of them that the chief propounded is actually under the immigration section of the patriot act. But, anyway if you look at the definition - somebody who disrupts commerce with - to try to influence government, Rosa parks could be found guilty of terrorism under that particular definition. I appreciate that the commissioner adams brought up some of the parts of the patriot act that he had trouble with and tied that into what the f.b.i.'s doing. If you look at the department of homeland security they'll list the terrorist groups now currently does not include any right wing groups. That's bothersome. I've been following the memorandum of understanding between the city and the f.b.i. for a while. If you look at the original memorandum it states that the f.b.i. will follow Oregon law and the Oregon constitution. Well apparently they've changed that position, they no longer are doing that. I want to also talk about something tom nelson brought up which is terrorizing the muslim community I know tom that your particularly a proponent of community policing which is where the community participates. And if were going to actually ferret out real terrorist in the community we can't scare the communities that are going to actually provide valuable information. When you start spying on these communities they're going to freeze up and not come forward. So that's not necessarily - completely wrong approach. Finally I want to say that the culture of arrogance, we've seen it here tonight, if I go in front of a judge and I'm going to try to persuade the judge with something, I'm going to have all my ducks ready. All my information ready to do and they couldn't even tell you the f.b.i. and the head u.s. attorney, what other mayor's have or have not clearance. I mean that's real incompetence and shows the kind of arrogance they brought to the table here tonight that they didn't have that information to give to you. You're making one small step and it's going to have one large result. I'm with you and I applaud your bravery and courage. Thank you.

Potter: Thank you.

Mike Dill: My name is mike dill and I speak for myself so I also applaud your decision. I think your on the first step and I think it's the right approach for more oversight into some of these operations. I had secret clearance once when I was real young. Then I think I know so - enough now where I'd never ever get it again. I was a computer programmer than and the different levels of clearance that I had showed me very different things. When I'd look at databases of information and I'd just be able to pop stuff up and different things would come through with the same kinds of queries with different clearances. So different levels definitely makes a difference in what you're doing here and these are information wars that were really kind of starting to kind of walk into. This is a - I'm reading a book that I'd like to recommend its called "no place to hide" its by Robert o'hara and its talks about all these companies like choice point, lexis and joint terrorist task force is actually mentioned in here too. I'd like to actually quote one little paragraph in here "in confidential documents provided to the government, agency described its awesome reach. It monitors 90% of all credit cards in the united states and half of those in the rest of the world, some 400,000,000 in all using artificial intelligence to seek out indications of fraud and deceit. Agencies software developed its capabilities with financial help from the defense advance researched projects

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agency the outfit that brought poindexter on board". This is just kind of - one of the - kind of the paragraphs in here - I mean were at a point right now where all databases are starting to collapse into each other. And all we do as analyst is we put together queries that look for basically segregation of some kind. We look at a certain analysis across certain parameters and we try to see who comes close to that. So we draw rings around people. And in the past that's read the f.b.i. to American Indian Movement the Black Panthers to the earth first movement to all these things that are local to are things that may actually be good features to our society that may be voices that need to be heard within a democratic society. So anyway you know I guess I need to come quick. I do applaud what your doing I think that the more you can learn about information and the more you can present to the people of portland about this I think this is here and I think we have to be able to deal with it but the more you can become the liaison to us as the people is how were going to approach it I think you're on the right track so thank you.

Potter: Thank you.

Jesse Brown: Good evening commissioners, my name is jesse brown. I've been looking forward to hearing about the jtff for quite a long time now. Its quite exhilarating to see people being able to speak out as citizens about it. A little exhilarating and nerve racking at the same time though. I feel lucky to be here because I'm taking a slight break from being engaged in protesting the biscuit timber sales down in southern Oregon. And I feel that as a member of a class of environmental activist willing to commit civil disobedience a time honored tradition in order to defend the last remaining wild forest from exploitation, lawless or just senseless that I have a particular interest how the f.b.i. conducts its mission. Excuse me for the pause I'm trying to stay focused here. When I first became involved in environmental activism there were a lot of strange happenings to the people that I worked with. Due to the success of the hill creek campaign and I foresee what the growing forests of environmental activisms that is coming up that there may be reason to be concerned about future involvement with the f.b.i. and civil rights of citizens. However, I'm not really that great at intellectual type arguments so I decided to try to speak something a little closer to my personal experience and that actually comes out of a totally separate field of my interest in amateur photography. I don't have any personal interaction with the jtff that I'm aware of. I do have an interesting experience with something I don't know what it is that I thought it might be useful to share to illuminate the possibilities of what the jtff could mean to the public at large. So I have a slate exhibition of photography for you. I hope you can see it I don't know if its visible to you. I was walking past the Nordstrom's building one night last april 10th about a year ago when I saw, the first image is kind of blurry, hopefully the second one is sharper. The Nordstrom's building was locked down for the night. I thought that was kind of interesting, I don't know artistically speaking and maybe a kind of statement about our society at large. I took two pictures of it one with a flash to actually get it sharp. And if I'm permitted to role play a little bit of what happened next. I walked down the sidewalk my bike which was locked to one of those wonderful little staplers in front of the nordstrom's building and a car pulled up right next to me. A person got out and kind of much as mr. Leonard looks, casual attire, shirt, tie.

Adams: So poorly dressed is what you're saying? [laughter]

Leonard: This is a new tie, I'll have you know.

