



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **25TH DAY OF MAY, 2005** AT 9:30 A.M.

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

Commissioner Adams left at 11:48 a.m. and Commissioner Leonard left at 12:25 p.m.

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

Items 508, 518 and 519 were pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS		Disposition:
500	Request of Freedom Child to address Council regarding issues with the Police (Communication)	PLACED ON FILE
501	Request of Paul Phillips to address Council regarding a letter from the Walla Walla Clinic (Communication)	PLACED ON FILE
502	Request of Richard Ellmyer to address Council regarding neighborhood public housing data and the Housing and Urban Development mandate (Communication)	PLACED ON FILE
503	Request of Richard L. Koenig to address Council regarding a grievance (Communication)	PLACED ON FILE
TIME CERTAINS		
504	TIME CERTAIN: 9:30 AM – Portland Rose Festival Association update (Presentation introduced by Mayor Potter)	PLACED ON FILE
505	TIME CERTAIN: 10:00 AM – Amend fee schedules for electrical and zoning permits and land use services (Ordinance introduced by Mayor Potter)	PASSED TO SECOND READING JUNE 1, 2005 AT 9:30 AM

May 25, 2005

<p>506 TIME CERTAIN: 10:30 AM – Authorize the Portland Water Bureau to work with the National Marine Fisheries Service to initiate formal public scoping of a proposed package of measures for the Bull Run Habitat Conservation Plan (Resolution introduced by Mayor Potter)</p> <p>(Y-5)</p>	<p align="center">36319</p>
<p align="center">CONSENT AGENDA – NO DISCUSSION</p> <p align="center">Mayor Tom Potter</p> <p align="center">Bureau of Environmental Services</p> <p>507 Authorize contract with HDR Engineering, Inc. for design and construction support professional engineering services for the Columbia Boulevard Wastewater Treatment Plant Outfall Line Repair Project 5831 (Ordinance)</p>	<p align="center">PASSED TO SECOND READING JUNE 1, 2005 AT 9:30 AM</p>
<p align="center">Bureau of Licenses</p> <p>508 Authorize contract with Sergeant's Towing, Inc. for towing, storage and disposal of abandoned vehicles (Ordinance)</p>	<p align="center">PASSED TO SECOND READING JUNE 1, 2005 AT 9:30 AM</p>
<p align="center">City Attorney</p> <p>*509 Extend contract with Miller & Van Eaton for outside legal counsel (Ordinance; amend Contract No. 33776)</p> <p>(Y-5)</p>	<p align="center">179263</p>
<p align="center">Office of Management and Finance – Bond Counsel</p> <p>*510 Authorize a borrowing of not more than \$20,000,000 in anticipation of the Fire and Police Disability and Retirement Fund levy for fiscal year 2005-2006 (Ordinance)</p> <p>(Y-5)</p>	<p align="center">179264</p>
<p align="center">Office of Transportation</p> <p>511 Amend contract with TriMet to extend Fareless Square Extension agreement through July 1, 2007 (Ordinance; amend Contract No. 51564)</p>	<p align="center">PASSED TO SECOND READING JUNE 1, 2005 AT 9:30 AM</p>
<p>512 Authorize two CTRAN contracts to renew the City Employee Trip Reduction Program option to allow city employees to purchase CTRAN passes via payroll deduction or mail-in voucher (Ordinance)</p>	<p align="center">PASSED TO SECOND READING JUNE 1, 2005 AT 9:30 AM</p>
<p>513 Authorize a purchase order agreement with Westat, Inc. in the amount of \$97,605 to compensate the City for a study of photo radar in school zones (Ordinance)</p>	<p align="center">PASSED TO SECOND READING JUNE 1, 2005 AT 9:30 AM</p>

May 25, 2005

Parks and Recreation		PASSED TO SECOND READING JUNE 1, 2005 AT 9:30 AM
514	Authorize an Interagency Agreement between Portland Parks and Recreation and Portland Development Commission for professional and technical services for park improvements for FY 2005-2006 (Ordinance)	
Planning Bureau		179265
*515	Execute Master Interagency Agreement between Bureau of Planning and Portland Development Commission for implementation of urban renewal plans and development of public policies, plans and capital projects (Ordinance) (Y-5)	
*516	Change the effective date for amendments to Cascade Station/Portland International Center Plan District and related amendments to the Comprehensive Plan and Zoning Map (Ordinance) (Y-5)	179266
Police Bureau		179267
*517	Accept an \$82,500 Department of Homeland Security Law Enforcement Terrorism Prevention Program grant through the Oregon Office of Homeland Security, Criminal Justice Services Division (Ordinance) (Y-5)	
Water Bureau		179271
*518	Authorize a contract with Ace Consultants, Inc. for flexible engineering design services for \$300,000 (Ordinance) (Y-5)	
*519	Authorize a contract with Murray, Smith & Associates, Inc. for flexible engineering design services for \$300,000 (Ordinance) (Y-5)	179272
SECOND READINGS		179268
520	Authorize an Intergovernmental Agreement with Metro to assist in the restoration of native vegetation on Metro open spaces properties through the Portland Watershed Revegetation Program (Second Reading Agenda 471) (Y-5)	
521	Increase subrecipient contract with 211Info by \$13,000 and extend the contract termination date for additional data quality management work and provide for payment (Second Reading Agenda 473; amend Contract No. 35469) (Y-5)	179269
522	Authorize the Bureau of Water Works Administrator to execute grants for \$160,000 with community partners to fund lead poisoning prevention programs to comply with the Environmental Protection Agency Lead and Copper Rule (Second Reading Agenda 480) (Y-5)	179270

May 25, 2005

REGULAR AGENDA

<p>523 Direct the Portland Development Commission to halt the plan to demolish Centennial Mill and work with the Bureau of Planning, citizens and stakeholders to develop a comprehensive plan for the site (Resolution introduced by Mayor Potter and Commissioners Adams, Leonard, Saltzman and Sten)</p> <p>(Y-4)</p>	<p>36320</p>
<p>524 Oppose the FY 2005-06 reductions to federal funding for housing (Resolution introduced by Mayor Potter and Commissioners Adams and Sten)</p> <p>Motion to accept amendment to change the word “will” to “could” in the sentence “these changes could significantly reduce the number of families served: Moved by Commissioner Sten and seconded by Commissioner Saltzman. (Y-3)</p> <p>(Y-3)</p>	<p>36321 AS AMENDED</p>
<p>Mayor Tom Potter</p> <p>Bureau of Environmental Services</p> <p>525 Amend design services contract with Vigil-Agrimis, Inc. to complete design and permitting of Lents Crossing Project No. 6965 (Ordinance; amend Contract No. 35615)</p>	<p>PASSED TO SECOND READING JUNE 1, 2005 AT 9:30 AM</p>
<p>Office of Transportation</p> <p>526 Authorize an Interagency Agreement between the Portland Office of Transportation and the Portland Development Commission to provide professional, technical and construction services for transportation improvements in fiscal year 2005-2006 (Ordinance)</p>	<p>PASSED TO SECOND READING JUNE 1, 2005 AT 9:30 AM</p>
<p>SECOND READINGS</p> <p>527 Authorize the rates and charges for water and water-related services for the fiscal year July 1, 2005 to June 30, 2006 and fix an effective date (Second Reading Agenda 468)</p> <p>(Y-3)</p>	<p>179273</p>
<p>528 Revise sewer and drainage rates and charges in accordance with the Fiscal Year 2005-2006 Sewer User Rate Study (Second Reading Agenda 469; amend Code Chapters 17.32, 17.35 and 17.36)</p> <p>(Y-3)</p>	<p>179274</p>
<p>529 Revise residential solid waste and recycling collection rates and charges effective July 1, 2005 (Second Reading Agenda 470; amend Code Chapter 17.102)</p> <p>(Y-3)</p>	<p>179275</p>

May 25, 2005

530	Pay claim of The Estate of Damon Lowery (Second Reading Agenda 476) (Y-3)	179276 AS AMENDED
531	Authorize the appointment of Officer Thomas K. Hall to the classification of Police Officer at the three-year salary step 5 effective April 1, 2001 (Second Reading Agenda 489) (Y-3)	179277
532	Authorize agreement with One Eleven Tower, LLC and TriMet for public improvements associated with the Portland Mall Revitalization Project (Second Reading Agenda 490) (Y-3)	179278
533	Authorize agreement with 1200 Building Associates and TriMet for public improvements associated with the Portland Mall Revitalization Project (Second Reading Agenda 491) (Y-3)	179279
534	Authorize execution of a Lease Agreement with Nine Ball Enterprises LLC in the vicinity of SE Caruthers Street and SE Grand Avenue (Second Reading Agenda 492) (Y-3)	179280
<u>FOUR-FIFTHS AGENDA</u>		179281
*534-1	Authorize an agreement with Civic Housing, LLC to construct a building over the Tanner Creek Sewer (Ordinance) Continued to May 25, 2005 at 2:00 p.m. (Y-5)	

At 12:35 p.m., Council recessed.

May 25, 2005

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS **25TH DAY OF MAY, 2005** AT 2:00 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; Frank
Hudson, Deputy City Attorney; and Officer Curtis Chinn, Sergeant at Arms.

Motion to suspend the rules and hear Agenda Item 534-1: Moved by Commissioner
Leonard and seconded by Commissioner Saltzman. (Y-5)

At 2:50 p.m., Council recessed.

At 3:36 p.m., Council reconvened.

<u>FOUR-FIFTHS AGENDA</u>		Disposition:
*534-1 Authorize an agreement with Civic Housing, LLC to construct a building over the Tanner Creek Sewer (Ordinance) (Y-5)		179281
535 TIME CERTAIN: 2:00 PM – Adopt North of Lovejoy Project: Recommended Zoning Changes to modify existing base zones, floor area ratio allowances and maximum building heights within River District subdistrict of Central City Plan District (Ordinance introduced by Mayor Potter; amend Code Chapter 33.510 and amend Comprehensive Plan Map) Motion to accept amendment to Findings in memo dated May 23, 2005 from Joe Zehnder: Moved by Commissioner Leonard and seconded by Commissioner Saltzman. (Y-5)		PASSED TO SECOND READING AS AMENDED JUNE 1, 2005 AT 2:00 PM
536 TIME CERTAIN: 3:30 PM – Develop programs to assist local businesses to purchase owner-occupied workspace (Resolution introduced by Commissioners Adams, Leonard, Saltzman and Sten) Motion to accept amendment to change the last NOW, THEREFORE, BE IT FURTHER RESOLVED to, we request consideration that when putting together any requests for proposals for development projects that the Portland Development Commission and City of Portland bureaus award additional point when scoring bid responses tht propose to sell affordable owner-occupied workspace: Moved by Commissioner Adams and seconded by Commissioner Leonard. (Y-5) (Y-5)		36322 AS AMENDED

At 4:05 p.m., Council recessed.

May 26, 2005

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS **26TH DAY OF MAY, 2005** AT 3:30 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; Kathryn
Beaumont, Senior Deputy City Attorney; and Officer Curtis Chinn, Sergeant at Arms.

	Disposition:
<p>537 TIME CERTAIN: 3:30 PM – Request for hearing by Impregilio-Healy-Obayashi following a denial of protest by the Purchasing Board of Appeals (Report)</p> <p>Motion to set this over for a De Novo Hearing limited to the two criterion of project approach and risk and safety and the appropriateness of the memo: Moved by Commissioner Leonard and seconded by Commissioner Adams. (Y-4; N-1, Sten)</p>	<p>DE NOVO HEARING SCHEDULED FOR JUNE 9, 2005 AT 3:00 PM TIME CERTAIN</p>

At 5:19 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.

May 25, 2005
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.**

MAY 25, 2005 9:30 AM

Potter: Good morning, everyone. Want to make sure you're in the right room. This is the Portland city council. Right? Well, good. We'll go ahead and begin. Before I open up the formal part of our city council, we always begin by asking the question, how are our children? And the reason we do that, and it's an old tradition in many countries and in africa, they ask each other when they're passing, rather than saying "hi, how are you?," they ask, "how are the children?," because they know if the children are well the village is well. And so what we do each time is that we bring experts in to talk about how are the children. And it just so happens that all of these experts are children and young people. And so today we have two very special guests that we're going to talk with us. I'd like to invite them up. Hanna lawson and noah coe-nelson. If you want, you can sit there or stand there, whichever one you want. And this is hanna lawson. Hanna is 9 years old and is in the fourth grade spanish class at the international school. She lives with her parents and 4-year-old sister. Hanna participates in the Portland parks summer swim team. She studies piano and ballet during the year. Hanna loves to ride her bicycle, run, skateboard and climb trees. She lives in southeast Portland. Hanna, thank you for being here. [speaking in spanish]

Hannah Lawson: Good morning. My name is hanna lawson. I'm in the fourth grade spanish class at the international school in Portland. The international school offers preschool through fifth grade students a high-quality education in spanish, japanese and chinese. Most of my classmates and I have attended the school since we were 3 or 4 years old. It is a special school, because the students are immersed in their target language all day. By the time we leave the school, we will be fluent in our chosen language. I feel it will be a great advantage being bilingual for the rest of my life.

Potter: Thank you very much. Would the rest of the students from the international school please stand up so we can recognize you. Thank you. [applause] thank you very much, hanna. You can sit down now. Thank you. Next we have noah ceo-nelson. Noah is a seventh grader at victory middle school, the blazers boys and girls club in northeast Portland. He's the mayor of the student council there. Fellow mr. Mayor, thank you for being here. He's also the center of the basketball team, the knights. He also plays for the Portland disciples basketball team. Noah has made honor roll every year and received an academic achievement award from the naacp e. Plans to be a successful real estate agent, an entrepreneur, and remain active in politics. Thank you for being here, noah.

Noah Kone Nelson: I'm talking to you, mayor. You understand?

Potter: Yes, I understand.

Leonard: That's good.

Nelson: Now, recently you approved the budget, I believe it was on may 18.

Potter: Yes.

Nelson: I was looking at what you were cutting.

Potter: Yes.

Nelson: And where the money was going. And it appeared that all the money that -- you cut some organizations and some developments, things like that, in order to make more money and get further ahead, because we're in a deficit right now, but there's money left over that seemed to be poured into the police and fire bureau, and you cut, I believe, 13% off of one of the parks and

May 25, 2005

recreation, and left \$3.7 million and \$3.6 I believe went to the fire bureau and everything like that. I was curious, what are your ambitions about changing and cutting things and making it easier for Portland to get ahead as far as financially?

Potter: Ok. Noah, normally what we do is just have people come in and talk, but i'll explain to you very briefly, is that our goal as a city council was to cut no direct services, which means we wanted to leave police officers on the street, fire officers on the street, and cut no direct services. That meant that we cut some of the administrative positions.

Nelson: Right.

Potter: In various organizations. And also some materials and services to try to find the money, because we had to cut \$7.5 million from our budget. We wanted to make sure we had direct services, that we keep the direct service programs in the parks in place, but cut some of the administrative positions. That was our thinking at the time.

Nelson: Ok. And the in the next five years, do you think it will be better than we are now, or do you think there will be some improvement? Hopefully.

Potter: As long as you stay involved, noah, I have a feeling we'll get better. I had an interesting conversation with noah. He's 6'3". I was standing next to him, and asked "how old are you? , how tall are you?" he said, "6'3." I said i'm 64 and 5'10." very well done, noah. Anything else?

Nelson: Yes. In your opinion, do you think there will honestly be an improvement in the next five years? Is there a really good place for the future and for people coming up, people that are here now, and can we improve?

Potter: Noah, I said it jokingly, but I actually meant it is that you and other people in the community, if you stay engaged in the community things are going to get better, because government can't possibly take care of all the problems in our society. And so when citizens, when young people stay involved, that's when things begin to change, and they always change for the better when people are involved. So I do believe it will get better. And I want you, in particular, to stay right here in Portland, Oregon.

Nelson: Thank you.

Item 504.

Potter: Thank you very much. [applause] next I would like to introduce our rose court. Could the rose court come up to the front here so -- we've had several requests from the city commissioners to have their picture taken with you. So if you could come up to the front, please. They're practicing their waves already. That's good.

Adams: There are a lot of them.

Potter: Do you folks want to have your picture taken with the rose court?

Adams: Yes.

Potter: Ok, let's go do it. Ok, we're going to have a word from our rose festival association. Good morning.

Daryl Brutis (last name?), Rose Festival Association: Good morning. Thank you for allowing us to be here, mr. Mayor and distinguished council members. My name, for the record, is darrell buttus, president of the rose festival association. You've met certainly the highlight of our association, 14 wonderful young ladies who represent the community and the association. They're incredible ambassadors for this community. And you'll hear more from them as they introduce themselves in a moment. With me is jeff curtis, our executive director for the rose festival. He'll have a few words in a moment. 2005 is really an important time for the festival, because it's basically our roots. There was the lewis and clark exposition that established Portland as a major city on the west coast. The final day of that event was very successful. It was that mayor harry lane at that time decided that it was really important to continue that kind of signature event that have a festival that would carry on this kind of tradition. Two years later, the mayor got his wish with a -- the first rose festival, 1907. So basically from the very beginning, the association and the city have

May 25, 2005

had a great partnership that we continue to enjoy as we move along. Now you can see with this great weather we're having today, the festival is under way. And we had our first event last sunday, a bike, bike, run, and had 500 very spirited individuals participating in that, and it was a great success. And we -- we really believe it was really important to get into the -- this area, letting people participate in the community in a different way. The next coming several weeks, there will be 60 more events related to the festival. These events are designed to meet all the needs and wants and desires of the community to make this happen, we need a very strong board and a very strong staff. They need to do, in essence, all the work. With me is jeff curtis, as I indicated, who really leads the staff. He's our new executive director, been on less than a year, and already he's bringing a lot of new ideas, business sense and energy to the association. So i'd like to introduce jeff.

Jeff Curtis: Thanks, darrell. Commissioner Potter -- I mean mayor Potter, distinguished commissioners, I want to take a brief minute before I talk about the upcoming festival and what's going on with the association. I want our court to introduce themselves to the audience. We use them to talk about the upcoming rose festival, and they do an outstanding job. I'll allow the court to say a few things to the audience, and then i'll make some comments.

Potter: Yes. And also the school that they're from, please. Someone start.

*****: Hello. We're the 2005 rose festival court, and we'd like to introduce ourselves and give you a preview of this year's rose festival.

*****: Hi, i'm jiny lee from benson. I plan to become a dermatologist. I was the most improved on my school's varsity tennis team. I work to improve myself every day. The rose festival court presented by pacific power is completely captivating. We make over 90 visits around the state as ambassador for the rose festival. We meet with city leaders, civic groups, and children's hospitals to share the message and story of the rose festival.

*****: Lynn.

*****: Hello, i'm lynn from parkrose. I love playing tennis and snowboarding, and want to pursue a career where I can make children laugh. Laughing and smiling children at the fryer junior parade as it goes down sandy boulevard. The fun happens on june 8 and it starts at 1:00 p.m.