Brown: Sorry, I'm just saying that's what he looked like. To me that's superior dressed really. He in exaggerated movements instructed his car to park perfectly in lines back and forth. And I noticed he had a camera under his arm. So as I'm unlocking my bike I decided to look up and say something about the camera because I'm in photography as well, having just taken some pictures of nordstroms.

Potter: Sir you're going to have to start winding down. You're over your time.

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Brown: I'm really trying to go quick. So I spun around and he took my picture real quick and then pulled the camera down. Next, someone else got out of the car dressed in a perfect ducks fan uniform.

Leonard: Kind of like commissioner adams? [laughter]

Brown: I talked to them briefly. And on my way home biking that night I kind of left the scene. I say a strange preponderance of black tinted windows vehicles. SUV and a car and also extreme rottweiler puppy that followed me home on my bike until at some point he kind of -- I heard the clicking of his paws and when I stopped eventually I was able to lure it toward me. Eventually I passed another rottweiler --

Potter: Sir, your going to have to stop now. Thank you very much.

Brown: I hope you got my point there's some strange things going on in this city.

Potter: Thank you.

Brown: And it doesn't necessarily take the jttf to --

Potter: Thank you.

Marvin Moore: My name is marvin moore. Resident of northeast portland. I thank you and I'll try to be brief and I appreciate you're doing this and hearing all of this --

*****: louder please.

Leonard: Wrong microphone.

Saltzman: Use the other microphone.

M. Moore: Oh okay, thanks. I applaud your defense of democracy and accountability at a difficult time. Your courage is commendable. If not even the chief of police and the mayor the cities highest elected official and himself a former police chief can be allowed oversight to ensure that investigators are obeying Oregon law then something is seriously wrong and your resolution is a needed step to address that. If city officials quote "already receive regular briefings that provide all necessary information" end quote, then there should be nothing quote "unreasonable" end quote, about a security clearance that would allow you to verify the accuracy of that information. To refuse this verification is the same thing as admitting that critical information might be incorrect or withheld. You need that verification. As for the utter nonsense hot air that this resolution will be bad for business I'm confident that ethical businesses will be attracted to the city where the mayor and council have the moral courage to stand up for democracy and American freedom. Thank you.

Everett Jaros: My name is Everett jaros. I'm a resident of north portland. The u.s. attorney that spoken, I'm afraid I don't recall her name, the women that spoke early this evening, she made some interesting points a couple that I happen to recall and I'd like to comment on. First you mention that the other joint task forces between the city and the federal law enforcement have not apparently received controversy. Well I'd like to point out that I until recently were not aware there were any other joint task forces between the city of portland and the federal government. Just as I don't recall being aware that there was a joint terrorism task force until sometime after September 11, 2001. Although I understand that its been around for a few years before that. That's certainly not any fault of hers nor of yours but I would encourage you to and its my understanding that this resolution does include those other task forces I encourage you to give proper oversight to those as well as the joint terrorism task force. Another point she made - she made reference of court oversight to protect the appropriate use of police powers such as search warrants. Although she didn't go into detail, I believe the court she referred to would in at least some cases that the joint terrorism task force would be involved with would be the fisa courts. Please remember that the fisa courts and I'm sorry I don't recall what the fisa stands for at the moment, but the fisa courts function in the realm of star chambers, operating in secrecy to authorize the police actions that in many cases are in violation of the bill of rights. As many others here tonight have I applaud you in your forward thinking. It is not fashionable today certainly in this country for public officials to either enforce or obey the law it seems and I don't think its just in the current administration in

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Washington. It seems to be its been progressively less law abiding and less law enforcing. Whether its under funding of consumer protection or the security exchange commission not enforcing regulations or not having bringing no one to task for deliberate brown outs in California to manipulate energy rates or the u.s. congress violating the constitution in the way it goes to war without properly declaring it or passing the u.s.a. patriot act. Not only without reading it but also an act which violates the constitution and I do applaud you for doing your job. Standing up and saying we want to obey the law and enforce the law and I greatly applaud that.

Richard Koenig: Richard Koenig. I want to add my thanks to the rest of the people here. To commissioner Leonard, sam adams for your very cogent remarks. Mayor potter thank you. The mayor must have 24 hour access to the f.b.i. facility whether he exercises that access, takes advantage of it or not. I think that if he's going to be the boss he's going to be the police commissioner, that's absolutely essential. Thank you for the resolution. I'm not in favor of the city of portland colluding with the f.b.i. But on the other hand I think it could be a wonderful opportunity to infiltrate the f.b.i. [laughter] With adequate oversight absolutely, and it will take the experience of a man like the mayor with the insider knowledge that he has to do that effectively. And I'm serious about this folks, we need to know what is going on in our city. The biggest threat that I see to this society to our city is the good german syndrome. God help those of us who are too young to remember. But that's the biggest threat we have to our city, followed closely by the constitutionally impaired awareness of our officers and it's not particularly their fault. We have an educational requirement in our Oregon law that requires a year of constitutional studies every year between eighth grade and graduation and nobody's getting that any more. The officers are not to blame for what they've been deprived of. But they don't know what's going on and that is followed again closely by, as Mr. Leonard pointed out. Mr Jordan foot in mouth problem. We have to use the tools that we've got. We have to use the manpower that we've got. I think we've got a good man here in mayor potter supervised. Thank you.

Potter: Thank you. Thank you for being here. You each have three minutes and when you speak please state your name.

Martin Slapikas: My name is marty splapikas. I reside in the southwest. And I am urging you not to put us into a position of pulling out of the joint terrorism task force. In all the redderick that I've run across from the material from city council and on the and on your website, I've never really seen your council's definition of terrorism. And I think that should be put in any resolution that you're talking about trying to pull us out of. In absence of that I use this one; the use of violence against civilians to promote a cause so unpopular that it cannot succeed without an element of intimidation. Violence against citizens and those in surrounding communities that is the issue. It is a crime prevention issue. Now back in 2000 many months before 911 the united states commission on national security issued a report outlining threats and recommendations as to what must be done to counteract the threats to the united states. The commissions report listed six threat areas also listed were seven strategic functions of which the ones I'm concerned about are deterrents, prevention and preemption. The four levels of involvement were federal, state, local and private. Now if you decided to pull us out of the joint terrorism task force, I think you're pulling out a, I don't know what you call it, a source of information, a resource that you can not meet. You can not meet the 42 mission areas. Now the interesting thing about this is in 2002 portland city council declared a mutual goal of enhanced national security to be shared with the federal government. What happened to that? Are we just discounting that now? Just not going to participate in protecting the united states? Now unfortunately the memory of that massacre of our fellow citizens appeared to have faded from memory. Memories of the city council acts as if our nation hasn't been terrorized at all. The resolution gives the community and the world that portland is divorced from the attack on our nation. And that nothing like that can or will happen here. Council in some cases the residents of our own city have withdrawn to their old patterns of living to their own

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preoccupations and to their old business of politics. Times have changed so basically if your going to pull out of the joint terrorism task force, please put in that resolution the - - what your definition of terrorism is. The second thing I'm concerned about is the capacity. The third thing among seven is this resolution creating a double standard of crime investigation. The proposed resolution calls for acknowledging limitations on portland police bureau personnel assigned to federal joint task forces under the regulations cited. Implementing those limitations was not a slam dunk back in 2001. When it first came up the local papers reported Oregon state attorney general hardy myers and Multnomah county district attorney mike shrunk found these statues do not restrict police questioning. Former portland mayor katz chose not to accept their interpretations the current council is continuing that policy. Isn't that oversight? What more oversight do you want? In my view portland continued participation in the portland joint terrorism task force is a major concern to each neighborhood association. And a delay should be considered just to allow the neighborhood associations to consider the issue of crime prevention in their own neighborhoods. Thank you very much.

Potter: Thank you.

Josef Schneider: Hello, my name is Josef Schneider and for a long time I've been an activist here in portland. Primarily with the portland central solidarity committee which is the local chapter of cispes. And I'm sure the council members remember in the 1980's cispes worked to counter u.s. foreign policy in central America, specifically a tax on Nicaragua, which were declared terrorism by the world court. The only time state has been found guilty of such for mining the harvest in Nicaragua. But cispes was followed, tracked, infiltrated and had their offices broken into by the f.b.i. and they've apparently continued their interest in cispes since then. But mostly pcasc done while I was there in the working there in the early 2000's was work on issues against corporate global organization. During that period at one time during a organization campaign by the carpenter's union was organizing Hispanic day laborer's in construction and they have been since. But at one of their events they were going to have members of cispes come or pcasc, specifically our organizer chris falizo. While this was in the planning stages the carpenter who was doing the planning for this event jerry avil received a phone call from a police officer, a person who identified himself as a member of the joint terrorism task force. And he asked jerry, a member the carpenter's union if he was aware that he was having a subversive organization quote subversive organization unquote come to his event. And by that since the only other group that was going to be represented there is talking about pcasc. I'm not sure what the definition of subversive is, what the f.b.i. the joint terrorism task force is working with or what we were doing that was illegal or somehow opposing u.s. foreign policy or corporate globalization is now illegal and somehow subversive of the state. Apparently it is to the joint terrorism task force. This officer turned out he was a police officer from Beaverton which meant that he was supposed, his actions were suppose to be governed by the Oregon statues as well. I'm not sure what you all would have done had he been a portland police officer. Under the old rules what you would have done to look into whether this was proper or not. but it appears as things stand now that the joint terrorism task force, the f.b.i., can put you off with saying I'm sorry but the evidence for why we were investigating pcasc is too secret for you mayor potter. Yeah, I hope you do away with that and further I think it's a good first step. But I think the f.b.i. is a bad influence in general and cooperation with it should be kept to bonafide criminal investigations. Thank you.