*****: I'm charlotte from st. Mary's academy. I play the violin, an athlete. As a public official, I would want everyone to know the rose festival won 23 awards last year to international festivals and events. This is more than any other event. It makes us the best in the world.

*****: Julia.

*****: Hi, i'm julia from grant. I'm the student body vice president and a state competitor in tennis. I know a real ace. The rose festival has a program that teaches elementary kids how to participate in the community by volunteering on service projects around the city.

*****: Lilly.

*****: Hi, i'm lilly from marshall. I'm a national honor society president and play musical instruments. Don't miss the rose festival concert, featuring performances by some of the best local high school jazz bands, taking place at the arlene schnitzer concert hall saturday, june 11.

*****: Hi. I'm brindle from franklin. My favorite things to do include soccer, crocheting, and photography. If you're artsy and crafty like me, you'll want to attend rose festival eighth annual arts festival. The open celebration is free to the public and located near the south park blocks june 17 through the 19. It features the region's finest arts and crafts.

*****: Hi, i'm caitlin from central catholic. In my spare time I love to wakeboard, snowboard, and play powder puff football. You would have loved this year's first-ever rose festival duathlon that took place may 22 at the waterfront. Everyone had a blast. I hope to see you there next year.

*****: I'm angela from jefferson. Government is a passion of mine, and plan to major in biology while in college. Have you ever wanted to dissect? You can get up close to the floats at the rose festival showcase of the floats at the lloyd center june 11 and 12. Natural materials are used in the floats. There's great food, too.

May 25, 2005

*****: Rachel.

*****: Hi. I'm Rachel from Cleveland. I collect elephants, love to shop, and plan to attend the University of Oregon to become a dentist. You'll see pearly whites at the Rose Festival Queen's coronation Thursday, June 2.

*****: Nicole.

*****: Hi, I'm Nicole from David Douglas. I hope to become an engineer. I'm captain of my school's cheerleading squad. If you have spirit like me, come see the competition of bands.

*****: Hello. I'm Nicole from Lincoln. I enjoy volunteering, writing songs, and plan to major in psychology at Oregon State University and rise to the top of my class. Don't miss the wildness and craziness at the Rose Cup races. It all happens at the Portland International Raceway June 20 through 12.

*****: Kristina.

*****: Hi, I'm Kristina from Madison. I'm involved in my school through student government and National Honor Society. I know another fun and family-oriented event -- the Pepsi Waterfront Village, with thrilling rides and music and food. It all happens June 2 through the 12.

*****: Rosa.

*****: Hi, I'm Rosa from Roosevelt. I like to shop and plan to attend Portland State University to some day own my own business. The Starlight Parade features the area's top high school marching bands and all happens Saturday, June 4.

*****: Bonnie.

*****: Hi. I'm Bonnie from Wilson. I love to exercise and horseback ride. I plan to turn my love of animals into a large animal veterinarian. The most beautiful horses always appear in the Southwest Airlines Grand Floral Parade, one of the top parades in the nation.

*****: Thank you for having us today. It was great to meet you. [applause]

*****: As you can see, they really capture the spirit of our youth in our community, and they certainly represent the Rose Festival. That's what it's all about. Speaking of youth, I should start my comments about a personal thing that happened to me shortly after I became -- after I became marketing director of the Rose Festival. I was at a fast-food place shortly after the 2000 Rose Festival, and I came across a young woman and a 3-year-old daughter. Didn't know she was 3 at the time. She saw my Rose Festival logo shirt, and she said, big smile on her face, and said, "mommy, mommy, Rose Festival, Rose Festival." like I said, I didn't know she was 3, but the look on her face, the joy you could clearly see, shortly after the Rose Festival, I went to her mom and I said, "you know, how old is your daughter? She just experienced her first parade and carnival ride." and that's the spirit and the essence of what drives me as executive director of the organization and gives me a great deal of pride about what we do on an annual basis. And certainly that court is the best of the best. And it gives me great pride to be up in front of you and talk about the Rose Festival. The 98th Rose Festival is upon us. We're excited. It's showtime, as I call it. There's a lot of things coming forth, but there's a lot of things happening kind of behind the scenes. There's really a transition of excitement and spirit and renewed enthusiasm about the Rose Festival. I see it in our staff. I see it with our board and sponsors. And that's something that gives us a great deal of excitement, because the Rose Festival, like a lot of other events, experienced a lot of challenges. Like a lot of organizations, economics has certainly been a challenge for us, but looking forward and looking ahead in a proactive manner versus a reactive manner is the organization's main mission, to accomplish great goals in the future. And we're doing some fundamentally exciting things. We're developing a long-term strategic plan that I hope to share with you in the upcoming months, because it has an impact on our city and it's an exciting plan that's going to take the festival forward well past our centennial. I should mention our centennial, in two short years the Rose Festival will celebrate 100 years of putting together a world-class civic celebration.

May 25, 2005

> we're also paying closer attention to partnerships, working closely with the Oregon tourism commission, to bring tourism to this city, to bring visitors to our city in a proactive manner. Also working with the nonprofit sector. We're playing closer attention to the rose festival brand, what we're all about. What is the essence of the rose festival? You'll see an example of that when I share with you a brief 30-second commercial that really captivates what we're all about. And we're certainly having an internal focus of adapting the needs of a changing society with the balance of tradition of the rose festival, and the tradition is very, very important to us. Today the rose festival features over 60 events, over 25 days of activities, giving rich cultural and entertainment value to our citizens and tour visitors. Our mission is all about a celebration for everyone, and that's what we have. We have events for everybody in this community, and we're very, very proud of that. That's what makes the rose festival special, unique, and a very -- in a community that has lots of events, there's one festival, and it's nationally and internationally known. In a minute, like I said, you just saw a little bit about the court. What they do is amazing. Also what's amazing is the work that's being done on the marketing standpoint to really focus the festival on the emotion of our community and to captivate people's attention and excitement. I'd like to share a commercial that is running, parts of our overall marketing campaign. It's a fresh -- looks at things a little differently. And you'll see that in a commercial that i'd like to play. [unintelligible] i'm taking my family to the rose festival this year, not just because I want to see the floats, but because I want my kids to see them. The Portland rose festival captivated generations. [unintelligible]

*****: You can see it's about emotion. We see it every day. We talk to people open the streets -- we talk to people on the streets and they tell us about the memories they have about the rose festival, and it's a common theme how it's been a great thing for them and their lives. We're trying to translate that forward. Darrell mentioned earlier that we've been around 98 years. It's a celebration for our citizens bringing together people with clear economic benefits in mind. That's what they did in 1907 to showcase our city. And today that high school not changed. Our most recent economic impact proves that the festival provides an economic impact of over \$80 million. Today our events have national and international appeal. The southwest airlines grand floral parade brings people from all over the country and world to come to Portland. We're very, very proud of that. We're honored as one of the top festivals in the world, most recently by the international festival and events association. But there are some other things that don't get the headlines, that prove a commitment to this community, programs under the rose festival charitable foundation. Programs such as the emerging artists program, that teaches kids in high schools how to have a career in art, and showcases their work at our arts festival. Our program, called rose festival kids, that puts kids out in the community, teaches them the values of contributing to their neighborhood around contributing to their community at an early age. Our partnership with solv, making the rose festival the cleanest and greenest festival in the world. And you see what our rose festival court's all about. All done by a nonprofit, the Portland rose festival association. I want to take this opportunity in my closing remarks to publicly thank the city of Portland and your leadership, because we can't operate the festival without the city's support. We come in contact with almost all the bureaus, ranging from the parks bureau to -- for our venues to the police bureau, making sure over 2 million that come to the events are safe and secure. The maintenance bureau, the office of neighborhood involvement, to name only a view. All with the cooperative spirit of producing the rose festival. And we absolutely thank you for that, because we can't do it without you. But make no mistake, the rose festival and the events business has been challenged in recent years. If you've read "the Oregonian" article back in april you'll see that there are clear economic challenges for the rose festival that is true. While we're a strong organization, and won't suffer the same fate as other festivals that have closed, we won't do that. That won't happen because we have a spirit of cooperation with the city, with our volunteers, with our staff, and with our board in a proactive manner of planning to address tough economic challenges. And that's happening today and that's

May 25, 2005

happening in the future. There are challenges ahead, but through the spirit of cooperation we will overcome them. And that's very important. So as we look forward to the upcoming centennial, I have to alou back at what happened in 1907 when the people who created the festival, they did it with a sense of purpose and vision about carrying the festival forward. They went out and raised money. They gained public support, private support, with the spirit of having something that Portland can be proud of and they did that and they accomplished it and what they have today is something that's been around 98 years. That same spirit and cooperation is what we're all about, what i'm leading today, is to take this festival for another 100 years as we go into the centennial, because it's -- and our mission hasn't changed. It's to showcase the city, a celebration for our community, and to drive economic activity, and that is our focus and our vision as we move forward in the future. So i'll just say thank you very much for your support. I hope you come out and enjoy the Portland rose festival, because it's a special celebration, and we'd love to see you there. And thank you again.

Potter: Thank you very much, folks. And congratulations to rose festival on their 98th anniversary, and we look forward to the 100th.

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

Potter: Thank you.

Adams: Good work. Thanks.

Potter: Very good work. Commissioner Saltzman has some additional guests. We'd like to thank the young people for being here this morning. Thank you very much. We look forward to you visiting us again sometime.

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

Potter: Thank you.

Saltzman: Thank you, mr. Mayor. We are honored to have a delegation of officials from ho chi minh city in vietnam. These officials are here in Portland as part of a study exchange with Portland state university and the city's bureau of environmental services. The primary interest of the delegation are to study Portland's sustainable practices in solid waste and recycling, environmental outreach, watershed management, and water quality. I'd like to just have them -- i'd like to introduce them, and I think at the end they want to present a gift to you, mr. Mayor. We have the director of the department of natural resources and environment, ho chi minh city. There ray, the director of the department of planning and investment. Ms. Hong, director of department of finance. Ms. Von, chairwoman of district 6, people's committee. Dr. Tuan, director of ho chi minh city, environmental protection agency. Mr. Faff, director of ho chi minh city, people's committee secretariat. And dr. Kang, lecturer at ho chi minh city university, science.

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

Potter: Would you like to come up and speak with us? [inaudible]

Potter: This is hand embroidery. Isn't that beautiful? [applause] thank you very much. We'll hang it in our office. Now to the business part. City council will come to order. [gavel pounded] Karla, please call the roll. [roll call taken] [gavel pounded] weir we'll now hear communications. Karla, please read item 500.

Item 500.

Freedom Child: Good morning. I'm freedom. I live in st. Johns. I'm back again. Last week I left off telling you about how i'd been ripped out of my home by my hair by 2 policemen and put in an unmarked car without any knowledge about why i'd been assaulted and arrested by the police. Because I had screamed in terror when the police ripped me out of my home by the roots of my hair, several neighbors came out of their homes and were watching what was going on, including my landlord and landlady. They remained present during the entire time and approached the police who had arrested me to ask what was going on. I was deeply upset, embarrassed, and humiliated, although at the same time I also felt inwardly at peace knowing I had done nothing wrong that the

May 25, 2005

police had just committed a number of civil rights and police procedural violations. The police searched through my purse on the back of the unmarked car, and when they found my wallet and driver's license and saw my name was freedom they started laughing about it. One of the officers came to the front of the unmarked car, opened the front passenger door, and started calling me by my name in a mocking and taunting way, as if this was something to be made fun of. At that point I told him I did not want to speak with him, that I was going to file a lawsuit against the police department, and that I wanted to talk to a lawyer. I was left sitting handcuffed in the squad car for about 15 minutes when one of the police officers that had assaulted me took my bike out of the yard and placed it in the trunk of the unmarked police car. Shortly afterwards I was transported to the st. Johns police station. For what reason, I had no idea. En route to the st. Johns police station I reiterated to the police that the right handcuff was too late and hurting my right -- my wrist bone, and they told me that we would soon be at the station, implying I thought that the cuff would soon be removed. While driving to the station one of the officers recite the miranda warning, but I had idea why he was saying this to me as they had still not told me why I had been arrested. When we arrived at the st. Johns station I was locked up in a holding cell and remained handcuffed while they inventoried my purse for a second time. About 10 minutes later I was taken out of the cell and put back in the unmarked car for transport to the downtown central police station. Why I still did not know, because I did not trust the conduct or demeanor of the two officers I asked if a female officer could accompany me downtown. I was told no. I'm going to stop here because my time is almost up. Thank you.

Potter: Freedom, just one question. Did you file a complaint with the Portland police bureau, independent police review?

Child: I did.

Potter: Has that been adjudicated or --

Child: It was denied. I was told it was a just a service complaint, and they denied me access to the citizen review board, which is why i'm here.

Adams: Who denied the --

Child: Captain schenk. He apparently reviews the complaints, and him and richard rosenthal, and they read my complaint and just said the police had acted appropriately. And what they did was they read the police report, and he just blindly accepted what they wrote as the truth, and it was full of lies.

Adams: Where you eventually charged with a crime?

Child: Yeah. I had to -- I had a trial. I had to prove -- I did to disprove the lies the police wrote in their report.

Potter: And what happened at the trial?

Child: Well, they lied under oath. And the reason they lied is like when I screamed, my neighbors called 9-1-1, and that's why all the policemen appeared. And then they were kind of stuck explaining why I was -- what was going on, and they didn't have a legitimate -- a legitimate story, so they had to make up stories to protect themselves.

Leonard: What where you charged with?

Child: Well, I didn't know I was --

Leonard: At the trial, what was your charge?

Child: When I was getting fingerprinting, it was the first time, there was a piece of paper, and it had my name on it, and it said I didn't have my bike light on.

Leonard: That's what you went to trial over?

Child: And they said I interfered with the police.

Leonard: What was the disposition of the trial?

Child: Not guilty.

Adams: So you were -- you were being apprehended for failing to have a light on your bike?

May 25, 2005

Child: Well, umm, that's not an arrestable offense. I had a bike light on, but I had got off the bus three blocks away and rode home, and I just forgot to turn it on. I wasn't on a main street, and I just forgot to turn it on. I did have a bike light on. And first of all I was already home. I was already in my yard. And they never -- you know, that's not an arrestable offense, and so I didn't know why they had arrested me or attacked me or allege. Essentially what they were doing was they were -- you know, they were playing undercover cops, like undercover secret cop games. When they pulled up and said to me "hey, where are you going?" they're men, they don't realize when you pull up and say this that to a woman, you know, women get raped, so I was very cautious when they pulled up with that approach. They never pulled up and said, "we're the police, we'd like to talk to you." they just pulled up like in a way they were trying to pick me up, and I just happened to be in front of my house. You know, they scared me. And I gave them four opportunities to identify themselves, and they never did. And it's not my job to ask the police "who are you and what do you want?," it's their job to say what they want and talk to me about it. Because they had kind of played games with me in the beginning, and they weren't like forthright about who they were and what they wanted, that's how this happened. And so when they pulled me out of my house, they -- and I screamed, then they were kind of stuck having to be accountable for why I was screaming.

Adams: Hmm.

Child: In their police report they never wrote that they pulled me out of my house by my hair. They never wrote any of that. What concerns me is that the police lied. Like I don't lie. If I lie to a police officer, that's a big offense, and it disturbs me a lot that not only what they did to me, but that they lied. And it's like if the police lie and they're not accountable, what else do they lie about? If they were willing to give me like a misdemeanor charge for something I didn't do, well, to me it's like what else do they lie about? And there's no -- there's no process to hold them accountable. When I filed my complaint about the citizens review board, and I was denied access to that, that was just, to me, another form of assault. And there's no way to hold the police accountable. So it disturbs me that they lied. Not only what they did, but that they lied, and then the way I was treated by the -- the police accountability process. It's not a fair system.

Potter: Could you give curtis chin, our police officer, your name, and we'll look into it and get back to you.

Child: Thank you. I'll appreciate that. Then I won't come back anymore. Thank you. Thank you for caring and for taking an interest in what happened. Thank you.

Adams: Thanks for coming back so many times.

Potter: Karla, please read the next item. Good morning, mr. Philips.

Item 501.

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

Potter: Please state your name when you testify and you have three minutes.

Paul Phillips: Paul phillips. I'll read this letter. It's from one doctor to the another, both doctors that I seen in person. It's written to a walter hale, and it's from a dr. W. Robert ragari, m.d., both of them. Dear doctor, paul phillips is now left-handed with impaired vision, considered legally blind. He was injured on the 7th, october, 1981, while working in the laundry in saint joseph's hospital, lewiston, idaho. He's not sure how he injured his hand, but he's concerned about his persisting pain. He has seen a host of different physicians, but has not yet seen a hand surgeon. New paragraph. I think his right hand is quite normal, but I cannot convince him of that because he thinks I am biased. I would appreciate your evaluation and recommendations for paul. I thank you very much for your cooperation. Sincerely," and that's robert w.rogari. June 8, i'll comment about this letter and provide evidence of a medical x-ray report. I was wondering, have you ever met anybody with growth rings before? Because this is what the doctor said, this was pictures of my x-rays taken by a professional photographer. The white lines in the x-ray. He goes, those are growth rings. Have you ever met anybody with growth rings before in your life, or heard of anybody?

May 25, 2005

Potter: No.

Phillips: Well, you have now. I'll comment June 8. Thank you.

Potter: Thank you. Karla, please read the next item.

Item 502.

Richard Ellmyer: Brought my show-and-tell this morning.

Potter: I've seen those.

Ellmyer: I know you have.

Ellmyer: Thank you for being here, Mr. Ellmyer. Please state your name when you testify and you have three minutes, sir.

Ellmyer: My name is Richard Ellmyer. On August 27, 2002, citizen Richard Ellmyer displayed public housing data for neighborhood for all 117 neighborhoods in Multnomah County on a map and tables which are also published on the internet. Although he publicly, loudly and persistently pleaded with h.a.p. And the mayor and the Portland city council to produce an official accounting document of his estimated, unofficial version, they were not only mute, but defiant in their refusal to provide this public information. 126 weeks after the map debuted at a candidate's fair in southwest Portland, Mayor Tom Potter tells h.a.p.'s care, Candace 91, during a city council meeting to produce the public housing data by neighborhood. 17 weeks later, does the city now have a map and tables that are as understandable to the voters, taxpayers, and citizens of Multnomah County? And yet more accurate than the work of citizen Ellmyer? No. 143 weeks and still waiting. 143 weeks, and now the public housing policy establishment has come up with yet another diversionary postponement. This time it's called the analysis of impediments to fair housing choice project. This h.u.d.-mandated report is being used to delay the release of neighborhood public housing data by an unnecessary additional 17 weeks. It may be comforting to some that the person statutorily responsible for public housing policy and the annual expenditure of \$200 million in Multnomah County is a patient sort and doesn't mind casually waiting 34 weeks for information which has been available for years and would take minutes or perhaps hours to produce, not 34 or 143 or 160 weeks. Although told by both h.a.p. And the mayor's staff that the report will include public housing data by neighborhood, when asked no board member, nor staff at h.a.p., or others, could produce a single piece of evidence to prove that anyone anywhere has been instructed to produce public housing data by neighborhood. 143 weeks is a long time for me and most citizens in Multnomah County. We are not interested in waiting 17 more weeks to hear a chorus of compliant consultants who will sing whatever song they're paid to perform in a h.u.d.-orchestrated opera. Neighborhood public housing data does not belong to a small elite club of unaccountable public officials nor staff of h.u.d. It belongs to the 700,000 citizens of Multnomah County. The mayor of Portland must give them this information and give it to them now. The most basic data we need is a text file containing at least 35,000 client records, each with only two fields. One with the neighborhood, one a h.a.p. Designation of median income. This data is not a one-shot deal done every nine years to satisfy some federal agency. It needs to be reproduced and published on h.a.p.'s website every month. Start with that. Show us that the mayor of Portland can deliver something more than a pocket full of promises. Thank you.