Cherie Lambert Holenstein: Cherie Lambert Holenstein. The east side democratic club continues their opposition to the joint terrorism task force. On submitted testimony I gave in 2001 and again last year. It is still relevant and there are facts and books mentioned and you may wish to peruse. The event of 911 did not confer a license to increase the spying on the people nor to create a so called new security force for the homeland. Rather 911 created an obligatory demand to examine our foreign policy. A foreign policy not designed for the safety of the many Americans

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but to harness more profit for the few. Because the 911 commission report is a sham, a deceit a paean to sophistry. A task force needs to be created to examine this governments involvement in a terror that became 911. Yes, the resolution is of help and I thank you for your hard work and particularly in not making those of us that came or signed in late or come back the next day as we've had to do in the past. I'm sure you're all hungry like we are and thank the rest of you too Chief Foxworth. I remain opposed to the continuation of the joint terrorism task force I hold two books I my hand and I encourage you to read them before you approve it. This one is called gag rule on the suppression of decent and the stifling of democracy by lewis h. lapin, the editor of harper's magazine for 25 - 28 years. The other is the assault on free speech public decent a national lawyers guild report on government violations of first amendment rights in the united states the year 2004 and I'll read a few blurbs from the back if I still have time. Not since president Nixon unleashed his Watergate henchmen and encourage local police to suppress dissenters has their been such a systematic widespread attack on free speech rights. Then as now it would be a costly mistake to simply rely on the courts. This book is a timely vital resource for the kind of education activism that cross political lines that in the past have most effectively protected basic American freedoms. Dennis karns a law professor his storing of speech rights add to the politics of law. This one is by lew ryder, police consultants and former deputy los angeles police department. This report should be required reading for the police officials as well as for concerned citizens. This document - - it documents that we have forgotten the important lessons learned in the 60's about policing and demonstrations in democracy and too often ignored the duty to remain impartial an essential component of effective law enforcement. Let me remind you that during the late 40's, 50's and early 60's over 6 1/2 million Americans were investigated by the house Un-American activities committee. And finally by Ronald Hampton, executive director national black police association this report lays out a blue print for federal, local and state police agencies when handling mass demonstrations an effort to preserve the constitutional right of people in a free society. And a quick reminder a famous editor writer in the late 40's early 50's I believe was Archibald mclee said the true test of freedom is in its use, there is no other test. Thank you.

Potter: Thank you for being here folks. Could you please state your name when you testify.

Teresa Teater: Yes, I'm here tonight regarding your jtjf certification. I liken the fact that you're a c.e.o. of a corporation mayor potter and for instance you have a c.e.o. of a corporation next door that's in the same type of business as you and he happens to come over and say I'm going to take some of your employees and their going to work with me over there but you're going to pay them over here and by the way you can't know what were doing and then keep sending them back over to you and then something happens and then all of a sudden your company's being sued by people that got hurt from the guy over there that took your people because they were in cahoots together but you couldn't know about it so but you still have to pay out of your pocket because your people were involved with their people and I wanted to throw that little scenario out in front of you. to keep in mind civil liabilities and your use of force review board would possibly have to investigate allegations and how would they get some of the information except going through the freedom of information etcetera. Also I'd like to make a comment regarding the f.b.i. I'm a 47 year survivor victim of the f.b.i. In 1959 they liberated my parents and my siblings and myself from our home in California and placed my parents incarceration for interstate check fraud from one of the richest men in America in Nebraska at the time. And they used myself and my siblings as leverage to try to extradite them back to Nebraska where they committed their crime. And in the process us siblings got put up for adoption, separated, etc. My parents served 5 years in prison. Got out didn't come get us kids I spent 11 years in a home being raped, etc., etc. for 11 years I paid for their crimes. The point I'm trying to make here is that the f.b.i. creates activists in the world. And I learned of this by seeing a picture of my dad being taken into the federal court in California at age 14 and an old newspaper article when I went looking for my parents at the orphanage I was living in

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after I got away from the foster home. At the time I wasn't that angry about it, it was later on when I started seeing what was happening to me in my life. The post traumatic stress I had to deal with etc. So what I'm saying is when you have a failure to protect people that you take into custody and if your involved with the f.b.i. and I come back and like I go back and sue the city council of the brentwood California because it could still happen. I'm working on it believe it or not. the governor of California was involved with it with the new evidence I've uncovered of having us children extradited to try to give our parents to extradite back. So there's all these little variables going on in there that you don't think about when you investigating people through the f.b.i. you take them into custody you export them out of the country and then their children come back because they've suffered from the actions of what these people have done and just throwing you alongside the road. And so that's what I wanted to say. So I want you to take that into consideration, civil liabilities 40 years down the road even though you might not be the mayor anymore. My great grandfather was the mayor of the first town in Nebraska he had three police officers under him and this would have never happened under his watch. It would have been taken care of big time.

Potter: Thank you.

Andy Seaton: Andy Seaton. I'm actually acting as a private citizen here. I've been following this issue quite a while so I put down my head phones for a few minutes to set a few things straight. In particular I believe it was James Jeddelloh with the citizens crime council who said that terrorism is the number one danger that we face in America. More people since 2001 and before 2001 more people get killed by lightning in this country than Americans have been killed by terrorist and even including the attack on the world trade center. More people died on the highways in the six months after the world trade attack because they were afraid to fly then died in the world trade center and at the pentagon. So in - - something else the whole question of secrecy is really in violation of what we truly believe to be as American. I grew up in Washington d.c. my father had a top security clearance. I remember getting a knock on the door from two guys asking me questions about my neighbors. And one of the things I swore when I was growing up was that I'd never get a security clearance because it just strikes me as things done in secret are inherently dangerous, not only to civil society but to good government. I'm probably here in the back of the city council every week because I don't have a security clearance because if I had one there are a lot of good computer jobs I could get. The f22 fighter, avionix packages based on the computer equipment that I'm an expert on. One thing to keep in mind about this whole security issue is the over classification of what is declared to be secret and top secret. The attitude in Washington d.c. and increasingly within the law enforcement community nowadays is when in doubt call it secret call it top secret. My experience dealing with security folks, folks that have security clearances working in computer biz say that the classic example is a company that was working on a contract and the contract was severely going south so what they did they didn't want anybody to find out about it they raised the security clearance on what was required. So they were using the federal security system to protect their own corporate interest and their own money interest. One thing that the whole issue of security completely violates is the right to be confronted by the accusers. In the whole question of security between regular security and top security is whether or not you have access to the source of the information. And the patriot act itself violates every part of the bill of rights except for the second amendment, which the right wing likes. And one of the reasons the portland seven settled with - - they had settled out of court with all of the folks that were accused including ones that refused to talk with - - because they didn't want the patriot act to go to court because they knew they'd loose. So my own - - to finish since I'm out of time, I can't see it here, shine some light on this because its only through openness and getting some oversight much less as you as the mayor as a city official but the public in general. Because you know they started with the Japanese they

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started with - - next was the muslims after 2001 next the peace activist and I'm sorry but you folks are now on that list too. Thanks very much keep up the good work.

David Potter: David Potter. Thank you for questioning the veneer propriety and secrecy cloaking slick corporate military industrial - -

Potter: Sir could you speak into that other one there. Thank you.

D. Potter: Sorry. David Potter. Thank you for questioning the veneer of propriety and secrecy cloaking the slick corporate military industrial fascism. That has long held sway in this country has kicked into high gear these past six years. If we do not uphold the constitution, particularly the bill of rights, and if we do not uphold the states constitution and its protections, we've crossed an eerie threshold, into a realm of terror, the terror that has gripped enumerable past states, the terror of unaccountable police, the terror of the powerful and wealthy against those from who they extract their power and wealth. We have in this country lived one step in that realm for many years. People of color, political activist and workers have been subject to abuses of power by police throughout the past century. These abuses have been committed systematically by various agencies chief among them the f.b.i. From the pomerades to the murders of fred Hampton and all the other hundreds of victims of f.b.i. murders under cointellpro to the break-ins at cispes to the bombing of judy berry and on and on the ongoing continuation of cointellpro. The f.b.i. has systematically worked to and I quote quoting mr. hoover "disrupt, underline, neutralize activist including many nobel and peaceful activist". I do not know all of what the f.b.i. has done or not done, far from it. But I do know that the f.b.i. has been involved in horrendous crimes against those who do not own large chunks of stock in large militarist corporate entities. They've done this over and over and over again. Geronimo pratt a black panther activist was finally released a few years ago after something like 25 years in prison due to a knowing f.b.i. fraud and frame up, they did this. They continue to do this sort of thing. Their a terrorist organization. Anna mae aquash was apparently killed and thousands of others were apparently killed with the complicity of the f.b.i. Leonard peltier is still locked up despite the evidence. The f.bi. has been run as a covert terrorist organization running a covert war against those whose political efforts contradict the views of the ruling powers. The f.b.i. should be held to account for its crimes. If you wish to attempt the radical act of protecting our fair city citizens civil rights and the radical act of attempting to run society in a democratic manner in which I applaud, you must resist the f.b.i. And I will be giving you copies of these books which are well documented accounts by a professor at the university of Colorado and another person documenting the crimes of the f.b.i. during the period of cointellpro.

Potter: Thank you.

Adams: Thank you.

Jill Severson: My name is jill severson and I guess first before I even make - - starting my remarks, I just want to thank a friend of mine who stopped by my place tonight as I was headed out for a walk and encouraged me to come. So without his help I wouldn't be practicing my citizenship right now so thanks for hearing me. I'm just going to speak from the heart, so excuse me while I be nervous and breathe. Its seldom unfortunately that I feel proud to be an American given even the events prior to September 11th but I think especially a lot of our reactions after September 11th but I can say that I'm proud to be both an American and an Oregonian and a Portlander tonight. Standing with other people today who support the resolution that you've come up with. I am also a citizen who I'm an aspiring Buddhist so I haven't heard anyone speak to that, I know we have many different faith traditions here today. And that's - -I also with someone who was born in Wisconsin so even though I know the mccarthy era which takes its name from someone from my state I have kind of felt responsible even though I know theres many other people that through fear and fears of communism or whatever their afraid of, I'm one of those people that believes that our fear of terrorism has links historically to those fears of communism. So I have fears repeating the past like many things - - other people have mentioned I also have knowledge of the f.b.i.'s involvement with

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like the black panther party, the American movement are the things that have been cited. So, and I'm also a parent of a teenage daughter who's going to be 16 on Sunday. And who's also politically active. And so I think its very important as citizens to speak out even though your not as well read as some of the people here so I just want to say that I do support the going for the highest security clearance if were going I'm like many of the other peers and elders that have spoke tonight I would rather us not be involved with the joint terrorism task force. I'm not someone who trusts the f.b.i. much given their record. But I do support your efforts hope that you do vote tonight and that you vote with your conscience and again for the you know I want you to vote tonight and then I figure you can work things out later. I do think that the f.b.i. could have had their efforts together tonight when they came before you so thank you for hearing me and I'm sure you're relieved that I'm the last one so thanks for your patience. [laughter]

Potter: Thank you. Is that it?

Moore: That's all who signed up.

Potter: Council discussion?