Potter: Thank you, Mr. Ellmyer. Karla, please read the next item.

Item 503.

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

Potter: Please sit, Mr. Koenig, and please state your name when you testify and you have three minutes.

Richard Koenig: My name is Richard Koenig. That was petition for redress of grievance that I was presenting. I've been attempting to secure commitments from members of city council. I'm an American, interested in due process, even for Harry, who can't justify the public's rights to use the streets of Portland. When required to do so in front of city council, and a cable access camera,

May 25, 2005

under the terms of Oregon's public law. I've asked mr. Sten, commissioner Sten, what are you going to do? What steps will you take to assure his fair trial? And you were prepared. You had a few weeks now. As a result might have ongoing investigation of mr. Auerbach's criminal activity and his attempts to cover up racketeering on the part of the police bureau, I have been banned from every city office that I know of by mayor Potter's chief of staff, nancy hamilton. As you know, and officer jerry higenbotham was assigned to the mayor's office, and threatened my arrest should I appear before city council to exercise my constitutionally protected right to petition for address of grievance. And thank you, nancy, for straightening the officer out on that particular detail. I'm here today to remind city council of the absolute importance, especially in these post-9/11 days of holding fast to our american ideal of due process. And beseeching council not to disallow anyone of life, liberty and property without it. Please reaffirm your oath of office to support the constitution by urging nancy hamilton to schedule a hearing during which I may appeal my right to petition government and any office of government for redress of grievance and to associate with those public servants who might be interested in helping me with my ongoing investigation. Commissioner leonard is specially invited to sponsor this exercise in due process to mitigate against his prejudicial remarks made last week when he suggested that one or more of the members of the committee for appropriate enforcement of motor vehicle laws might have made threats against some unnamed city employees. Portland has an appeal process for occasions like this. One was allegedly created after the police bureau tried to prosecute me for attempting to file a crime report against a judge who I witnessed committing a crime. The police report alleged that I entered in or remained on northeast police precinct premises to make a crime report so they arrested me for trespassing, close analogous to the case at hand. I'm petitioning city council to cause nancy hamilton to schedule an appeal of my banishment from city offices. Please respond as though you've heard this petition.

Leonard: I just want to clarify one thing. I didn't suggest that anybody on the committee for appropriate enforcement of motor vehicle laws made a threat. I suggested you did. And to quote the letter given to you, the comments you made in february of 2004 about the physical attributes of female city workers in your references to blood, death, and a coffin when discussing your future efforts to correct the city are among the many given by managers to be cause for concern of their safety. As i've said in this place before, I --

Koenig: Which city officer did I actually threaten?

Leonard: Excuse me. As i've said before, I was serving in the Oregon senate when you threatened the life of senator kate brown --

Koenig: And have you seen her affidavit, sir, that said she never felt threatened? I'll show you her affidavit. She swore under oath.

Potter: Mr. Koenig, we listened to you.

Koenig: Ok, good.

Leonard: And I will tell you that I walked with her to committees to help protect her from you. I've never seen a person more frightened. I don't know why you can't deliver your messages without threatening people.

Koenig: I will specifically address her problem next week.

Leonard: I don't care about that. I just care about --

Koenig: No. Following me around? How many years later is this now? Eight years later. This is still following me around. And it's going to be dealt with next week.

Leonard: You have a pattern, a history, of threatening people. And we do not allow that to occur in this building. And quite frankly, I don't know why you're even allowed to be here now. If I was the mayor, you would be arrested.

Koenig: Nothing's out of context, commissioner. Everything has something else behind it. We'll talk about what's behind it.

May 25, 2005

Potter: Your time is up, mr. Koenig. Karla, are there other --

Moore: That's the last one.

Potter: Ok. We're going to hear the consent agenda. Commissioners, any items you wish to pull off the consent agenda?

Moore: 518 and 519 by commissioner leonard.

Adams: And 508.

Moore: 508. 508, 518 and 519.

Potter: Is there anyone in the audience who wishes to pull off any other items off the consent agenda? Karla, please call the roll.

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

Potter: Aye. [gavel pounded] we'll hear those items pulled off the consent agenda after the time certians. Ok. Let's go to the first time certain.

Item 505.

Potter: Staff, please come up.

Ty Kovatch: I'm ty kovatch, interim director of bureau of development services.

Denise Kleim: I'm denise kleim with the bureau of development services.

Cindy Catto: Cindy kato, a.g.c., and representing drac here today.

Kovatch: Thank you, council. We're here today to bring forward our annual fee update, which includes a 3% increase in the electrical fees, a 6% increase in zoning fees, approximately 4% increase in land use fees, but we'll get into the details of that in a minute, and a 4% increase in the development services fee, which was the fee we recently brought up in march to help cover the costs in the land use services division. With regard to the -- the fees generally, we've worked really hard to make sure our customers are aware of this. We've circulated it in all of our publications, the check sheet, as well as circulated amongst our industry customers groups, the development advisory committee, and have also sent out a mass emailing letting people know this was the case, as well as met with the electoral contractors association to touch base on the 3% fee increase on the electoral front. The 6% increase in the zoning fees is a fee that 6% of \$75, or so. If you look at your fee schedule, which was included in your packet, you will see that it's a very nominal increase. It's 6% of a small number. One fee goes from \$26 to \$28. Another fee goes from \$78 to \$82, I believe. On that fee. Then we have the 4% increase in the development services fee, which was the fee, as you may remember, that we came to the council with here a couple months back, which was fully vetted among our customer groups, and everybody understood that the five-year financial plan demonstrated a 4% increase over the next five years, and that's what that reflects. Then the other piece of this is a 4% increase generally on our land use services fees, however that fee increase is not across the board. What rebecca and her team have been working on down there is, over the past year, rebecca has asked her staff to document exactly the time commitment that it takes on any number of the processes that staff go through, down to the quarter hour, to see exactly how much time it's taking staff and what our true costs are relative to the various processes. And what you see reflected in your fee schedule is in part the staff's best effort to match up the fees with the actual costs of the service, but also in some cases to reduce certain fees in certain areas. I'll point you in the direction specifically of the environmental fees, which are right after your first page, and rebecca has also just circulated to you a piece of paper that looks like this, which on the environmental front you might remember during the measure 37 discussions we had extensive conversations about the balance or the disparity between the high level of the fees for environmental reviews relative to the low fee of the measure 37 application fee. And what was discussed was making those match up across the board. And other concerns were raised, particularly by commissioner Sten, that it doesn't necessarily make sense to be subsidizing a whole host of development projects for the sake of a few measure 37 claims. So what we sought to do and worked with the measure 37 executive committee, as well, was to find the middle ground that gets

May 25, 2005

us to a place where the measure 37 fee and the environmental review fees are much more closely aligned, but hopefully strikes the sweet spot between oversubsidizing the fees generally and not acknowledging the disincentive that those fees cause for the people to go through the process instead of a measure 37 claim. So if you look at the fee schedule on your second page of the -- there's probably a million documents you have, but it's this one. You'll see that for residential environmental type two fees, the fee was reduced from \$2560 to \$800. The nonresidential was reduced from \$5,334 to \$1500, as was the environmental type three, down from \$3700 to \$2500, and so on and so forth as you read down the list. That -- I understand that the council has set aside approximately \$118,000 in one-time funds to help manage the cost of this. The actual impact of this proposal is roughly half of that -- about \$60,000. And we feel it strikes the balance between the concerns. The other element of this is the idea that we would elevate the measure 37 fee from its current \$250 to \$750. And so we approached it from both angles. All of this stuff represents the bureau's recommendations, as well as the measure 37 executive committee. And hanna kuhn is available if you'd like to discuss that with her. Also for your perusal is an explanation of the policy considerations that went into the distribution of the fee increase on the land use side of things, which sum amounted to 5% rather than the 4% dictated in our five-year financial forecast. With that i'll turn it over to cindy kato and be prepared to answer any questions you may have.

Catto: Mayor and members of the counsel, tom skar as the chair of drac has submitted a letter in support of this ordinance before you. And in that letter, just paraphrasing, he outlined the support of drac and the process that we went through to evaluate these fee requests. You don't need me to read the letter, but I do want to take my time here today to put in a plug for drac. I was asked to come to reinforce the fact that drac is not only interested in the streamlining that has occurred within b.d.s., and all of the improvements that we've worked very closely with them over the last few years, we want to thank two commissioners, one sam, as you started the process in the mayor's office, and you, randy, for carrying it forward. We're very pleased with the progress b.d.s. Has made, but I would be remiss if I didn't take this opportunity to say that we don't believe the work on improving the development process at the city is done, and we would concur with the mayor's bureau improvement process that you've just been through, the study that says there's some better coordination and consolidation that could happen across bureaus with regard to the development process. And so drac is at the ready to be involved in helping improve those processes. We have recently heard presentations by the other bureaus that are involved in the development process, and are ready to get more involved in helping the development process across all bureaus. We're also very ready to be involved in impact analysis as new regulatory suggestions are coming -- moving their way forward before they get to council. We want to make sure that there's a -- a really good evaluation of the impact on the ground of any new regulation. So with that short plug for drac being here to assist in the decision making, I would reiterate that we -- we would encourage you to approve the ordinance and the fee increases before you today.

Potter: Questions from the commissioners?

Saltzman: The part about the measure 37 fee increase, I guess I didn't track that. I didn't see anything in here. Is there --

Kovatch: I should have mentioned that. We've had some discussion about how best to maneuver that. One thing we need to do here is sort of have you acknowledge that that's an appropriate way to go, and then we will bring a subsequent ordinance, which would elevate the fee from \$250 to \$7.50.

Saltzman: That's not before us?

Kovatch: The specific measure 37 piece is not how we got to the fees here. They're interrelated relative to the environmental review fees.

Saltzman: Ok, thanks.

Potter: Other questions?

May 25, 2005

Adams: Well, I would indicate my support for the measure 37 fee changed that you referenced in your remarks.

Potter: No more questions. Thank you very much.

*******:** Thank you. Karla, do we have people signed up to testify?

Moore: No one else signed up.

Potter: Does anybody from the audience wish to testify on this matter? Anybody wish to ask hanna any measure 37 issues that relate to this? Ok, Karla, please call the vote.

Moore: This is a nonemergency.

Leonard: So before we move on, though, I did want to acknowledge the great work done by b.d.s. Staff and ty in putting this together. And sometimes we get so mired in the technicalities, it's important to step back and look at broader issue. And the broader issue here is that this is in response to these changes, concerns, raised by the public and the business community with respect to unfair fees. And I want to point that out, especially because there has been some attention given as of late, and I think unfairly, to the efforts of the city to respond and react to concerns raised by not just the business community, but property owners. Residential property owners as well. I would say that the bureau of development services has been the shining example of a bureau that's responsive to the concerns raised by the business community and has responded proactively to those concerns to the extent that some more thoughtful comments in the business community have been to me, for an example, that the bureau of development services has gone from an entity that -- that some were fearful to deal with, and reluctant to one of the best building permitting agency in the united states, and that's really not just a testament for the work done in the last 2 1/2 years, but I would agree with cindy that sam started that process, he and I when he was chief of staff with the former mayor katz, worked together closely on initiating a lot of the changes that now we see come to fruition. So I wouldn't want employees that are working to respond as earnestly as those at the bureau of development services to think that the city doesn't appreciate, nor does the business community. I would argue at large does not appreciate their good work and recognize the improvement in the economic climate in the city in large measure due to their excellent proactive work, not the least of which, although i'm impressed with ty's work, i'm not surprised by it. I've come to expect a high level of product out of ty, and he continues to deliver. I'm just very pleased with this. This is excellent work.

Adams: Hear, hear.

Potter: I'd like to thanks the b.d.s. Staff as well, under the leadership of ty. I think it's excellent in the fact that there's no one here to testify also speaks to it as well.

Leonard: Yes.

Adams: We wouldn't let them in the building.

Potter: Ok. This moves on to a second reading. Karla, please read item 506. Staff, please come up.

Item 506.

Rosemary Menard, Water Bureau: My boss was supposed to be here to introduce me, but he's not here.

Sten: I'll introduce you.

Menard: You'll introduce me? That's ok.

Potter: Please.

*******:** Brian, please.

Sten: As she's pulling people up, this is rosemary menard has headed up the plan for the bull run. This started when I was water commissioner many years ago, and it's among the most thorough, thoughtful, and I think promising strategies to try and take on endangered species issue. I won't go and on, but the history a lot of it tends to be that we spend a lot of money complying with the law, but don't necessarily help the animal or creature in question. This is really about trying to come up

May 25, 2005

with a strategy that gives us long-term certainty, spends a fair amount of money, pretty bold, but actually is designed to improve the performance of the water system, as well as the habitat. And there's some pretty startling ground breaking movements, one of which is to return the sandy river to a free flowing stream and to take a dam off the sandy river, which are p.g.e. Dams, and originally we really took a lot of heat. Why would the city take part in trying to take dams off the little sandy and sandy rivers? This is the signature piece. There's a lot more to this plan. The reason was because we're not going to be able to take the dams off the bull run, and here's a way to actually get two of the three streams in the water system free flowing again, while making things better. So anyway, this is a very groundbreaking plan. Rosemary won't give herself enough credit. She's slugged it out to a wonderful conclusion through two presidential administrations.

Menard: Thank you very much.

Potter: No small feat.

Sten: The reason I mentioned the administrations, all the key personnel change when you change administrations. Well, not all. A lot.

Mort Anoushiravani, Director, Water Bureau: Good morning, mayor and the council.

Sten: You have to follow that.

Anoushiravani: I know. That's a tough act to follow, but i'll do my best, commissioner. Good morning. I'm the commissioner of the water bureau. This is a good day to be here to share with you the important project we're doing. I have a few comments to make, and then it's followed with some other presentation. For over 100 years the citizens of Portland and the entire region have enjoyed the benefits of a remarkably pristine drinking water source in the bull run river. During this time the city has successfully worked to preserve and protect the bull run watershed. However, several fish species in the bull run and sandy rivers have been recently placed on the endangered species act list and pose a challenge for the city as it seeks to continue its stewardship of the bull run. The city's use of bull run water and the infrastructure required to capture and store it negatively impact the fish species that have inhibited the bull run and sandy rivers for centuries. Portland has a legal obligation to address this impacts. But more importantly addressing these -- these impacts is consistent with the city's history of a stewardship of the bull run watershed. Sharing the bull run resource will be balancing act. The city has already begun to take some actions to support fish. Since 2000, the water bureau has released water from the bull run reservoirs to maintain critical flows when the fish need them most. The next two years will provide a number of opportunities for the Portland community to get involved in this effort. We welcome the community to learn more about the bull run river and to help develop and refine a plan to protect and restore native fish. And equally important outcome of the plan will be certainty for the city and planning for and painting the reliability and affordability of the bull run system as the region's primary drinking water supply. Finally I will conclude by reminding the council that 100 years ago Portland's forefathers first made the waters of the bull run available to Portland and its neighbors. Our efforts today demonstrate the same type of vision that brought us this remarkable community resource. The 100 years from now, this community will be recognized for its commitment to preserving the ecology of the bull run and ensuring the quality of this resource for generations to come. With that, let me introduce rosemary menard, the water resource protection director for the water bureau, and two representatives of our key partners in this process, my good friend brian booth of the nature conservancy and mike krause of the national marine fisheries service. I'll be glad to respond to your question after their presentations. Thank you.