Leonard: Mayor I - - this has been a great hearing. One of the best ones I've been involved in since being on the council, actually anywhere, on council. I believe within the framework of the resolution if we adopt it we have the ability to meet the needs and respect the issues that the u.s. attorney has articulated of late. And also meet the needs, I think of our city to hold officers accountable. I just feel confident of that and I recognize it and in the public forum sit and discuss that but within the confines of this resolution I am just convinced that we will not need to have the f.b.i. in the position of saying we can't participate in the j.t.t.f.

Saltzman: I guess to provide the slightly different point of view I guess mayor potter when you presented this resolution to me I guess it was probably a week or so ago it was presented as a pathway to negotiations with the federal government, in order for us to improve the accountability of the joint terrorism task force but to remain a participant in it. And I support that I do support our continued participation in the terrorism task force. At this hearing tonight I think it became very clear that there were gestures put forward by the u.s. attorney, by the f.b.i. special agent in charge to work with you to get to that improved accountability and oversight. And I would like to see I think its unnecessary at this point to raise the specter of us pulling out of the task force in 90 days when I feel - - I feel there's a win there if you can take 2 to 3 weeks work with these people and then come back to us and tell us either it's not going to work or or its. But one of the things you've brought to this council is conciliation working things out you've done it with us you've done it with the public on a number of issues I'd like to see you do it on this one step too. I think its an important thing to do is take this one step to see if we can get to a yes that will improve the accountability and oversight but remain a participant and as I said not raise the specter of us pulling out of the joint terrorism task force.

Leonard: Well to make your life completely miserable mayor, I actually agree with everything commissioner Saltzman says. But I fail to understand how it is that we can't accomplish the goals that he states. All of which I agree within the verbiage of the resolution as it is drafted. And I'll remind everybody here this draft of this resolution has taken a number of iterations. And has taken there are things not in it right now that I would have preferred to see in it. But in the interest of certainly giving the mayor the most reasonable tools possible I have seen the need to modify it. Including what I had been told was a concern commissioner Saltzman had one provision that was taken out to address your concerns. I think what it gets down to is there either is a basic respect by the feds to our processes here in the city or there's not. And what's fundamental I think for this discussion is for the federal government not to take the approach that it's our way or the highway. Up to last Friday I would have characterized those discussions that way since the beginning of the u.s. attorney interjecting herself into these discussions I have seen a dramatic change. I am not comfortable saying that those negotiations should occur absent this resolution. I think those

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negotiations actually have a better chance of succeeding along the lines that we have laid out here with the resolution passing.

Saltzman: Well again I - - for what it's worth I think we are close to getting there and should give it a chance. Why is it important not to vote on this resolution tonight? Because we are surrounded by media and the headline they want to walk away with is portland getting ready to withdraw from the terrorism task force.

Leonard: Its not been said.

Saltzman: I know, I know but the media does a lot of short hand.

Leonard: I'm not talking about the media - -

Saltzman: I'm not saying your saying that, I'm saying that's going to be the message and I think -
-

Leonard: If people do that you're going to really cause a problem in these deliberations. Please do not do that.

Saltzman: I think if we want to have good faith negotiations the first lesson I've learned in negotiations is you don't sort of lay down your gauntlet and say you've got to come here.

Leonard: I appreciate that - -

Saltzman: And I understand you're not doing that entirely - -

Leonard: Yeah.

Saltzman: But I say there is a 90 day clock that starts ticking that leads to our enevitable withdraw unless we can you know reach com --

Leonard: But the reason there are negotiations is because we've had this resolution and the reason that - - federal government is now interested in coming to some agreement is because of the resolution. It has been characterized that it is in our best interest not to withdraw. They also have not said but recognize it's in their best interest not to have us withdraw and I get that dynamic and I think the mayor gets that dynamic and I hope the majority of the council gets that dynamic and that what this does is create a level playing field that we can sit down and have those discussions. If I felt different honestly I'd be saying what you are now. I mean I've spent too many years on the streets of this city seeing the horrors other people can do to other human beings. I get that to more than I think even you do. I honestly believe that the way we get to this place where we find this balance is to pass this resolution have it as a backdrop and within that sit down and find a reasonable accommodation that allows our participation in the j.t.t.f. but respects our chain of command.

Saltzman: Well, I think I agree there's been movement in the last few days and I think this resolution has served its purpose well and I think we ought to take it to the next step without blocking us in necessarily to unilateral path of expectation of the federal government. I think we've heard tremendous gestures tonight at the outset and I think we ought to follow that up in good faith and allow our mayor to negotiate and come back to us in two to three weeks. I mean we have set over issues from height limits on the south waterfront to waterleaf developments in southeast portland. I think we can at least - -

Leonard: Those are land use decision.

Saltzman: I know but nevertheless, we have set over decision for two to three weeks and I don't see why we shouldn't do that in this case here. Come back in two or three weeks and adopt the resolution. If the mayor indeed tells us that the new gestures that we've heard tonight and that he has heard in the last few days are just nothing more than gestures.

Sten: I for one feel you both have made your point eloquently. [laughter]

Leonard: I got the look before he said it.

Potter: I would - - first of all I've been very moved by the eloquent and powerful testimony we've heard tonight from our citizens. I was also impressed with in the last week the movement by the u.s. attorney in particular in trying to move to something that would get to a solution for this. As I

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said at the very beginning of this discussion this evening is that I believe that what constitutes proper local control and supervision cannot be determined by the federal government. It must be decided by the duly locally elected officials of portland. I would however, consider that we could put this resolution on hold for a few weeks. So that we could talk with the u.s. attorney and the f.b.i. I think they put out a feeler for us to talk with them I will not back away from my commitment to protecting our community I know this doesn't please everybody. But if we could give a few weeks we can come back and make public what we have talked about and talk again once more to our community about what is important to them. I know that all of us on this council have strong feelings about this. But I think that I would like portland to be known as a city that listens and acts and that I think that our next stage is to listen and then act. And so my preference would be to make a motion to refer this back to the council clerk's office and have a discussion and bring that back for a full and complete discussion about their recommendations. I don't feel that this in any way obligates us to do what the f.b.i. wants us to but from the time that commissioner Leonard and I filed this resolution I've always felt it was important to do what my conscience dictated. And in this particular case I think it's only fair to give the federal government the chance to see what we can do because this whole document was about negotiating for the oversight by our elected officials, particularly the police commissioner, the chief and the city attorney. So I know that from both sides we have differences of opinion. And I also know that were very sincere and honest in what we believe so I will respectfully either I - -

Saltzman: I'll make that. If you'd like a motion to refer it back to the clerk's office I would make that motion.

Linly Rees, Office of the City Attorney: May I clarify commissioner Saltzman? Is this a motion to postpone to a time certain, I've heard mention of two or three weeks or is this - -

Potter: Yes, let's set it three weeks.

Saltzman: Motion to refer back to the council clerk's office for a period of three weeks.

Potter: Second? I guess that died.

Sten: You can pass the gavel and second it if you want as a point of order.

Potter: Okay. I second the motion. Karla, please call the vote.

Adams: I actually think this is going to work out the person who - - I'm persuaded by Commissioner Leonard's arguments to pass this resolution tonight. I'm respectful of the fact that the mayor will be actually engaged in the negotiations and I don't think that such a bad the fact that he's reluctant is not necessarily such a bad positioning for us. I do think that this will strengthen your hand and I think that serious ground needs to be made on the issue of oversight and accountability so with all respect I vote aye.

Leonard: And the vote is on the motion to refer - -

Potter: Can you refer it to - -

Adams: No. [laughter]

Leonard: I was confused. [laughter]

Potter: The motion is to refer it to the Auditor's office for three weeks.

Leonard: For three weeks?

Potter: Yes.

Adams: Just to confirm my vote, no. I'm new.

Leonard: I'm not going to give an impassioned speech against this motion for only one reason and I can't support the motion. But I find myself in an odd position of feeling very torn about not supporting it and only because of the respect that I've acquired for mayor potter and his approach to doing business. Were it another mayor at another time my reaction would be different right now. And I what I viewed from mayor potter fairly closely is a man who is absolutely driven by conviction. And I have confidence that within the next 3 weeks he will produce something that I can support. However, having said that my no vote shouldn't be viewed as me not trusting that you

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won't do that my no vote is really a strategic no vote because I think just a matter of negotiation that our hand is stronger by passing the resolution to negotiate a responsible relationship with the federal government than absent the resolution. I suppose I had made some remarks on a victory speech here that I apparently will not be giving this evening [laughter] and but there are some quotes that are so good I'm just moved to have to try to at least a couple of them, some of them aren't relevant at this point. Others still are and I would there has been some interest in the community particularly given the article today in the paper with respect to the Brandon Mayfield case. And I have been deeply saddened by the portland also has the distinction of having the only sneak and peek warrant that has been issued in the united states. My understanding was so far and that this man who was in my opinion victimized because of his religious affiliation was only exonerated by the work of a European peace force. I can't be more sad then that. As I said my - - what I was going to say is dramatically reduced. I did want to say that we had a citizen testify that and actually he and I had this exchange before and he said you know what is the city councils definition of terrorism? What I responded back to him the last time we had this conversation was I'm not sure what that is. But I know what it's not. I know what terrorism is not. Terrorism is not participating in your house of worship. Be that a Christian church, a synagogue or mosque. That is not terrorism, I know that. Terrorism is not assembling or protesting the actions of your government. It's not terrorism. Terrorism is not getting on a soapbox and expressing whatever views are in your heart. Be it a dark heart or an enlightened heart that you desire. That's not terrorism. And I get that I can't understand and control the f.b.i. and I hope I make that clear here in these remarks. But I do also get that this council hires, uniforms, equips, prepares our Portland police and we pay them. There our police and I do not think it's an unreasonable request as some have said here tonight to ask that we have our police accountable to us. And so I say those things, hopefully to inspire the discussions that will occur to a successful end to meet the original intent of this resolution. I have full faith in the mayor in doing exactly what he said he was going to do. Or my reaction would be much different. No.

Saltzman: As I've said I think the wiser strategy at this point would be to refer this back to the council clerk's. Give the mayor two to three weeks to work. And not get involved in the headline wars that have ramifications not only with our local citizens but our state legislators our federal delegation who have all urged us to postpone us this vote and who have offered their services to negotiate with the federal government. To get to an improved accountability oversight of the joint terrorism task force. Now I fear if we don't refer this back we'll be dealing with adverse headlines, polarized negotiations and I believe the inevitable result could be withdrawing from the terrorism task force and I think that is a mistake so I vote aye.