Menard: Mayor and members of the council, thank you for this opportunity to present some important work on bull run endangered species act and clean water act issues to you this morning. The resolution that's before you this morning requests your authorization to proceed to the next step of the process, and i'd like to take a few minutes to describe the work we've done up to now, and then to talk a little bit about the next steps. So just to orient a little bit, this -- the map that you see

May 25, 2005

before you is the -- the dark outline is the sandy river watershed. As you can see, the gray area is the bull run watershed. And it's an important part of the sandy basin, taking up about 25% of the land mass. So it's a -- it's a critical, important tributary to the sandy and something we've been working on for more than five years to assess the impacts of the bull run system on fishery resources and to develop an approach to bringing the system into compliance with the endangered species act and the clean water act. So this work has been done in collaboration with a number of partners. And I want to take a moment here to introduce to you more formally a couple of the key partners, as most indicated, who are here with us today, and there are many others you'll have an opportunity to hear from as well. At the table are two key participants, and the first is mike krause. He's the assistant regional administrator in charge of the national marine fisheries service. Staff from mike's organization have been, and will continue to be, key players in working with us on this project. And they will make the final call about the adequacy of the city's ultimate proposal for habitat conservation plan. Brian booth is a partner in tonkon torp law firm. He's here this morning representing the nature conservancy, where he's been on the board six years. He was the first chair of the Oregon parks and recreation commission and a cosponsor of measure 66, which provides table funding for parks, beaches and money for our state. The presence of so many of our partners here this morning is an indication of their active engagement in the work we've all done, and i'd like to take this opportunity to formally and publicly acknowledge their contribution and the contribution that each one of them has made to helping us get this far. I want to thank them all for their work and tell them that I look forward to continuing to work with them as we go forward on this important work. So these are the species of concern in the sandy basin. Each species has its own sort of life cycle and timeline when it uses the sandy basin. Some of these species spawn in the winter. Some spawn in the fall. Some spawn in the spring. Some use the system in the summertime. Others don't. And what we've tried to do is we've worked through the processes to understand and address to the extent we could the needs of each one of these species. The sandy basin fishery resources are part typically of a larger geographically defined population unit called an evolutionarily significant unit or e.s.u. This map shows you an example of the e.s.u. For fall chinook. Again, just to orient you a little bit, i'm using the little light pointer, the columbia river is where the pointer's going out to the ocean. The sandy is here. The clackamas is here. And there are a number of other tributary streams on the Washington side of the river. The sandy is particularly important, because along with the lewis river it is one of the two rivers in this geographically-defined unit that actually has a viable populations of fall chinook. So it means that we really need to take into account the needs of this particular species as we go forward. And we've been working hard to do that. The condition of the -- the status of these species in the basin, you can see on this graph, in terms of adult populations and production, there's been a substantial impact on these species. And typically it's -- you know, the variety of things influence that. Certainly ocean conditions, we all hear about this occasionally. Harvest in terms of fishing is sometimes an issue that's discussed. But I think human impacts in the sandy itself have had their contributions as well. And certainly with respect to the human impacts, the water supply tops that list, although it's not the only impact. And as eric mentioned earlier, p.g.e.'s bull run hydropower project, which has been operating in the basin nearly as long as the bull run water supply project, has had its impact, and one really important thing that's happened is that there is a plan to remove both the marmot and the little sandy dam. Marmot is supposed to be removed in 2007. Little sandy will be removed in 2008, and that will restore free-flowing streams to parts of the basin that have been impacted for nearly 100 years. So taken together, the cumulative impacts of all of these things have, you know, produced the result that we've seen. And even still, in spite of that, the sandy, because of the large amount of federal ownership, is a relatively intact basin. So there's a really good opportunity to work together to do something that actually, you know, makes a difference here in terms of investment of resources and return on that investment. Turning to the bull run source, I want to talk

May 25, 2005

very briefly about the specific and definable impacts that the bull run has had. And those are sort of obvious. The flow and habitat impacts, but another one that's a little bit less obvious is temperature impacts. I want to talk a little bit more about that in a minute. But the bottom line is that by storing and diverting water in the system and by building facilities that help us do that, we have had these kinds of impacts that we need to address in the basin. So to ensure the continued access to the bull run source, the city needs to bring the system into compliance with endangered species act and with the clean water act. And we need to do that by obtaining a federal incidental take permit and implementing a temperature management plan. The approach we're recommending is a habitat conservation plan, or h.c.p. It's recommended because it provides us with regulatory certainty and it has a long time frame, in this case 50 years, which will give us a good time frame for doing the kind of water resources and water supply planning that we want to do to serve our customers in the region. Typically habitat conservation plans include measures that minimize or mitigate the operational or project effects, and that's what we've done here, is we've created a package of measures to address the bull run flow and temperature and habitat impacts. And the examples of those include -- these are two pictures of -- you know, this is sort of the classic before and after. Until 1998, we dried up the river below our project. And so the picture that you see there on the left is a kind of a situation that we would be experienced pretty much every summer for over 100 years as a result of the project. And by doing summer flow releases, as we've been doing for a number of years, we've substantially improved conditions. We've substantially improved conditions for steelhead rearing that's going on in the river at that time frame. For temperature, we need to modify our intake structures and reservoir operations to provide cooler water to fish during the summer and the fall. And I wanted to take a minute to talk to you about this graphic, because I think it's a really good example of kind of what the problem is and why the proposed measures to retrofit lower dam is the solution to the problem. Basically cold water is heavier than warmer water. And so the cold water in the system sinks to the bottom of the reservoirs, and the -- typically what happens is, because the lower reservoir intake is at the bottom, all the cold water goes through the system relatively rapidly. By modifying the intake structure at the lower reservoir, we'll be able to sort of bank and store that cold water and sort of release it strategically for fish. So that's a proposed -- one of the proposed measures that we have in the plan. And then finally, habitat restoration and protection activities are proposed both for in the bull run subbasin and elsewhere in the sandy river watershed. Here are a few examples of the kinds of things that we want to be doing -- placing spawning gravel in the lower bull run helps replenish the supply that's really trapped by the dams. So that's really a good strategy. Adding large woody debris in the basin helps improve habitat diversity. And then various kinds of stream side vegetation improvement projects reduce temperatures and improve the natural functions of the ecosystem that is available there. So I want to talk a second about what these projects are estimated to cost. First, we're estimating the average annual cost is about \$2 million. And we've been including this estimate in our financial planning work for a number of years. And it's been getting updated each year as the estimates have become more specific. So the numbers you've seen in our financial plans, when you reviewed those earlier this year, have included some of the costs for some of the things that we've got planned here. And we're helped by the fact that in the past the council's has authorized funding for increased operation of our groundwater source, which helps us to be able to provide the downstream flows that we're proposing, as well as your funding for the planning work that we've been doing for the last number of years. And we would anticipate, with these resources, the existing resources that we have and the anticipated resources, that the projects that we have here would require no additional increment rate increases when we finally get there. Now, I want to caveat that by saying the public process we're about to embark on creates a number of opportunities for the package of measures to change, and if they change it could be that the cost will change as well. But at this point the work that we've done, we've been -- we've been working very hard to try to balance cost effectiveness and rate

May 25, 2005

impacts against doing the things that we need to do for the fishery resources. And we've got a package of measures that has those characteristics. The next steps are to create some draft documents that will be available for public review and comment. And the -- this sort of flow chart you see here includes today's action, which is resolution to authorize us to proceed. This process is intended to occur in the early fall, and will help us shape alternatives that will be evaluated in the environment impact statement, and then we'll be nine months in the drafting of documents. And the seattle habitat conservation plan, a document about this thick, and about that thick for the e.i.s., so it's a fairly substantial effort, and we'll be coming to you in a couple months with a contract amendment asking you to support the work necessary to do that. Following the creation of the documents in the fall of 2006, there's a major public review and comment process, and then a final document will be available in the spring of 2007. The council's key decision is a decision which we're anticipating occurring in the spring of 2007, which -- in which you would accept an implementing agreement. Basically if you choose to accept the implementing agreement you're signing a contract with the federal government for the habitat conservation plan and for the life of the project. So that's a -- that's a key decision that we're not asking you to make today, but would be coming in a couple of years. And then there would be the implementation. That's the end might have presentation. I want to just close by acknowledging a couple of key parties that have contributed to this, who are city staff. Water bureau staffers, janet and steve, have played a critically important role in getting to us this point. I'm so delighted to have the opportunity to work with employees of this caliber. Their individual commitment has just really been amazing. They've done so much really good work. They've created the partnerships that I think you're going to hear and see about today, and I think that's a tremendously valuable asset going forward. Then finally, I want to acknowledge terry thatcher from the city attorney's office who's worked with us on this project, and his experience has been a valuable asset to us in a variety of things that we've had to struggle with as we've gone through everything from temperature issues to, you know, is this really a habitat conservation plan, or is it, being called there a few years ago, a banana, because we couldn't figure out how to fit it into the various regulatory frame works available for us.

Potter: Are those folks here today?

Menard: Yes, they are.

Potter: Could they please stand up so we could recognize them. Thank you. [applause]

Menard: That's it. Go ahead.

Mike Crouse, National Marine Fisheries Service: Good morning, mayor, commissioners. I'm mike crouse here representing the national marine fisheries service. It is indeed a pleasure to be here to speak in support of the city's continued efforts to prepare a habitat conservation plan for the bull run watershed supply system and commissioner's Sten's comments, and rosemary's comments, it was an excellent introduction to my brief remarks. I just want to say that one of my senior managers, michael teahan, the Oregon habitat office director, and his -- many of his staff, have been at the table with the city for more than five years now, working with the sandy basin partners to assess habitat conditions throughout the sandy basin, and to identify opportunities to preserve and restore key habitats for salmon and steelhead. As rosemary mentioned, chinook salmon, steelhead, are listed as threatened in the lower columbia river, and lower columbia river coho are currently proposed for listing as threatened, and salmon and steelhead critical habitat has been proposed for designation in the sandy basin. And then recent media reports of low chinook returns this spring highlights the need for a diligent and long-term effort to, if we're to bring these fish back to the point where they no longer need e.s.a. protection. From the beginning, the sandy river basin partnership has focused on the whole river basin and has tried to understand how the river basin functions for fish. And one of the sandy's primary tributaries, the bull run river, provides important salmon and steelhead habitat and in working with the city water bureau we've identified significant habitat restoration potential in the bull run and sandy basins. Initial work for the bull run habitat

May 25, 2005

conservation plan has also been done in a basinwide context in collaboration with the national marine fisheries service, the fish and wildlife service, and many of the key partners that are here today to speak in favor of this. And I think you now have a solid foundation for which to start work on the h.c.p. And on the public process to analyze and refine the proposal and compare it to other alternatives. To kind of put this in -- the importance of this h.c.p. In a broader context, national marine fish and wildlife services currently working on -- working with state, federal and local stakeholders to develop a recovery plan for the lower columbia river, recovery domain. And we view that the -- that the sandy basin has been identified as an important stronghold for listed species within this recovery domain, and we view the bull run h.c.p. Has a key building block for our recovery plan. So in closing, I just want to express my thanks to the city of Portland, for your protective work and collaborative approach to this project, and actually many others that my staff has worked with within the city, with many other city bureaus and so on, and frankly I wish that other -- that most might have other partners I work with were as cooperative. This has been a very good relationship we've developed over the years. And I wish -- I look forward to working with you to ensure that the bull run h.c.p. Makes an important contribution to salmon and steelhead recovery in the sandy basin. Thank you.

Potter: Thank you.

Brian Booth, Nature Conservancy: Good morning, mayor Potter and members of the commission. I'm brian booth. First let me say it's always nice to hear a lawyer thanked in public. It doesn't happen very often. I'm appearing on behalf of the nature conservancy. As mort mentioned i'm a member of the board. I want to also thank the water bureau and the marine fisheries, national marine fisheries, and the other partners who have participated in this rather long, extensive, important process that commissioner Sten is very familiar with. The mission of the nature conservancy is to preserve the plants, animals and natural communities that represent the diversity of life on earth by protecting the lands and waters they need to survive. And we work with local, state and federal agencies as partners to protect and conserve our land and waters. As you know, the conservation ethic is a very highly-held value in Portland. And one evidence of this is that there are over 11,000 nature conservancy members residing in the Portland area, and some 24,000 around state, and over 1,000 volunteers work with nature conservancy. As rosemary and mike mentioned, the sandy river -- there's a steep decline in the native fish population in the sandy, and that's a strong signal that we need to pay more attention to the ecosystems there. The sandy river has been loved and used by generations of Portlanders ever since lewis and clark stopped by in november 1805, and they named it the quick sand river, but apparently the tourism people got involved and they dropped quick and it became the sandy. Nature conservancy has been involved in the sandy basin for many years. Over 30 years. We've acquired over 400 acres of land. We've helped partners acquire and manage over many thousands of acres. Our partners have included the b.l.m., metro, fish and wildlife, and we've worked with agencies and private partners to get the river federally designated as wild and scenic. Nature conservancy considers the sandy anchor site, a priority site, and each conservancy is prepared to invest extra attention, energy, and resources. Nature conservancy has already provided the leadership for a watershed -- this is tough -- a watershed weedwide control, and have over 400 private landowners an partners with that. Our regional manager, jonathan saul, is here today, and i'd like to salute him for the substantial time that he's spent working on the basin agreement partnership and working with the water bureau and the other partners. We believe that because of the biological and symbolic importance of the bull run watershed within the sandy, the region really needs the city of Portland as a partner if we're going to succeed in the objectives that have been pointed out by the others. Nature conservancy views the resolution as a no -- as a win-win situation. It provides for a procedure and mechanism for developing a habitat conservation plan to support the recovery of endangered species while also providing the city with long-term operational certainty to assure adequate and reliable water service

May 25, 2005

to customers. So the conservancy recommends adoption of this resolution. We thank, again, the Portland water bureau, the other partners, for its leadership, and thank you for your consideration.
Caller: Thank you.

Potter: Thank you very much. Any questions from the council? Thank you. Karla, are there people signed up to testify on this?

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

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

Ralph Crawshaw: I'm name is ralph crawshaw. I'm a retired physician, professor emeritus of environmental medicine and psychiatry. I'm also a member of the national academy of sciences institute of medicine. And in 1994 I was drawn into looking into the bull run, which was in decline, which was a euphemism for a disaster. And I gradually got more and more involved, formed an organization called the bull run heritage, and with the help of commissioner erik Sten began to understand the politics of what was going on.

Sten: Of course, you helped me understand psychiatry, too. [laughter]

Crawshaw: It was a win-win situation. I discovered there was no dialogue going on between the relevant parties involved, starting with the city, who looked on the other cities in the region as kind of irritations that could be done away with, and the other cities, when I went out and talked to them, looked at Portland as though it was a 10-ton gorilla, and absolutely worthless to talk to because they never did anything but what they wanted to do. And with this situation, our organization also had in mind the fact that the bull run was going to pieces. The hundreds of miles of roadway up there were just eroding out from underneath the soil, and there was no one in charge. There was no way it could be talked about. I started out by going up and talking to the mount hood national forester, who proceeded gary larson, and invited her to lunch and invited a member of the water bureau to lunch. And gradually those lunches progressed until now we have a talking relationship between the city water bureau and the forestry service that is just strong and to the point. The same thing was necessary between the water producers in all of these peripheral cities. They were frustrated almost as much as mort was here in the water bureau. There wasn't any form of conversation. So we got them together as regular monthly meetings for breakfast over a period of years to begin to just know each other and how to take care of each other. It went further than that with the help of erik and with mayor katz, we had breakfast for the mayors of the region, in order to discuss informally some of these issues. Out of all of these breakfasts, more than a couple of pounds of weight accumulated, actually quite a bit of goodwill came. And what happened was the water bureau and the forestry service hired other people to help them work out really workable ways of getting memos of intention, of having some kind of uniform approach. It was with that kind of spirit that you now have presented before you this unique attempt to save the habitat of the salmon. I can't tell you how much our organization, it's now called bull run group, really endorses this, and as a physician how much I wish I could do the same thing in this city, in helping us help the uninsured the way we're going to help the salmon. That's my own personal feeling. There is a spirit now in the environmental people and in the city about how this can be done. The basic way that's going to succeed is everybody's agreed on the science, but science is not going to be a fight from here in. It's going to be how can we implement good science. I think that in addition to endorsing this, the commission would do well to thank the public employees who have really extended themselves well beyond their job description in making this a rousing success. Thank you.

Potter: Thank you.

Andy Schaede, Oregon Department of Environmental Quality: Good morning, mayor Potter and members of the city council. My name is andy schaede, and i'm with the Oregon department of environmental quality. I'm here this morning to speak in support of the resolution. The department's responsible for managing water quality in Oregon under the delegated authorities of

May 25, 2005

the federal clean water act of the sections of the act, key ones, include adopting state water standards to provide benefits to the water, establishing pollution limits or a total maximum daily loads, our buzzword, for these waters, then implementing the tmdl's through permits, management plans, and other programs to bring these waters back in compliance with the standards the reason I go through this is the department recently completed the tmdl for the sandy river basin through this partnership. And in the mtdl we documented that water temperature problems do occur in the lower bull run river. The river is too warm for pawning, as rosemary covered, especially in the midsummer/early fall. And the operation of the bull run water supply was identified as contributing factor. D.e.q.'s been working closely with the water bureau for more than five years, and both agencies early on recognized the value of working the clean water act with the endangered species act and the city's to be commended for taking that approach. When the city river partner group convened in 2000, the water bureau stepped up to provide funding to d.e.q. to accelerate our tmdl approach to do the studies, so we could tie these together. The department and water bureau worked cooperatively on computer modeling of the systems to look at what the temperatures could be in the streams. Especially in the lower bull run. And d.e.q. asked the bureau staff to look very hard at proposed action that would bring the water supply system in compliance with the standard. And we believe that the bureau has done some -- has done that. They found very technically sound approaches, which will be part of the work that's going on. D.e.q.'s committed in helping and commends the city for undertaking this effort to combine these two efforts. I think it's really the first one in the state. It's a lot of hard work. But I think we're out here in front. I think we'll make it work. The habitat conservation plan is anticipated to include measures that will get d.e.q. off your back in the bull run water supply. Always a good thing, because I think it will meet the standards. And so we're very excited about that. We think the integrated approach is both workable and appropriate. D.e.q. encourages you to adopt the resolution. And we look forward to working through the process with you on this. I appreciate coming here today. Thank you.

Potter: Thank you.

Cindy Enstrom, Bureau of Land Management: Good morning, mayor Potter and commissioners. My name is cindy anstrom, a field manager for the bureau of land management. And the b.l.m. is one of several partners that is working in the sandy and the bull run watersheds to maintain and enhance native fish runs. To date, b.l.m. has acquired over 3500 acres in the sandy basin to protect valuable fish habitat. The city plays a key role in the management of the fish resources in the sandy and bull run system. B.l.m. looks forward to a continuing relationship and partnership with the city on native fish. We're also very complimentary of the effort the city has put port in developing the habitat conservation plan. And we need the city as a partner for management of the fish runs and encourage the council to pass the resolution.

Potter: Thank you very much. Thank you folks. Thank you for your support and engagement with our water bureau. Thank you for being here. When you speak, state your name and you each have three minutes.

George Hoyt, Sandy River Basin Watershed Council: Good morning, mayor Potter and members of the Portland city council. My name is george hoyt. I live on cedar creek, one of the major tributaries into the sandy river. And i've been the past president of the sandy river basin watershed council, and currently a member of it. And this morning i'd like to state the importance of the actions that are before you to continue to move forward to enhance the sandy river basin. Portland residents have used the sandy river consistently for years and years. They fished there. They boat, bird watch, hike. I caught a 24-pound salmon last year. And through the participation in the watershed, i've come to understand the impacts that we've had on the sandy river and why native fish populations have declined. It's also true that the operation of the city's bull run water facility has had a negative impact on the fish habitat. Portlanders use 20% of the annual flow of the bull run river and the diverted water is otherwise used for fish. I participated with the sandy river

May 25, 2005

partners' effort to define the ways that the city of Portland can begin to remedy these effects on the bull run system. Through the watershed council, i've also worked to encourage stewardship of the sandy river residents. We've held speaker series, native plant sales, removed blackberry and knotweed from streamside properties, planted trees, willows, native plants, and 155 volunteers tossed frozen carcasses of salmon out to jump-start the nutrient cycle in the river ecosystem just this year. All this takes hard work, and we're committed for the decades to come to bring back sustainable populations of native fish. The sandy river basin residents look to Portland as a good neighbor. We need the city to do its part as a good neighbor and respond to the stewardship of the sandy's natural resources. I'm here today to endorse the proposed resolution and encourage you to keep this effort moving forward by creating this long-term plan for mitigating the effects of the bull run water system on the native fish in the sandy river basin. Thank you.

Potter: Thank you.

Phil Donovan, NW Sportfishing Industry Assoc.: Good morning, mayor Potter, members of the commission. My name is phil donovan. I work on behalf of the northwest fishing industry association and the association of northwest steelheaders. I want to begin my comments by thanking the city of Portland staff. We asked a lot of them over the past five years, and they always responded with professionalism and expertise. I also want to publicly acknowledge the other stakeholders who sat at the table. We had different interests that we wanted to see met, but at the same time everybody held on to a common belief that we could come up with a healthy river system that supports a vast array of societal needs. We know that the -- that the bull run dams contribute to warm water temperatures, decreased stream flows, they block habitat, also keep gravel from recruiting to -- to the lower reaches where they're needed. And today it is my hope that the city council will acknowledge more than just the aesthetic value of this river, but also the economic value of this river. Salmon and steelhead mean big business to Oregon. And when you consider sport fishing, salmon and steelhead are king. And yet the four species in the sandy are all listed. We can do better. And this plan, this resolution before you, helps us get there. When you consider the humble beginnings of g.i. joe's in north Portland, the corporate headquarters of fisherman's marine and outdoor on north columbia boulevard, that the largest salmon tackle manufacturer in the world is located in hood river, and that there are numerous small businesses of people who have figured out a special technique that works very well for fishing in these waters, and they start their small businesses out of garages and they become some of these successful businesses today. Sport angling, we've embraced, catch-and-release fisheries to protect the health of the resource. We're on the front lines of volunteer efforts, some of which george was just talking about. We've been political advocates for closures, and of course our fishing licenses pay for the vast majority of fishery management in Oregon. Yet sport fishing is typically the first activity of restricted when runs fail. Why is this? Because we're highly visible and we're easy to regulate. Yet we know that closing rivers means a loss of stewardship. Our responsibility is to renew these salmon runs and address all the limitations on the recovery. So so much careful work has gone into the process that's before you today, from the government agencies to the sport anglers that adopted the sandy river as their own. We've identified the problem areas and I believe we've come up with good solutions. And so it's for that reason that we're happy to be here to endorse and urge your action in moving forward this resolution. Thank you very much.

Potter: Thank you.

Adams: Thanks.

Mike Myrick, NW Association of Steelheaders: Good morning, mayor Potter and commissioners. My name is mike myrick, a member of the sandy chapter of the northwest association of steelheaders. And i'm also here this morning to give my support for this proposal. We do a lot of fishing on this river, and other rivers, but we also do a lot of work. Our chapter was instrumental in building the holding site up on the river now, which will have to be redone when

May 25, 2005

marmot dam comes out. We're already talking about being in the forward of this. This is the time for the city to follow through with this plan. I believe it is a good plan. And we look forward to working with the city and the many stakeholders that we've worked with in the past to bring this to fruition. So we ask you for your wholehearted support. And thank you.

Potter: Thank you, sir. Thank you for being here this morning, folks. When you testify, please state your name and you each have three minutes.

Harvey Barnes, Water Managers' Advisory Board: I'm harvey barnes, the district manager for rockwood people's utility district, but today i'm here representing the water managers advisory board for the bull run users. I'm the chair of that group. Today we're here to voice support for the ordinance that you have before you today. I can't state anything else that hasn't been fairly well laid out for you all today, but it is time to move along with the plan. It's a good plan, we believe. A thing to note that the managers, the water managers have discussed, with implementation of any plan, recovery plan for the bull run, we're fully aware that that's going to come with a price tag. And there will be some cost to that. And we fully support that. We believe this is a good plan, been well thought out. Thank you very much.

Potter: Thank you.

Tim Thompson: Thank you. Good morning, mayor, members of the commission. My name is tim thompson. I'm the president of thompson smitch consulting group, hired by the city five years ago to facilitate this entire process and have been involved with commissioner Sten for a number of years on this matter. I guess by ways of introduction, my firm, or myself, have negotiated directly myself about six of these habitat conservation plans throughout the northwest. We've done a total of 10, particularly in the northwest, at the beginning of this program. It started actually in the early 1990's when the clinton administration changed the policy and basically developed what is now referred to as the no surprises policy that guaranteed certainty to folks that developed these plans over a period of time. And I guess that background, I want to express my congratulations to you as a board of elected leaders who have to stand behind these able staff and develop the leadership position, because these are expensive, timely and difficult processes. And they require a great deal of leadership. The second thing I would do, i'd be remiss if I didn't echo the great relationship you received from rosemary, steve, and terry. You were well served. They were good negotiators, very thorough, and also collaborative. Most of all, I also wanted congratulate the stakeholders, and we stayed together and developed a good plan. Portland will join two other northwest cities with a habitat conservation plan that deals with municipal water. There will soon be a fourth, the city of kent in the near future, but you'll now join with the successful completion of this habitat conservation plans the city of seattle and the city of tacoma. I think when you step back and reflect upon that, that as you look at water supply issues, it's no -- there is no doubt that water issues, and issues of distribution and municipal supply, conservation, and how you serve your public, are going to become more and more important with every decade that passes. They will become crucial economic and social decisions. This plan will allow you a sense of certainty in terms of operation that water supplies desperately need, and that plan, I think this bull run plan and the process, will serve you well. While the h.c.p. addresses the clean water concerns you often hear about, the real power of this agreement is the fact of where you go from here. The fact is that the stakeholders around the table can now emerge with a plan comprehensive in addressing conservation measures. Your efforts have not unnoticed by key members of the congressional delegation in Washington state. We had the opportunity to brief a senior member of the appropriations committee with commissioner Sten, and I think that the step forward here is to look for additional state and federal dollars to support this plan to offset some of the costs from Portland, and to recover those species over a period of time. And we look forward to the implementation of the plan, but I think the power is frankly in the fact that you have collaborate with as many stakeholders. You're to be commended. Thank you very much.

May 25, 2005

Gary Larsen, Forest Supervisor, Mt. Hood National Forest: Good morning, mr. Mayor, commissioner Sten, commissioner Saltzman, commissioner Adams, and commissioner Leonard. It's an honor -- my name is Gary Larson. I'm forest supervisor of the Mount Hood National Forest. It's an honor and great privilege to join my colleagues and partners to speak in support of the city's efforts in this habitat conservation plan. Many of you know that I'm actually responsible for the administration and use of the city's occupancy of the Bull Run watershed, and as a result of our unique federal and state partnership we share many common interests and intentions in water-related issues. We've got a responsibility to citizens to produce clear potable water. We share responsibility for our use of the environment and its natural resources, its restoration, and its stewardship. And I have to tell you that it is my great pleasure to work closely with the water bureau and the many people who have been mentioned, particularly Rosemary Menard in our joint efforts. I want to visit with you about three things. In 1999 we, and many of the other members, partners sitting here today, signed an m.o.u. to work cooperatively in the long-term restoration of fisheries in the Sandy River basin. This group provided a vision and framework for the subsequent development of the h.c.p. In 2003, I joined the city in making an official commitment to a source water protection plan for the Bull Run watershed, and then looking ahead, although it's not the subject of today's business, as several of you are aware, the Mount Hood National Forest, the water bureau are working together to find ways to streamline our administrative roles and responsibilities for Bull Run watershed in the future. We'll be coming forward with some ideas about how to better do that. So I want to say that we -- the forest service strongly supports Portland's and our partners habitat conservation plan. We have joint responsibilities as a result of our unique relationship under the endangered species act and clean water act. The last point I'd like to make is that fish restoration in the Sandy River basin is a lofty goal shared by us and many others. The partners have developed an initial list of priority restoration actions that could cost upwards of \$200 million, and the important commitment you all will eventually make to the habitat conservation plan will be an anchor that will let many of us come forward in an arrangement and break loose a lot of money. So the stuff that you're doing is really foundationally important for the restoration of the Sandy River basin. The Mount Hood National Forest, as other national forests, can spend appropriated federal dollars on lands out of the national forest, when in this case they benefit the fisheries. We're looking forward to being able to do that. I just have to tell you what a pleasure it is to be here with my partners and hear them speak in support of this. It's really wonderful. I want to extend my thanks to you, mr. Mayor, to the city council, several of whom I've worked closely with in the past in the water bureau, and I'm looking forward to tomorrow. Thank you.

Potter: Thank you. Thank you for taking the time to be here. Thank you for being here. When you speak, state your name and you each have three minutes.

Sue Doroff: Good morning. My name is Sue Doroff, with the Western Rivers Conservancy. Thank you for the opportunity to speak with you this morning. Western Rivers Conservancy is a conservation organization based here in Portland, Oregon, and operates throughout the western United States. And our mission is to conserve the great rivers of the west of which we count the Sandy as one. And our perspective here today is that of an implementer. We acquire lands along rivers for conservation, and we've been doing so on the Sandy for a number of years. The Sandy is a unique river. It's a wild urban river. Once the dam is removed on the Marmot dam on the Sandy and the diversion on the Little Sandy, it will be free flowing. It's the only river in the United States this close to an urban area that's -- that will be wild. We've been working in partnership with 24 organizations, the B.L.M., P.G.E. and others to protect the middle Sandy River. Others, the Nature Conservancy, Metro, have been working up and down the river to provide a complex of conservation overlays throughout the basin. The comprehensive approach the city is proposing will complement these activities and provide for collaboration that isn't available anywhere else in the country really. The entire river system will have an overlay, a conservation overlay, virtually throughout if the

May 25, 2005

city's habitat conservation plan is implemented. The investment strategy that's being proposed by the city will allow us all to leverage federal and state funds that are available for these kinds of programs. We've worked with these programs, these federal and state programs, in Oregon and Washington, successfully to carry out these kinds of strategies, and we're excited at the prospect of having this habitat conservation plan be put into effect. I want to compliment rosemary and her staff. They've done a wonderful job. Today's presentation doesn't reflect the hard work and difficult times that have gone before. It all looks smooth and easy now, but in any case I want to compliment them and urge you to pass the resolution.

Potter: Thank you.

Kent Craford: Mayor Potter, commissioner, good morning. My name is kent craford, the director of the Portland water users coalition. We're a group of the city's largest industrial and commercial water and sewer customers. I'm here today to testify in strong support of the Portland water bureau's proposed habitat conservation plan for bull run. A few years ago I wrote a small book of case studies on h.c.p.'s, and through this I became a big player in h.c.p.'s as a long-term habitat management and regulatory tool, and think the Portland water bureau is right on to explore one for the bull run watershed. This is a very smart thing to do. So i'll keep it brief. I just urge your support for this resolution. It was crafted properly. I think the hundreds of thousands of Oregonians who rely on bull run for their daily drinking water, and the multitude of appearance that call bull run home will be very well served. I'd just add that this is very smart from a business perspective as well. It's like an insurance policy. And I know -- we know this is a big investment and a big commitment, but we think it's an investment and commitment that will save Portland ratepayers money if the long term. Thank you.

Potter: Thank you.

Corky Collier: My name is corky collier, executive director of the columbia corridor conservation. I have brief comments thanking the water bureau for an excellent plan. They discussed it with our membership. The biggest concerns were for cost overruns, as you can imagine. Otherwise the water bureau has been an excellent partner. We wish them the best in the plan and thank you for your time.

Potter: Thank you very much for being here.

Moore: That's all who signed up.

Potter: Is there anybody else that wishes to testify on this matter? Ok, council, discussion in. Karla, please call the roll.

Adams: Well, I just want to thank the leadership of staff and the partnership in the community. This is very innovative. Also the initiation of commissioner Sten for this project, and am happy to vote aye.

Leonard: Aye.

Saltzman: Well, and it is a very remarkable plan in the works. The partnership the dr. Mentioned and actually helped to foster is paying off now in dividends that will pay off, not only for the citizens of our region and the sandy river watershed, but certainly the steelhead and the trout that we've done wrong by. This is a great effort to really achieve some magnificent restoration opportunities, conservation opportunities, and really it's remarkable to think that a sandy river could be a free flowing river so close to an urban area. I didn't quite realize the significance of that until the woman just stated that. That's truly a legacy for all citizens of our region for a very long time. And I want to thank the water bureau staff and all of the federal partners an citizen nonprofit groups who have worked so hard to get us to had point, although we still got work ahead of us. This is a great direction to move in. I want to thank commissioner Sten also. Aye.

Sten: A couple things. I did want to again thank rosemary and her team, steve and janet an mort for leading the direction. This has been a terrific piece of work. And very significant. I also want to thank my good friend gary larson from the forest service, and d.e.q. This has been a partnership of

May 25, 2005

all of the folks. If you haven't had a tour of the mount hood national forest with gary larson, I would highly suggest it to my colleagues up here. It's an enlightening experience. The other thing I wanted to mention, I talked a little bit at the front end why it's important for the fish. It's also very important for humans. The reason is we really have one of the world's best, if not the world's best, source of water, and we have not come up with a long-term strategy to maximize the use of it, as well as to improve the environmental performance of it. When we designed this system many, many decades ago, it wasn't with fish in mind. And so this is a strategy actually that will allow us to improve the performance of the fish, and I think in the long run also, I hope, expand the bull run and make it the primary source of the next increment of water for this region. At some point I believe we should as a community build another reservoir on the bull run, behind the dams already in place, and part of getting there is taking the dams off the other streams, so you're really saying to the community, rather than having three streams that are dammed up, you'll have one. In doing so, you're also going to have more water in the summer for the fish. So I think this is really about trying to reenvision what I think is a wonderful gift that our predecessors gave us in the bull run, but really in a sense engineer it with today's sensibilities that are the right ones we should be coexisting with in an abundant population of fish. Rosemary, really, really great work. I know it's not been easy always day after day, but it was well worth it. Aye.

Potter: I'd like to thank both commissioner Saltzman and commissioner Sten, as well as the staff of the water bureau. I would like to note that over the last few years, the water bureau's had some issues, but this, I think, is an exemplary example of what our city is moving towards, and that is building more collaborative partnerships to solve problems. And I think this is -- one of the speakers today mentioned the power of collaboration. This was a very powerful presentation this morning because of the diverse group of people that came forward to show their support for this. I think it's awesome. I would hope the media gives credit to the water bureau and the staff of the water bureau for this, because they certainly deserve the credit for making this happen, as do their partners that have worked with them. I vote aye. [gavel pounded] now we move to the regular agenda, but are there people here to testify at -- on the regular agenda items? And we have the consent items. I just want to see if there were people in either group so we don't hold anybody up. Let's go back to the consent items. Karla, please read the first one.

Item 508.

Leonard: I'm ready to vote. [laughter]

Potter: Now, the abandoned vehicle tow contract, commissioner adams asked to have it pulled. He just left. He has an appointment that he could not delay. But I just want to read you his statement.

He said, I pull this contract to vote, for the record, that no ethnic minorities serve on the tow board, and that his wish is that this would change before they have the next appearance before the city council. Ok. Having said that, roll call.

Leonard: I'm not sure -- I think we all understand what you did.

Potter: Did you wish to make a statement?

Marian Gaylord, Towing Coordinator, License Bureau: I think you might like a little background on the makeup of the tow board and why we are where we are with it. I'm marian gaylord, the towing coordinator in the license bureau. And I actually appreciate the opportunity to answer any questions that council would have about this. The tow board is a unique body in that it brings together three stakeholder groups in the municipal towing contracts. They are the agency that are served by the contract, and that would be the city representatives are the -- from parking enforcement, from the Portland police bureau, also the port of Portland, Multnomah county sheriff's office, two of the agencies served by the contract, odot and tri-met have chosen not to have direct representation on the board. In addition, there are three citizen positions that are appointed by the mayor's office, and they serve as volunteers. And then there are also two industry representatives that are elected by the towing industry, and the city doesn't participate in their selection. So we

May 25, 2005

have two city positions over which we have a certain amount of control of deciding who was in those positions. They're appointed by the traffic engineer and by the chief of police. And then we have the three citizen positions. Our problem with filling the citizen positions has been that this apparently -- and I don't understand why -- is not a terribly desirable position to have. We're very fortunate to have the two representatives that we do have, but we've had a vacancy for quite a time, and i've done as much outreach as I could think of to do -- to attempt to fill that third position, but have not had any luck.

Leonard: Maybe we should appoint commissioner adams to that vacancy. [laughter]

Gaylord: Well, I would be very happy to have any suggestions or any nominations from council that they would like to make.

Potter: Please go ahead.

Gaylord: At any rate, the citizen volunteers are not -- there is no specific profile for them. We only ask that they not be directly related to the towing industry in any way. We try to get as broad a background as possible. One of our two current representatives is a local attorney and the other happens to be an insurance claims expert. I think it's stated on this little information sheet that was prepared by the director of our bureau, out it calls dick griffin an insurance industry representative, but there is no specific insurance industry position. He just happens to be a citizen member who -- that was the source of his interest in participating in this. I believe that commissioner adams also had some questions about the diversity of the applicants for the contract. Here again, the abandoned vehicle contract is not -- is a specialized kind of service. It's a relatively high-risk contract, simply because the scrap metals market has been on a roller coaster ride that has not benefited. It's recovered somewhat now, but it was bad enough at one time that we had a company that had the contract that was losing money pretty seriously and ended up withdrawing from the contract for that reason. This time we only had two applicants. So it's -- there again, the desirability of this contract is maybe not as high as it might look from the outside. I would also say that over the years -- i've been the towing coordinator for almost 13 years now, and in that time we have seen some shifts in diversity in the industry, but it remains a very white male dominated industry. I don't know a lot of women who really are interested in towing, however i'm happy to announce that i've had interest shown from three asian-owned companies who are wishing to apply for the regular municipal contract, not the abandoned contract, but the generalized police towing contract in the next period, so I fully expect they will be approved, and that will give us a little more diversity in our group. But we're somewhat constrained by both -- both by the interests of the agencies, who of course choose to appoint whomever they believe best represents their agency needs and by the fact we don't directly appoint these members of the board.

Potter: Well, I will work with commissioner adams to find you a candidate.

Gaylord: That would be wonderful. We'd appreciate that very much.

Potter: Thank you for your suggestions. Any other questions from the council? Thank you for being here to explain that.

Gaylord: You're very welcome.

Potter: Karla please call the vote.

Moore: This is a nonemergency. Next item is 518.

Items 518 and 519.

Leonard: Mayor, I asked for 518 and 519. You can probably read them at the same time. The only reason I pulled these, is not because of a concern, because I did not have enough information to make a judgment. I'm concerned that -- first of all that the process was as far as competitors, if you open it up.

Mort Anoushiravani, Director, Water Bureau: Yes.

May 25, 2005

Leonard: In looking through the contract, it appears that the contractor has not been able to estimate the cost, and we're paying them on a per hour basis, plus, I think I understand, 5% above that. And that just raises some concerns about -- it feels like an open-ended contract.

Anoushiravani: Let me respond to --

Leonard: Did you have a competitive process?

Anoushiravani: Yes, sir. What we did, commissioner, is we basically followed the -- the city's established process and procedure to engage p.t.e.'s, and we basically advertised it, we had it in d.j.c., it was posted on the website, and we actually received 13 proposals.

Leonard: And did you pick the lowest cost?

Anoushiravani: This p.t.e.'s are based on the value and the qualification. They're basically qualification-based. One of the criterion that is used, it is cost, and the rest of them are the quality - quality of the team and the qualification of the firm, the similar jobs they have done, the numbers, and the scope of the minority participation, so cost is a part of it.

Leonard: So is it normal to have contracts where you don't have a specific amount and you just -- it's open-ended in terms of they charge this per hour and then 5% above that?

Anoushiravani: Yes. That is -- that is normal for flexible services contract, commissioner. The difference here is sometimes we have a specific project that is a specific scope and specific deliverables identified. So that contract is essentially from day one, is around that scope. This is what's called flexible services contract, that allows us to procure, if you will, capacity, to be able to respond quickly in engaging consultant to provide better customer service, if you will. These are sort of nuts and bolts engineering-type design if we get outside work that they have to respond to. That would basically allow us to do it. Each time we have a specific work or task order, if you will, then we sit down and specifically negotiate a scope for that.