Sten: Well this is an unexpected turn of events for me. This is definitely democratic process that you're watching. And I want to before I give you my thoughts I do want to thank everybody. It's actually a real honor to sit on this side and watch the quality of testimony that came tonight. And I think it was brave of many of you, there was talk about the courage on this side actually I think it's more courageous without the benefit of some of the protections we have here to come in and speak your mind and I appreciate it very much. I want to make two points just to have on the record and also for some of you who have been here for a bunch of these hearings and left very frustrated as frankly I did even when I voted the way you didn't support. I think its's going to be argued and has been argued that the council is not working with the federal government and I think a true reading of the historical record will show exactly the opposite. The council a different council but I was on there has voted to work with this task force. Its been a very, very tough couple of years. Were human beings and trying to figure out the right path after September 11th particularly with a lot of talk and a lot of redderrick pre patriot act about how the federal government was going to change things and open things up and there was a break down in communications that caused these problems. We gave this approach the benefit of the doubt. Many of you said not to, we did. And I

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think it's very important to remember that last year I was going to vote to pull out I think as was commissioner Leonard. Although I can't speak with - speak for him until they offered clearance to the mayor. And our position that we might pull out at that point I think is why they offered clearance. Had we gone along with it I think they would not have. I gave the benefit of the doubt on that vote and went for that approach. It was not clear to me as I think it was not clear to many of you that that clearance was different than what our officers have. It was not described at that time. I think a reasonable person which I consider myself would think that when the f.b.i. director says the mayor will have clearance, it will be the same as the police officers, that turned out not to be true. Now we have a pattern of we took part feeling that we needed - - and I also want to say this I believe we need to communicate. I actually believe that the fundamental premise of community policing which I think is the only type of policing that shown any promise at all in recent time and that our mayor started in this town is sharing information engaging everybody. Somebody today spoke about you have to have the people in the mosque the people on the street feeling comfortable and how can you do that if their not involved. And so for me the basic premise of community policing it's just the slightest step toward community policing to include the mayor in this. I think the real issue is that to the extent that information flows more freely to the right places things like the Brandon Mayfield case don't happen because they get caught, people figure it out. The local people know what's right and what's going on and they can help figure it out. And so I believe there's been an argument made by the federal government that is either one of the most hypocritical things they've ever said or something their having a trouble holding up their end of the bargain on. I think there's a little bit of both going on. And that is that the reason 911 and other things have happened is that information wasn't shared properly. If you take that to it's logical end you have to involve citizens I this and so I have probably lost more sleep over this task force than anything I've ever dealt with on the city council. And I've never been sure about the right approach. I want to complement commissioner Leonard and mayor potter because what they came up with and they did this through lots an lots of hard work is what I've been searching for and failing to come up with for a long time which what is a proactive positive way to give the federal government the message that we are absolutely serious about terrorism but on terms that could work. On terms that involve citizens on terms that are accountable on terms that respect the constitution and although I've tried to reject the premise that's come to us I've struggled to do that and I think we've found a way to very constructively say this - - we will take part but only on a basis that makes sense. And so for me this is a very important step forward and it's also a process of many years of the community wrestling with this and I want to thank many of you for hanging in there and pushing, and pushing and pushing until we found this. And we found a mayor who's ready to do this. And that's going to leave me to where I'm going to go on this. I did not second the motion because I would prefer to vote yes tonight and pass this not yes on this motion but yes on this overall piece. I am however, and I want people listen to me. I'm going to vote yes to delay this for a very simple reason. I believe that we can only succeed if we empower tom potter to have the strength he needs to take this forward. And if mayor potter is ready to do this in this fashion I will vote for this in three weeks. I would have voted for it tonight. But if you want to be successful in negotiations you can not have multiple negotiators. And our negotiator in this is mayor potter and if it's his wish to vote on this in three weeks in order to take that strategy into the conversation with the federal government over the next three weeks I am going to honor that because our best chance at success with this approach is not a split council and I need -- we need to have our leader pushing this. I know many of you are going to be disappointed, you've been disappointed before, I've been disappointed different pieces before. I do think that's the best approach. I did not second it because I did not believe it was - - my choice but I am going to vote yes and I will see you all in three weeks and we'll see what happens in those three weeks.

Leonard: Motion - - I'm sorry.

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Potter: Was it okay?

Leonard: Yeah, go ahead.

Saltzman: One more vote here.

Potter: This is obviously - - what you're seeing is a council that has feelings on both sides. But we have a common goal that we want to make sure that our local police officers that are involved in jttf have the proper supervision and control by the lawfully elected officials. Why I do tonight I'm not going to change any of that. I'm doing it to reinforce it. I think that we need to sit down with them.

It's the furthest I've seen them move towards meeting our needs and during the discussion with the u.s. attorney they suggested that we bring if we were to go into a discussion the aclu with us and I haven't asked aclu formally but I would like them to be there. So they could represent the community during this discussion and hear what the f.b.i. has to offer. If it does not meet what I have said tonight I will come back and I will tell you that. And if the aclu goes with us they can also tell you what they heard, so that you can have another independent voice. It's important for me to make sure that we not just protect our community from terrorist but protect our community their rights and that's upper most in my mind. I know I don't please all my friends here or the people who came. But that's okay I'm doing what I think is the right thing. So with that I vote aye.

Leonard: Motion passes. [applause]

Potter: With that council is adjourned.

At 10:17 p.m., Council adjourned.