Leonard: And do we have staff that are trained to do this kind of work?

Anoushiravani: We have some. And we do some of it in-house and then we also engage consultants when we go through -- through peak period. So what we try to do is maintain a minimum amount of capacity in house, and rather than build it up, because it's not really constant, if you will, so that way we can engage consultant, essentially to deal with the peaks that we have in our workload.

Leonard: I just raise this because this is an area that has raised concerns before about personal service contracts.

Anoushiravani: I understand, sir.

Leonard: It seems a little open to me.

Anoushiravani: Let me have the chief engineer for the bureau speak.

Dick Steinbrugge, Chief Engineer, Water Bureau: Let me just add a few things if I might. This type of contracting is probably something you don't see every day, but it is provided for in the pte manual. Actually it's got it's own chapter. It's in chapter 10 of the pte manual and it describes in there a process that is set up so the bureaus can access typically engineer, architect firms, other pte type firms where you have recurring type work that occurs on a fairly regular basis. It's a much more efficient way to get to firms that have those expertise when you have requirements that come up. As mort mentioned, it doesn't -- awarding this contract does not obligate the city to spend any money at all right now. What we are buying is capacity, and we did go through a competitive process that we're 142 firms that received the bid packages that were listed on the city's purchasing website, received 13 proposals, and as mort indicated, went through a formal process of evaluating these proposals with an evaluation board just as any other p.t.e. Contract would have.

Leonard: These companies have not had contracts with the city before?

Steinbrugge: S murray smith is one of those, and, and murray smith has had contracts with us before. The other one is ace, and they have had some contracts but not as many. I would point out that ace consultants is a registered firm, so while the two prime contractors, consultants is a

May 25, 2005

minority firm, and mr. Smith -- they provided a subconsultant plan that includes seven firms that are certified in one or more of those categories so, each of those two firms were scored the highest on the technical ranking part of the evaluation, and then both scored very well, especially ace, of course, but very well with respect to mtesb requirements

Leonard: I will be looking at these closer.

Potter: I wanted to clarify, on those firms that, that -- the prime contractor has available to them, how many did you say were minority --

Steinbrugge: In the case of mr. Smith, there is seven.

Potter: And since the money is not spent, those haven't been selected to perform any work, is that correct?

Steinbrugge: That's correct.

Potter: Ok, we will, obviously, after the contract has been completed, would like to know how many minority women, emerging small businesses were selected.

Steinbrugge: Yes, and that would be good. In fact, there is a requirement in the contract for that reporting, so we will have that data.

Potter: Very good.

Leonard: Thank you.

Potter: Other questions?

*******:** Is the other contract up for discussion, too? Thank you very much.

Potter: Roll call on 518.

Leonard: I just want to make sure that, I don't mean to mean to be picking on the bureau, this happened to be the first time this came up, are very objective in how they word these contracts and are understanding that we have to explain these to the public, and i'm not comfortable voting for something unless I can defend it. So, I appreciate the explanation. Aye.

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

Item 519.

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

Potter: Aye. Is that the total number of consent items?

Moore-Love: Yes.

Potter: Ok. Move onto the regular agenda, please.

Item 523.

Potter: Commissioner leonard.

Leonard: Thank you, mayor Potter. Some time last year, commissioner Saltzman and I together toured centennial mills with some of the proponents of preserving that building here in the audience today and the vision that they had, which, I think, is a good one, to make centennial mills the actual original part of the structure, as you look at it, there are a lot of additions that have been added on over the last 100 years or so that detract from the actual core building, but I think it's fair to say that commissioner Saltzman and I were impressed with their vision, with the, with the goals of the group to develop it into a museum, and maritime kind of exhibition museum. I'm disappointed to say that while this doesn't apply to everybody at the p.d.c., that certainly, at least speaking for myself that day, the people that were representing the p.d.c. on the tour were, were, let's say less than cooperative. And I think that this is an example where the p.d.c. would actually find a win in working with the public and the community and not just focusing on development but development that makes sense in the community and serves a lot of different needs. We felt it necessary because of some concerns we had about the approach p.d.c. was taking on this particular building to introduce this resolution, and certainly, to give the proponents their opportunity to, to say why they think that preserving the building, not having it torn down makes sense. So, I have every here. I appreciate the support of the entire council on this, and I think it has the potential to be a very exciting addition to our waterfront. Jim?

May 25, 2005

Potter: Are there people signed up to testify?

Moore-Love: There are. Come up three at the time.

Potter: Thank you for being here this morning. State your name as you testify.

Dick Montgomery: I am dick montgomery, president of the Oregon maritime museum, and I live in the sellwood area. I'm here representing the several hundred members of the museum and 90 volunteers, and my board has pleaded with me not to speak, but to show a video, which I will announce right now. It's very brief. [video played]

Bob Layfield: Mayor Potter, city commissioners, I am bob layfield, vice president of the **Oregon** maritime museum. I have to apologize that you have to listen to the same voice twice, but first, i'd like to say thank you to, to commissioner randy leonard and to commissioner dan Saltzman for giving representatives of our museum the time that you have to discuss some visions and the various options that we might have for our future. When one asks the question, what was the most significant thing that created and developed the city of Portland, one needs to only look at the early photos of the city to find the answer. The story is there in those photos. Even without words. Without a doubt, it was the river and the commerce on the river system. I just would take a second to ask you, gentlemen, to turn around and I recognize the, the real nice art worker behind your Portland logo. That's our river system. Those early photos clearly show the vitality of the industrial working waterfront with the warehouses, mills lined with vessels, steam boats, ferries. Centennial mill is one of the last remaining locations on the river that could serve as a symbol of Portland's rich, maritime heritage. The Oregon maritime museum celebrating our 25th year, our 25th anniversary, is looking for a land-side home for our steamer Portland. We want to be part of the landmark on the river that could represent the flavor of our rich history as well as educate our citizens and visitors to the city about that history. There are stories to tell. Stories of our cities' early days. We're better to tell them than on or near the river, itself where the scenes are simulated by the sights and sound of the river. Even stories of later times are there. Next door, up river, with the center of Portland's international shipping. Just across the river from centennial mill was the location of only one of a vast number of industrial sites where ships were built during world war ii. An industry that brought thousands of people to our city as children, grandchildren, and great grandchildren still live here. What better place than centennial mill to educate them and others about what their ancestors accomplished. The members of the Oregon maritime museum urged the city council members to save centennial mill and the footprint of the wharf. Perhaps, allowing historic vessels such as our steamer Portland, the data campbell, and the newly restored p.t. Boat that I had a taste of seeing just recently to be on display. In addition, a public dock would allow visitors access to the site from the river. By halting the demolition, those of us who believe passionately and sincerely, we want a better plan on the river, we have an opportunity to participate with others and develop something that can bring our citizens and visitors to the river as well as serve as a gateway from the river to the city. Again, we appeal, save centennial mill. Thank you.

*****: Thank you.

Peter Meijer: I am peter, 3434 northeast peerless place. I've been professionally involved in centennial mill in 2001 when I did help p.d.c. with a due diligence report on the cultural and historic aspects of that project. I then served as a taskforce member in 2004 working with ruth allen and other p.d.c. members and members of the private sector in studying that site once more. After that work, I decided to -- it was better off not really discussing that, but to actually take the initiative and start to look at ways in which that site could be used. So, I am working with alec pulser, and we have, in effect, created a comprehensive master plan. The purpose of this plan was to meld all the people who have shown an interest in housing, the maritime museum, the fact that there's some sort of park connected to this and start to shop this effort to the private development community, and we have today received some good, strong responses. What this essentially does is spell out the amount of square footage that could be available in this type of plan, and so we were talking to

May 25, 2005

folks like, like city center retail down in san francisco. We believe that the company would be very interested, local developers have shown an interest in this site, as well as other national developers.

So, we're quite pleased that this resolution is going forward. I would like to emphasize, perhaps, that a time frame be established for that comprehensive plan, and that, that really doesn't need to be longer than six months. I think the private sector is already there, and recognizes that there is a great opportunity to occur on that site, and so if you can put some, some -- the comprehensive plan should just say that this could be a blend of private public and to start looking at what that blend might be. This shows around a \$3 -- a 300,000 square foot private with a 12,000 square foot for maritime use or other public use, so it starts -- the comprehensive plan should set those time patterns and also what the, what it should be. I support it, am have I happy to see it, and certainly, I will continue to work with p.d.c. And the bureau of planning, but at the same time not stop attracting the private sector to this site. Thank you.

Potter: Thank you very much.

Potter: Thank you for being here today, folks. Please take your name when you testify, you each have three minutes.

Bill Ellis: Your honor, commissioners, my name is bill ellis, i'm the second vice president of the **Oregon** maritime museum. I'm very honored here, to be here this morning to read a letter to you from mr. Jim spencer, captain of the u.s. Coast guard retired. Your honorable, mayor Potter, commissioner sam adams, randy leonard, dan Saltzman and erik **Sten**. I regret the business does not allow me to be here today as you consider the future of the centennial mills and the prospective home of the maritime museum. I dropped anchor in Portland in 1999 as a captain of the port responsible for many coast guard missions in Oregon and southern Washington. I have been setting deep roots here since 2002. Previously, I spent 24 years living and working in many cities all over our nation's coast. I have seen characteristics that somehow combine to make the best, most alive cities. They have richly, diverse groups of people, architecture, arts, nature, commerce, industry, and technology with a healthy awareness of their history balanced by the enlightened view to the future. Portland is a wonderful place. It is a reason that I and my family parted from a career that would have moved us far away. We are enriched and inspired by our maritime heritage, industry, and art, working waterfront in the past and future of commerce and trade. Please, save centennial mills. Please allow the opportunity for the Oregon maritime museum to anchor maritime heritage, art, and industry within the project, the city, and the region. Captain james d. Spencer, captain u.s. Coast guard retired. Thank you very much.

Dean Runyan: We do economic and market research for, for recreation, tourism, public attractions, quite a number of projects across the country. I wanted to bring that public attraction perspective to this project because I see this as a great opportunity for the city. As you probably know, Portland, at this point, really has a scarcity of public attractions on the waterfront, particularly, significant ones. You think of omsi is one, the commercial operators of the dinner boats, tour boats is another. Our boat, a smaller scale. There are public locations, such as tom mccall park, but there really are very few, compared to many cities. Our oh, to our waterfront in terms of public activity or, or possibly commercial activity is really quite thin. There's also facilities, such as river plants on the south waterfront has proposed. The boathouse has an interesting addition. I see this project as a great opportunity to add another attraction, and in this case, an attraction that is also historically significant. None of these other attractions have, have a historical connection. I think that this is a particularly good opportunity. It's a historic building. It has what I see as the city's biggest single artifact, steamer Portland, but a very major artifact that can help anchor this. So, I would really encourage you to, to find a way to help forward on this project. I think it would be a benefit not only to the entire city, as a destination area, but also to the pearl district to help anchor the waterfront portion of that in a way that I see is very compatible with the industrial history of that area. I might add, also, that the steamer, itself I think really illustrates

May 25, 2005

the, the level of commitment and energy from, from a group of people whom you can partner with. To pull that thing off of the scrap and put it together and operate it. It's a tremendously difficult and significant thing to do. It took the efforts of many people who often are still there. It took a lot of money that they raised in order to do that. And I think that, that that kind of energy is the sort of thing that the city should identify and, and partner with and benefit from in the future. So, I really would encourage you to try to find a way to go ahead with this project, if you could. Thank you.

David Allred: Mayor Potter and commissioners, I am david. I'm a specialist with the neighbor's west, northwest coalition office. The pearl district neighborhood association is a member of that coalition, and I am here on their behalf, at their request. They are not able to attend personally. To put in the record their support for this resolution and also, their thanks for, for the council considering this matter. Thank you.

Potter: Call the roll

Leonard: By rights, I should declare a conflict of interest given my family's history of the maritime activities and my personal stake in wanting to see this built, staffed, and see it a public asset. My dad was, for over 30 years, in the business. He went out of Portland in world war ii, and my son, himself, has two weeks left on a four-year enlistment in the coast guard. And my own proud assignment on the boat, my last five years with the fire bureau, including david campbell, certainly peaks my interest in this project. So this is, this is -- this is really a very exciting, I think, vision that, that all of you have, and i'm really glad that you came and sold me on it. I didn't need a lot of selling, but I needed to explained to me, and certainly going through the building and envisioning what actually would be there at some point is really an exciting prospect for Portland and for anybody who has any interest in the history of Portland and its maritime activities, which as the speakers pointed out is really the origins of Portland. So, i'm very pleased to support this. I'm really pleased that my colleagues here have unanimously signed onto this resolution and. I support it. Aye.

Saltzman: Thank you for bringing this resolution forward. I think that centennial mill has the potential. It certainly is an important historic structure on Portland's waterfront, and our waterfront really is important, so I think it's important for us to give it a good effort to try to put together a development proposal that will fly, that will be, basically, a private sector proposal but also the home of the Oregon maritime museum. I think that's a very exciting thing, and I think there's a lot of good energy, as we just heard. There's a lot of energy behind this idea, and I think it's important for us, as a city, to take this six-month, eight-month process to see if we can put together a truly fitting symbol of Portland's waterfront history and heritage but also a successful development in and of itself, and I think there's definitely a good opportunity. We can't promise anything yet, but we need this pause and give it a good shot. I am pleased to support this. Aye.

Sten: Well, i'm also pleased to support this. I am looking forward to seeing what happens. It was a pleasure to hear all the passion in the audience today, and some of you, I have met before, and some of you, I have not. I think it's going to be, speaking to us, I think the city council really is going to need to come up with some more spec physicality in terms of what we want to see. I want to see how much this is going to cost, and I think it's something that we are going to have to work with the community to come up with strategies, and myself included, i'm not pointing fingers. A third implementation agency, which I believe is what they are, and we're changing the orders on implementation, the council is going to have to really step up and say what we're willing to do. But, there's not going to be any, any easy way to save the structure. But, I am committed and glad that my colleagues have led us to bring this forward and figure it out. I think this will give us a chance to do it, and it will be a remarkable achievement to pull it off. I am glad to vote aye and look forward to it

Potter: In my discussions with p.d.c., I think they clearly understood the will of this particular council was to save centennial mill and take a second look at it. And I think what this resolution

May 25, 2005

does is it memorializes the change in the council direction to p.d.c., and I am excited about the possibilities for centennial mills. Once we tear down our historic structures, there's no going back, so this gives us a chance to look at it, and determine if there is uses for it, and, and move it forward. So, I appreciate the work of everybody, and commissioner leonard for bringing this forward. Aye. [applause]

Potter: Thank you folks for being here. Commissioner leonard had to leave. Please read the next item.

Item 524.

Sten: This is straightforward. This is putting the council on record in opposition to what I think are devastating cuts coming from the federal government. It's late from the day, and I think that everybody is well aware of the present administration has moved to make some major cuts in section 8 in public, and the block grant, which is what we rely upon to do most of the work in low income communities, and at the same time, I do appreciate that we are being pushed by them to have a plan to end homelessness in 10 years. Although I appreciate some of the officials working on the homeless plan and do believe that they are sincere, it's hard to miss the irony of having the very resources that are keeping us hanging on by our throat being cut and asking for more. I think it's important, as for the other city council members, to bring forward a resolution that says that we are opposed, and one minor amendment I wanted to offer, mayor, I think the text has been passed out by commissioner adams, but in one of the paragraphs we wanted to change "will," to "could," at the housing authority's request, and it would say that these changes could significantly reduce the number of families served. I think it will, but for policy reasons, the housing authority would prefer that word. And I assume there is not a lot of objections.

Potter: No

Saltzman: Second.

Potter: Do we need to vote on that? Ok. Please call the vote.

Saltzman: Aye. **Sten:** Aye

Potter: Aye. Do we have anybody assigned to testify on this?

Kate Allen, Enterprise Foundation: Good afternoon. I'm kate allen. I'm the director of the enterprise foundation and a member of the affordable housing now coalition. We are here to express our support for resolution, the resolution you just passed, opposing the reductions to the funding for housing and the flexibility. We want to express our appreciations for commissioner Sten's long-standing support for affordable housing. Commissioner adams' interest and efforts on behalf of addressing the critical housing issues for Portland residents and the local leadership demonstrated in passing this resolution. Which we feel sends strong, important message that while we work here in Portland and state-wide on innovative and efficient use, local and state resources, the need for at least level funding for the federal source is really critical. Finally, we want to, to acknowledge the mayor, we are looking forward to your comments tomorrow as we convene the rally for housing justice, affordable housing now, and at least 20 other groups coming together in coalition around very critical housing, and we are looking forward to seeing you back tomorrow at noontime

Potter: Thank you. Any others?

Potter: Ok. Does council have any questions? Ok. Carla, please call the roll.

Saltzman: Aye. **Sten:** Aye

Potter: Aye. Karla, please read item 525.

Item 525.

Potter: Is there staff on this? Is there anyone here signed up to testify?

Moore-Love: I didn't have a signup sheet

Potter: Ok. Anybody wish to testify on this matter? Council have any questions? This moves to a second reading. Karla, please read item 526.

May 25, 2005

Item 526.

Potter: Any staff on this?

Greg Jones, Portland Office of Transportation: If you have any questions, I am answer them. This is our annual interagency agreement. I think the planning and park agencies were on consent.

Potter: Questions from the commissioners? No one signed up?

Potter: Anybody care to testify on this matter? Thank you. This moves to a second reading?

Moore-Love: Correct

Potter: Please read item 527.

Item 527.

Potter: This is a second reading. Let's take a vote.

Saltzman: Aye. **Sten:** Aye

Potter: Aye. Carla, please read item 528.

Item 528.

Potter: Let's take a vote.

Saltzman: Aye. **Sten:** Aye

Potter: Aye. Next item.

Item 529.

Potter: Second reading. Please call the roll.

Saltzman: Aye. **Sten:** Aye

Potter: Aye. Karla, please read item 530.

Item 530.

Potter: This is a second reading. Take a vote.

Saltzman: Aye. **Sten:** Aye

Potter: Aye.

Potter: Please read 531.

Item 531.

Potter: This is a second reading. Take a vote.

Saltzman: Aye. **Sten:** Aye

Potter: Aye. Karla, please read item 532.

Item 532.

Potter: Second reading. Let's take a vote.

Saltzman: Aye.

Sten: Aye

Potter: Aye. Karla, please read item 534.

Potter: Excuse me, 533.

Item 533.

Potter: Second reading. Let's take a vote.

Saltzman: Aye. **Sten:** Aye

Potter: Aye. Karla, please read item 534.

Item 534.

Potter: Second reading. Let's take a vote.

Saltzman: Aye. **Sten:** Aye

Potter: Aye. Last item this morning, we recess --

Moore: We did have this item but it's an emergency.

Item 534-1.

Potter: Ok.

*****: [inaudible] [Item continued to 2:00 pm 5/25/05.]

May 25, 2005

Potter: We certainly hope so. They are gone. They are outside. Ok. Recess until 2:00 p.m. --

*******:** 3:30.

Sten: I think 2:00 for these people.

Potter: We apologize for that. Thank you very much. [recess]

At 12:35 p.m., Council recessed.

May 25, 2005
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.

MAY 25, 2005 2:00 PM

[Roll call]

Potter: Let's hear the 2:00 p.m. Time certain.

Moore: We have the four-fifths agenda item.

Potter: Oh.

Item 534-1.

Moore: Authorize an agreement with civic housing llc to construct a building over the tanner creek sewer. You should probably take a motion to accept the item first.

Leonard: So moved.

Saltzman: Second.

Potter: Please call the roll.

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

Potter: Aye. [gavel pounded] thank you folks for coming back.

Adams: Oh, we had people here.

Moore: Item 535.

Item 535.

Joe Zehnder: Good afternoon, i'm joes zehnder with the bureau of planning. I'm here to present rezoning proposals that have grown out of the north of lovejoy project. This was a study that's taken place over the last three years for the area outlined in red here, roughly between 12th and 9th avenues northeast and north of lovejoy. That's the name of the project. The north of lovejoy project is a third of in a series of reexaminations of the zoning for this part of the river district, and the areas that are hashed or shaded in this map show you the previous projects, and you can see the area left in white is one we haven't revisited since 1988. In the 1988 plan this was thought to most likely be tilt-up warehouse space. Between now -- over the last 17 years the pattern of development has been significantly different, and that's one of the core issues we're addressing in doing the project. The project was started in 2002, it was developed in consultation with the pearl district neighborhood association, area stakeholders, the developers and owners of hoyt street projects, and the Portland development commission and other city agencies. And it was built largely on a framework that was completed in 2001 which focused on the character of the three parks that go up the center of the hoyt street projects development, jamison square, the middle north park square, which is under construction now, and the third and final is this neighborhood park to the north, which is the largest, and thought to be a park most directly oriented towards recreation purposes, active rec. This framework as I said, was what we took as a starting place to examine what it meant for the form in the amount of developments that could be on the blocks around it. And to build the consensus for this zoning proposal i'll be presenting, we also took a step back and prepared an you're ban design framework that took a look at the larger context and also reviewed sort of the direction of where we thought we were going in this part of the river district. It was very quick exercise, this part of it, it was a two-day workshop with that group of stakeholders and city agencies and the developer. As I said, it came up with conclusions about the larger area issues that are going to influence development of this part of the river district, including the greater heights and development intensities and the greater presence of jobs in the area to the west of the hoyt street

May 25, 2005

properties area, it also picked up on the critical -- the importance of what happens with the waterfront to the future of the Hoyt Street Projects area, focused on how important the future of the potential redevelopment of the Post Office site is for this area as well. And then it drilled down to look at more specifics about this 12-block area. And the conclusions included reasserting that it's very important to connect to the waterfront as we build north and sort of complete this part of the river district. One way to do that is to orient both the streets, the open space, and some of the buildings more toward the waterfront. It also emphasized the group that worked on the framework came away convinced of the need for a concept for the future of the waterfront. It's time to step up and try to figure out that concept. The group working on the framework also got very excited about the unique opportunity that the buildings around the Neighborhood Park here could present, because typically, and the rest of Hoyt Street Properties area, you have a park surrounded by streets and then with buildings surrounding it. But on this larger park, you actually have the opportunity to have buildings, residential units that sit on the edge of the park. A different kind of residential unit, a different kind of way of animating, of designing the park. In this discussion too, by looking out at the future and seeing how this district might play out, the stakeholders became open to consideration of more development intensity in the future than the plans currently anticipate, and also this look, this broader look made the stakeholders want to reinsert it's important to ensure diversity, the types of housing units, possibly family size housing units, as well as the diversity in terms of affordable housing and diversity in terms of adding some employment uses or retail to the mix, a complete neighborhood, not just a residential enclave. So the result of the Urban Design Framework -- the urban design framework produced a number of ideas that we need to follow up on, and one of the conclusions was that we need to follow up with the second phase of work that focused on -- focuses on a closer look at the kind -- that were raised, trying to figure out ways, trying to evaluate whether or not the ideas are worth supporting and moving them toward implementation. So planning and the Portland Development Commission have put -- have -- are intent to undertake a study that looks at this area north of Overton, including Centennial Mill and the river district waterfront to follow through on the ideas that we started with this first urban design framework. The second conclusion of the work that we've done in the project was that for south of Overton, between Lovejoy and Overton it was appropriate and the time is right to make three specific changes to the zoning code. First, the first of these three is to rezone the three parks, Jamison, North Park Square, Neighborhood Park, from e.x., to open space. So the gist of this is, the parks have been transferred to public ownership, the deal has been closed, we're moving forward, and the zoning should reflect that. Secondly, the -- as you saw the -- this area was zoned in 1988 and hasn't been revisited, and the f.a.r., the amount of development that can take place in this district is significantly lower than the other areas in the river district that in the interim we've gone back and taken a look at. Today this area between Overton and Lovejoy and actually all the way out to the waterfront can only reach a 2-1 f.a.r. The way the zoning works here, you have available the residential density bonus, so if you do residential you get an automatic bonus of 3-1, so if you're doing residential development that 2-1 can reach a 5-1, but that residential bonus is also available on all these other zones. So the proposal is to increase roughly 12-block area here from 2-1 to 4-1. And then the last of the three changes is sort of accompanies that increase in the f.a.r., and the rezoning of the parks. It's dealing with the issue of height. Currently in the area the maximum height that's allowed is 100 feet. And the sort of diagonal hatch refers to a height bonus that goes with the residential bonus as well. So if you do residential development in this area, you can reach 175 feet. The proposal that's on the table was looking at -- focused on two issues. One, how best to protect the parks from shadowing, as we get that's bigger buildings, and secondly, how to open the door for some more diversity in the buildings that we're seeing built in this part of the river district. There's a certain uniformity, and part of that is driven by height. So the proposal is to restrict the maximum height to the south and to the west of the three parks to 100 feet. It cannot exceed 100 feet, it's not bonusable on the first half of the

May 25, 2005

block. The first hundred feet back from those west and south faces of the park it's limited to 100 feet. On the second half, on the back half of those blocks, height can rise up to 225 feet. So let me show you these diagrams that show two things. One is the height -- the shadow analysis that sort of help us develop this height proposal. And also this sort of schematic on the right side, which shows you in dotted lines the envelope, the lower part here is 100, the upper part is 225, and the point of this is just to illustrate when you have an envelope like this, you can get a variety of building types, building forms to fill it, and the combination of the increase and f.a.r. And the increase in this height envelope we think is going to help promote this kind of diversity. The planning commission in discussing this had a long discussion, though, about their concern that we're opening up the door for flexibility and some of these buildings, some of the forms are even shown on here are not desirable from their point of view. Specifically if these tower sections get to be big, long slabs that run a whole block in length, they could become a -- create an undesirable wall effect. So if you were to say which of these attracted their most concern, it would be buildings such as that. The planning commission, though, in their deliberations on this, decided not to include any provisions in the zoning that would specifically address this, but depend on the design review process to take care of it. This area is all under design review, the planning commission is sending a letter to the design commission to sort of capture their thinking, you know, to put on the table for the design commission the importance of this principle, and they felt confident that the design commission and the design review process can handle this issue. Just to illustrate the current proposal from Hoyt street properties for block nine this, is the block directly to the south of the north park square, really embodies the kind of buildings were trying to get. Where you're seeing a mixed use building, a whole office building component to this, a lower building along the park, and actually just on a quarter block of that entire block a tower that rises. So the potential for the kind of variety in these different buildings we're after is already being realized through the proposals. The -- so that concludes my presentation of the specific legislation -- legislative changes in front of you today. There's one more thing that I need to ask. We have provided you in the memo dated May 23 and delivered to you today, some substitute language for one of the findings in the ordinance. Finding number 17, which refers to state goal 12 on transportation, which if you have your entire ordinance package, this would be substituted from the language that's on page four. This language was drafted by pdot. They feel it better makes the case that they are not significant transportation impacts of resulting from the proposal that's in front of you today. And the gist of how we reached that conclusion is that by downzoning the parks we've eliminate add lot of development potential, when you run the -- increasing the f.a.r., it's sort of a zero net increase, virtually a zero net increase. So pdot was able to make the finding that there's no significant impact on traffic with this proposal. So if we can -- if I can ask that the city council consider moving and adopting today this substitute language, we would be able to consider it at the next -- at the second reading. And with that I'm done and open for questions. Thank you.

Saltzman: When you started out talking about the new neighborhood park, I guess that's what its name is, you talked about buildings having a new interaction, or interface with the park? What does that mean?

Zehnder: Just when you think about Jamison square, you have the square, and then you have the streets that surround it, and the buildings are across the street from the park. So there's always this kind of sidewalk-street separation from the park. What could happen on a neighborhood park is it wouldn't be a street separating the residential units, the buildings from the park. They could sit and for instance on the west side of the park on the boardwalk that's in the park. So in terms of a different kind of --

Saltzman: There might not be a street.

Zehnder: On the west side of the neighborhood park there isn't a street, there's the boardwalk is what the plan calls for extending. And one of the ideas that came out of that charrette is possibly

May 25, 2005

even looking at the west streets and maybe talking about eliminating sections of those, or scaling them back. It's just an idea at this time, but people were excited that once again, we might be able to add a new kind of housing unit, a new kind of building to the neighborhood, and that even the park designers were seeing some intriguing possibilities of what it might mean for the park.

Saltzman: And then so the height limits on the half blocks to the west would be 100 feet?

Zehnder: On the half blocks to the west of neighborhood park are 100 feet.

Saltzman: And the half block -- the next half block over could go up to 225? Maximum?

Zehnder: Correct. On this block this first phase is 100, and that face would be 100, and then these back faces could go to 225.

Zehnder: 225.

Saltzman: Ok. I guess my last question is, i'm just curious why overton was slated for the next retail corridor, lovejoy and overton as opposed to northrup --

Zehnder: When they were discussing it, lovejoy already is sort of turning out to be a retail street, and it's a retail street that seems to be serving all of the pearl, all of the river district. Because probably because you're seeing that kind of development all through lovejoy, and it's a great connection to northwest. Overton seemed to be the next logical street from the participants in the charrette, but for really much more local serving retail, not the kind of pearl district -- that was just

Zehnder: -- I really don't know the -- all of the reasoning that went into that particular differentiation. But I think in part it's a gateway, this is the street that someday is going to connect to naito parkway, so it's another one of those smaller but relatively major east-west connections.

Saltzman: Ok. Thank you.

Potter: In terms of your substituting of the language, changes to the north of lovejoy project findings, you're adding all of the language clear to the back? Or is it just part? Where are we distinguishing what the added language is?

Zehnder: It's everything -- it's all of the paragraphs that are indented, so it's after the colon. It's all of that.

Potter: I just want to make sure that was it. I notice what is replacing is considerably smaller. That's one of the issues pdot felt it needed much more elaboration than they provided for us.

Potter: Any other questions for joe? Karla?

Tiffany Sweitzer: I just want to talk a little bit about the process, because it's been a very good one, mostly with the neighborhood as well as all of the bureaus. I'm going to use our map to just demonstrate what the process we've gone through. This is the hoyt street properties here starting at hoyt and going to the fremont bridge. What you see in the red here is what we've developed to date, so we're a little over halfway through the development of this neighborhood. There's some other pieces here that we also have tied up with p.d.c., or from p.d.c., and want to locate studies -- look at studying some of these areas as well. But the process itself, it's been very positive. In one sense it's taken a lot longer than maybe it should v I worked very closely with graham for over two years on this project and I do want to say without him I don't think we'd be here today. In spite all the help from joe and gil. But it's important that we keep moving. I heard the question about, you know, overton and why did we choose this street as a retail, and why did we even choose overton in the first place as a stopping point. Of course that's because of the parks themselves. But part of it is, we're getting to a point where we kind of running out of not necessarily land, but what to do next. And I asked our architects to work with me on designing something beyond what we've done before, architecturally as well as height, and it was something obviously that I asked them to go forward with that hadn't been approved, we don't have it approved today, but the point of doing that is to as we start to go north, take what we've learned and apply it to these blocks and start to make this second half of the neighborhood maybe a better place. But we are running a bit out of time in that as we wait for some of these time frames to take place and decisions to take place, where do we go next, logically. The block we're talking about, and john will speak about, is this block here,

May 25, 2005

which is on tanner springs park, that's the name of the next park here. And after that, we start to get down into these areas here. Hoyt street properties would like to be building at the higher heights, but since it's not something that isn't approved today, we're ok, let's step back and do what we've already done before, which may not be the best thing for the neighborhood. Commissioner Saltzman, you asked about having housing up next to the park. That's something that today hoyt street properties does not have to do, but we think it is a better plan for the neighborhood, and we're already starting to design that use along the park, maybe town homes along the park, even though that's not something that's necessarily approved yet. So I guess what i'd be asking you as well as to help me to keep moving the process forward, because it's important that we move in a more timely manner so we're all working together, and then just lastly, the process itself, we've had a lot of support from the neighborhood. This is a neighborhood that works together. It's a pretty sophisticated group of people, they care about how this place is going to end up. And as joe said, we spent two full days, gil kelley was there both days, we had someone from every bureau, architects, planning commission members, design members there as well, and I think it's been very positive. One worry going forward, and joe talked -- touched on that, is the mass of buildings as we go forward, so we're asking that we all work together to think about what the best f.a.r. or height could be for this next phase that I guess was approved this morning. And that could be higher heights, higher f.a.r., we don't know yet, so we've said, let's take a step back, stop it at overton, but then keep moving as quickly as we can to figure out what to do for the next phase. And we'll continue to do that anyway, but I think we could be getting better buildings and making the second half a better neighborhood if we can get there more quickly. So we're asking for your help today. And john's here with me today to talk about the block that we've -- that kind of started this whole thing, which is the 100 on north -- on tanner springs park and the 225 on the backside to demonstrate that.

John Meadows: I think joe did a good job showing the differences between the current zoning and what we're proposing. Under the current zoning we have the 175-foot limit. I think the main concern there is just the impact both in weight and heaviness on the parks, but also the shading of the parks. As development is moving forward this, is block nine, the concern was if we built in the current zoning here we would probably end up with a project that would create a more negative impact in terms of shading on the park than if we stepped back and took an extra year to work through the process. And so -- [inaudible] was this two-part height where we always -- 100-foot limit, west or southwest of the parks. And it's a much more effective -- some of the blocks are already developed. The actual impact, at least for some decades, will be less. For example, these lots -- blocks would have the new height changes that they're already developed. The blocks we're looking at in the near term that would be really impact by the height change are the ones south and west of the neighborhood park. And south of north park square. And long-term, these could change as this buildings get redeveloped. So I think we're looking at quite a long life. Also you can see the blocks that are not developed with f.a.r. increase are really these few blocks south of overton. So I think there are a couple of things that have been really good about this strategy. So far it's been well received as we've looked at this first example. I think one people want to protect the light to the parks and appreciate this 100-foot limit to do that. I think offsetting the density that was lost, that is being lost by creating parks is important, so it's balancing density by putting it on the our adjacent blocks seems to make sense. I think also just quite frankly it's a terrific neighborhood and -- with the investment coming in, the transit mall, and we've got the streetcar, so all the places in the city where you might want to encourage density anyway, it's one of those place where we already have the infrastructure to support it. And a sort of side benefit the neighborhood had been interested in, this first project we're proposing I think is a good test of that, I think the neighborhood is really interested in density but more diversity, more variety and character. The current market pressures to sort of maximize the potential and then the volumetric limits of the

May 25, 2005

zoning are typically creating slablike or cubelike buildings as you try to get a big enough building on the site but you're restricted, and I think many in the neighborhood feel while that's led to a vital neighborhood, it's not the sort of most wonderful character that they would like to see unfurl and one thing that's nice is there's greater flexibility and I think there will be greater variety in building types and potentially building uses under this different height model. So this first project we've done as tiffany said, is a way really in parallel to all these planning discussions and neighborhood suggestions. It was partly to test how this new zoning model could work. It was partly to serve as a demonstration, that it was an idea worth doing, and I think so far we received I think great support and accolades from the neighborhood, we've been to the design commission for a d.a.r. And got terrific support, and planning commission. And I think a couple of things have been felt pretty consistently, that even though it's technically a larger building, it sort of feels less heavy than some of the more slablike or cubelike buildings are that are more typical in the pearl. The taller part of the building I think is just under a quarter block, so it's one of the smaller tower footprints that had been built in the city. So the amount of light that exists we're able to protect views from park place and things like that by not having such a wide bodied building. And then by having needed the separate buildings, the small building to the right is an office building, which is another thing the neighborhood has been begging for for a long time. There's been a certain predominance of strictly residential buildings or the little boutique commercial space, and the absence of jobs and daytime vitality. So we're looking at about 20,000 square feet of office space, which brings a different mix to the project, which is I think great for the neighborhood. And we're also able to then -- we've got a little over 20,000 square feet of retail, including a fairly large floor plate that can serve as sort of a major attractor so we're trying to also get a good -- bit more diversity instead of just having the sort of boutique-type shops that are certainly positive and successful, but they're sometimes sort of absent of a more service oriented business. So we have about a 15-,000 -- 15,000 -- what we discovered, we -- it's not a lot more diversity than we would typically see in a project like this, and it looks like it's a pretty rich with potential zone change.

Saltzman: I'm just curious, the ability to do something like an elliptical building like the john ross in south waterfront, is that accommodated in this zone change and f.a.r. Heights that we're about to maybe approve?

Sweitzer: Yes, and something we would look at. Those are I believe the higher building, that particular one. It's higher than the 225. But if it worked, that would be something, particularly on the block just north of the north of the tanner springs park that we would --

Meadows: In joe's diagrams, the urban design charrette process looked at this block, which is in a unique position, really facing and helping shape both the parks, and the thought was that site really demanded some exceptional architecture and potential either height or building shape as kind of a book end piece or land park piece, and as that develops it's possible in the zoning. On the southern half of that block where you could do the 225 you might well do something that was more sculptural or more of a landmark building.

Sten: You have everything you need in this package to do that?

Sweitzer: In this package, yes.

Sten: I just wanted to be clear.

Sweitzer: I wanted to answer your question about overton. It's a two-way street that gets you up to northwest, and that's why it was --

Meadows: It will be a fairly active street because north of lovejoy is the only street for a while that actually connects through to naito. The sense is there would be quite a bit of cross traffic, and it was a street with more visibility and may also attract more local neighborhood service.

Potter: It's going to encourage public transportation. Are there bike lanes through this area, and where do people buy their groceries?

May 25, 2005

Sweitzer: There are bike lanes on lovejoy. People right now are still buying their groceries up at fred meyer. Whole foods off burnside, and there is a safeway proposed on 14th avenue.

Leonard: Right behind the new senior --

Sweitzer: No, not there. Actually --

Meadows: There used to be one.

Sweitzer: Going towards the r.e.i. site on 14th. That's on ninth. So fairly close.

Leonard: The Mayor and I care about bike lanes.

Sweitzer: Once we finish the streets i'm sure we'll stripe them for biking.

Adams: The Mayors always been there you're a new found convert.

Potter: How does the neighborhood feel about this again?

Sweitzer: They're supportive. I thought someone --

Potter: Do we have anybody from the neighborhood to speak?

Sweitzer: Patty gardner usually is the spokesperson, and I know you got in touch with her, but she wasn't able to make it today. But I think it's --

Meadows: The neighborhood did go on record voting to support the change. There were a series leading up to the charrettes, neighborhood meetings discussing the specific first building but also all the zone changes in particular, and then there were representatives at the urban planning charrette. It's actually been a pretty model partnership, compared to many projects we see and many neighborhoods we see in the city where developers and the city and neighbors are at odds with one another, it's been pretty much hand in hand for a couple of years. It's pretty amazing.

Potter: Do you have that -- the neighborhood record going in support of this?

Zehnder: You know, I don't know that we ever received correspondence. We were present at the vote of the pearl district neighborhood association land use committee when they endorsed the package prior to it going to planning commission. And I spoke to the chair of the committee just yesterday in advance of this hearing, and she was going to try to get someone to come and wasn't able to come herself.

Adams: The lack of community attendance is a no news is good news sort of message?

Zehnder: It's not what you usually see, so, yes. Sincerely, the -- it was a three-year process where there was a good deal of controversy worked through, but they worked through it. This was one of those processes that actually worked, and I think everybody changed in terms of the approach that they were taking throughout.

Sweitzer: We've been talking about it so long, we're just sick of it.

Zehnder: There's a bit of that too.

Potter: What has the public participation been in this, in terms of p.d.c. Or any other bureau, public subsidy? I'd like to know what that is?

Zehnder: The -- in terms of public subsidy for the buildings or the process?

Potter: Well, the buildings --

Zehnder: I think tiffany can talk -- the whole hoyt street properties development is based around the development agreement with p.d.c. that sets out goals for housing production and affordable housing production, and it was basically in exchange, the simple part is development in exchange for public investment and infrastructure. The city put in streets and other infrastructure, and the progress so far is that the district is way ahead. It's basically in terms of residential production, almost meeting its 2020 goal now, and annually p.d.c. reviews the affordable housing production in the district, and the district is right on target for production of affordable housing as well. With another new building coming online in 2007.

Potter: What's the total housing that you -- the capacity there?

Sweitzer: Just within hoyt street properties, our goal was 3,000 housing units, and we're about 1400 now. 15% of that is affordable housing. We're about 18% of the 14 that's been built. The

May 25, 2005

building will come online this year, which is the next affordable housing project. It's also scattered within the neighborhood, so it's not in one particular area.

Potter: Can you describe what you mean by "affordable housing"?

Sweitzer: The way it's defined in the development agreement is within changes, so from -- ranges. So from zero to 30, 30 to 51, 51 to 80, I believe, and certain percentages within each of those areas. I think a family of four, maybe you know better than I, is 58,000 now. And we've been able to build out enough affordable in each of those categories. I think we're a little light on the lower end of the scale, the zero to 50. I don't know if I answered your question.

Potter: Yes. It would be good to find out the exact numbers in all of those categories.

*******:** And p.d.c. --

[inaudible]

Sten: It comes out every spring.

Potter: What did it say?

Sten: I don't remember the numbers.

Zehnder: Actually, I have it right here. I'm just look for the number.

Sweitzer: As Joe said every five years p.d.c. Comes out with this annually, but they are to monitor or progress on a five-year period.

Zehnder: A total of 1,021 units have been developed under the affordability terms of the agreement, 182, 18% are affordable to low-income households. 206 low-income households up to 50% of being m.f.i., mean family income, 216 units or 51% are affordable to moderate income households, and then the rest are middle and upper income, sort of households.

Potter: When you said low-income, you mean zero to 30.

Zehnder: Zero to 30 is low according to this.

Potter: Ok. Good.

Zehnder: The number I quoted was zero to 50. They do look at extremely low, which is zero to 30, and I don't just off the -- just to glance at this, I don't have that number.

Sten: I actually do right here. It's 180.

Zehnder: Thank you, commissioner.

Sten: When we wrote the agreement we specified low is zero to 50, these days generally we don't, we distinguish zero to 30 and 30 to 50, because they're very different populations. Zero to 30 tends to be disabled people or people who are one reason or another out of the workplace to go, so that's a very different population, and the zero to 30 can be transitory as well. You could be in recovery, for example, a lot of those people will live there, they have no income, once they get off of substance abuse they're probably going to be working and --

Leonard: What is the median family income right now?

Potter: \$67,000 for four people.

Leonard: Zero to 30 is 30%.

Sten: So at this point we have 550 units that are at zero to 50 developed, which is on pace to where we agreed to be, and 180 of those are 30% and below. So it's not bad. And much more I think than the popular perception of the Pearl District would be. There's another 399 units, 400 units, 850 units total that are at 80 and below. There's 400 units between 51, 51 to 80 is people who are working at decent wages but not very high. So there's 850 rent-capped affordable units in that area, and I don't think many people think that. A lot of why I think they don't believe that is the buildings look as good as the other buildings, and to me that's something we should be very proud of.

Potter: Are most of those rental?

Sten: Those are all rental.

Potter: Are there any condos for ownership in those ranges?

Sten: There's one subsided condo building that may count statistically, but it's down in Old Town. The unions --

May 25, 2005

Switzer: I believe sitka, I don't know if that's market rate, but that would be rent. Within our buildings themselves, and there's a part of the development agreement that says we have to build, I can't remember the numbers, but 10% or 15% of the units at 700 square feet or below, so we also try and do that for for sale product within the buildings themselves. So I think every building we've done today, which is nine or 10 buildings we've had from a range of 600 square feet, sometimes less, up to the 2,000 square feet.

Zehnder: And according to the report, old town lofts, streetcar lofts, marshall wells lofts have -- are condos with affordable units in them.

Switzer: I believe streetcar, which is one of ours, was minimal, maybe five to 10 units.

Sten: The old town lofts is strictly affordable condos, the other ones have pretty modest affordability requirements. But there's still some.

Potter: I'd sure like to encourage more homeownership in this city, and I -- particularly with low to median income families. I'll be looking at that in the future. Any other questions, folks? Thank you very much.

Switzer: Thank you.

Potter: So there's no one signed up?

Moore: No. That was all.

Potter: Ok. Discussion? Ok. Karla?

Moore: We should probably take a moment on -- a motion on that amendment.

Leonard: Move the amendment.

Saltzman: Second.

Leonard: Proposed by joe.

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

Potter: Aye. [gavel pounded] take the vote.

Moore: This is a nonemergency. It will come back for a revote next week.

Adams: Good work, then, everybody.

Adams: My people won't show up until 3:30.

Moore: Mayor, are we in a recess?

Potter: I'm sorry. We're in recess until 3:30. [gavel pounded] [recess]

At 2:50 p.m., Council recessed.

At 3:36 p.m., Council reconvened.

Potter: Karla, please call the roll. [roll call taken] [gavel pounded] please read the first item.

Item 536.

Potter: Commissioner adams.

Adams: Thank you, mayor Potter. This resolution is really part of our research and development efforts to constantly be improving our business climate, especially for small businesses and locally-owned businesses. And it recognizes the importance of ownership equity that we currently recognize when it comes to homeownership. This is affordable owner-occupied workplace. There aren't statistics that are readily available on affordable owner-occupied workspace, so can't tell you what the baseline is and what we seek to grow it to. We don't know inherently under what type of experiences business condominiumization and ownership makes sense, but we do know that Portland has one of the highest per capita percentages of businesses and small businesses in the united states, and this seeks to capitalize on that fact and to develop some potential additional resources to help small businesses. The benefits -- the potential benefits for the city of Portland are obviously a new compelling attractor to encourage new and ongoing businesses to expand here. The opportunity to provide an additional weapon against gentrification, while at the same time improving neighborhood business districts. For business owners, it's the opportunity to gain equity

May 25, 2005

and collateral for financing that otherwise might not be available. It's an opportunity for business owners to have site control and to also, as a side note, because this comes up as an issue when i'm out, and I think a number of us are out in the community, it also provides an opportunity to own the s.d.c. credits that oftentimes businesses have to pay because they would own the building in which the s.d.c -- they have to pay for s.d.c.'s. for property owners, this provides a potential for reducing finance costs and financial risks, and it has the possibility to make projects go forward that right now don't necessarily pencil. That is the promise of this. And it simply calls for it, invites nine representatives, representing many aspects of the business community, to appoint to an affordable workspace task force -- excuse me -- affordable workspace task force with expertise in commercial brokering, building development, commercial lending, investment banking and planning. They're asked to identify incentives from new funding sources, which I know commissioner Sten has looked at in the past, to get back to us in six month on criteria to judge the overall success of the program, to provide a focus on minority and women-owned and emerging small businesses and identify developers that would go on to the potential tenants. I need to make a small amendment of four words on the last therefore. We're asking that consideration be made by the Portland development commission in the meantime, and by the city of Portland on its projects, to award additional points when scoring bid responses that propose to sell affordable owner-occupied workspace. I'll be making that small amendment for --

Potter: What was that again?

Adams: It's the second-to-the-last therefore on the resolution. It says "now there be it further resolved, when putting together any requests for proposals," and I would just add four words, "now therefore be the further resolved, we request consideration that when." so the words are "we request consideration that," reading on, "putting together any requests for proposals." and then warren jimenez, on my staff, who I want to acknowledge is doing a lot of the background work on this, I want to thank him for that. We've also had conversations with our delegation, two of our senators -- well, our two senators are on the finance committee, and they've expressed an interest in looking at this issue from a federal taxation point of view, both providing tax incentives on the federal level for developers and building owners and potentially for small businesses as well. So if we pass this ordinance, we will be, as they see it anyway, on sort of the cutting edge of owner-occupied affordable workspace. So with that, we were going to have a few folks come up and testify.

Potter: Good.

Adams: Ok. So if I could have carl, ted, and angela. Carl, do you want to lead off for us?

*******:** Sure.

Potter: Folks, when you testify, please state your name for the record.

Carl Talman, Chair Portland Family Funds: Mayor Potter, city council members, i'm here today to speak to this resolution. P.f.f. supports the concept endorsed in the resolution. We believe that a financial vehicle that supports small business owners in the purchase of their work -- workspace facilitates a number of economic development goals. Economic development goals of community-based organizations, social service organizations, local government, and economic development organizations all have a component of asset ownership and development. That asset development speaks to financial as well as physical assets that facilitate financial growth and stability as commissioner adams just laid out. At Portland family funds, we have a Portland new markets fund advisory committee. The committee is made up of a cross-section of business and community-based representatives of communities throughout Portland. Their role is to identify the impact, priorities, and opportunities in communities where new market tax credit projects are being funded. These are opportunities and priorities that speak to facilitating local community participation more fully in the financial and economic stimulus being made in their community. One of the opportunities this advisory committee identified some years ago is the ownership of workspace by small business owners. And so as p.f.f. Continues to look for opportunities to push the benefits of

May 25, 2005

new market tax credit investments deeper into communities, it is apparent that we need a broader level of participation from the local business community and government organizations. I believe the resolution before you today facilitates that broader discussion and participation.

Adams: Thank you.

Potter: Thank you.

Ted Grund: Hello. Ted grund with m.c.a. architects.

Adams: You have to speak up.

Grund: Excuse me. Ted grund with m.c.a. achitects. Mayor Potter and commission, i'm very excited about the prospect of something like this moving forward. I've been in communication with commissioner adams' office for some time now on this subject. It seems like a very valuable tool to help small business in the area. Historically, as you are probably aware, what I call the increment of real estate has changed drastically in the past 20 or 30 years, such that small parcels are very difficult to find, and generally not available for small business people. Development format is typically bigger and bigger. We're talking about national, multinational development companies that are interested in multiblock projects rather than 30x100 storefront developments. So for a small businessman interested in buying into the city, and having a place of business of their own, the business condo format is probably the most promising option that can work with current development practices. So from my standpoint, it seems like a good positive thing, and with a little bit of incentivization could really take off probably in the city. My office is currently working on two projects actually out of town, but in the state, one in redmond and one in medford, where the developer is actually using this as a marketing tool. So it will remain to be seen. Those are both still in the planning process, but those will be good test case to take a look at.

Adams: Thank you, ted. And thanks for your early and passionate advocacy of this emotion.

Grund: You're most welcome.

Angela Crawford: Hi. My name is angela crawford. I'm the president of the goose hollow business association, as well as a business owner in Portland. I'm here on behalf of myself and also the business association, directors of the business association, to support the resolution. We do think that it is a good idea. We do think it's needed in order to assist businesses in developing equity. I've been renting space for about 23 years downtown. Obviously don't have any equity in the property. We asked about 10 years ago to have a first right of refusal from the owner, not even to get into any equity situation, but just if the person decides to sell the building or pass it on to his heirs, that we do have an ability to buy the building, because we've been there since -- at that point we had been there for about 15 years. And the owner wouldn't even allow to us do that. We had put a lot of improvements into the building, tore up the carpet -- I mean, this is all kind of personal stuff, but I thought you might be interested in hearing some of it. We tore up the carpet, there were all hardwood floors. We refinished the floors. We put in new carpet to the point where he actually told us if we nailed anything down, that it would be his property. It was not a nice situation, especially since we had been the major renters in that building for so many years. So there was no good feel for any kind of -- not only not getting any equity, but any sharing of keeping the workplace safe, or a healthy environment, you know, you a productive environment. So I think that if businesses have the ability to be a part of the ownership, that they will, you know, keep the place up. I mean, we did it just because we felt we wanted, to but I think most people wouldn't if they knew they weren't going to get anything out of it. And it doesn't provide for a healthy environment, a good productive workplace. We're really for it. We think it's a great idea. I do think from a marketing standpoint of attracting new businesses to Portland, I think it's a great tool. I think it will keep businesses in Portland happy. And I do think that it would promote better environments, too.

Adams: Thank you very much. Thanks to all of you. Thanks, carl. Lynn knox, carter mcnichols, brad naslund. Lynn, do you want to start off?

May 25, 2005

*****: Ok.

Potter: Please state your name for the record.

Lynn Knox: Ok. I'm lynn knox, the program manager for economic opportunity with the bureau of housing and community development. Our bureau wants to support this resolution because it dovetails perfectly with the economic opportunity initiative which we've launched that supports over 300 microp enterprises throughout the city. These are exactly the folks who need a tool like this to be able to take advantage of what they have to do already as part of their business, invest only funds in the space, but it gives them that investment as equity, that they can then use to build their business. And there's no other way that many of them would be able to do that. One of the things that we've talked to commissioner adams about is that we'd like for the committee as it studies this resolution and this idea to consider adopting an income limit on the folks that could take running of this opportunity, because you do are a wide range of entrepreneurs in this ty, and if they are a household income of \$300,000, but an rid business income of \$10,000, that may not be the situation that we want to be giving a leg up with our tax dollars. Owe it is an issue, I think, that our bureau would like to put on the table for the discussion, and commissioner adams has ed that he welcomes that discussion, but with the homeownership activities that the commission and community and bureau are encouraged our community to be involved in to close the homeownership with the minorities this year and beyond, we also think this will be a re important tool to help us accomplish that, because you have such a high rate of interest in the low-income and minority communities in small business. Owe I think it's a double whammy for us, and we'd like to be a part of pursuing it. Thanks.

Adams: Thank you.

Potter: Thank you.

Brad Nelson: I'm also on the board of ceic. Thank you, mayor and commissioners for this opportunity to address you. I feel that my experience in the central east i'd has kind of highlighted why I support this kind of resolution. I believe that the future of Portland in terms of economic opportunity lies in business growth and job creation. And I believe that this kind of resolution allows more opportunities and more choices for businesses, as I think everybody realizes, especially these days with the economy going in so many different direction, that investment in real estate is a very prized and sought-after commodity. And I think allowing businesses to have a take in that, allowing businesses, small businesses, to be a part of that, is essential to keeping those businesses here, and encouraging them to invest. I think it really comes back down to a lot of what my philosophy is and why I think the synergy between sam's idea and what I believe, and i'm sure the rest of the commissioners, and the mayor, too, that we want to pay attention to the local economy. And this is a local economy issue. Ownership of space. My experience in the central east side, especially in the east bank conference center, a lot of these starter businesses, they want to own their space, they want to be able to have some peace of the pie. They want to be able to feel that they have some security. And it gives them a good deal of security. And I believe it's an essential part of -- of where we go as a city. And I think it's something that has not been offered in a lot of cities. And I think we, once again, can lead the -- lead the way on this kind of policy. So in any way I could support it, any way I could be a part of it, I would love to. Thank you.

Adams: Thank you.

Potter: Thank you.

*****: I want to give you a little handout before I start.

Adams: This is something you're actually doing.

Carter McKnickel: Right. My names carter mcknickel, a principal in the development company sockeye development, and the consulting firm shields obletz johnson. I'm here to support the resolution for owner-occupied work paces. Our company has been involved in the development of the museum place projects over the past five years. These include our role in the turnkey

May 25, 2005

development of the st. Frances apartments for the housing authority, renovation of the ywca and development of the museum place lofts and the safeway store. As part of that three-block development we also wanted to pursue construction of a small office building to house the headquarters for our consulting firm. The result is the project we call madison office condominiums. This is a 30,000-square-foot, five-story building, constructed on a very small parcel, 6500-square-foot land parcel, located between the st. Frances and ellot tower on 11th avenue. In the building we offer 2500 to 3,000-square-foot condominium units for office use. We also have a ground floor retail space. With no marketing, we already have reservations for about 70% of the units. We chose to pursue a commercial condominium project for several reasons. As stated in the resolution, we do think there's an untapped market for this. As you can tell by the reservations and the interest we've had in our space already. While it's a small project, it's a first of its kind really in Portland. They are common -- we've done a lot of research in other cities actually to see what others have done, and office condominiums are quite common in many cities, although not prevalent throughout the country. In looking at the current market for office space downtown, we felt there was a need for smaller spaces that would be available for purchase by small professional and forest service businesses. The condominium approach is allowing us also to build a very high-quality, class a office building on a very small parcel in downtown Portland's emerging west end. And as commissioner adams alluded to, the project would have been very different if we didn't do it as condominiums mostly because of the lease rates downtown and the current market environment. Further as owners of the museum place loft and townhouses and safeway store, we have an interest in the continued improvement of the neighborhood, and we very strongly believe that owner occupants of these office condominiums will help stabilize the neighborhood and establish the west end as a great place to live and do business. A couple of thoughts on the process for the task force. I would encourage your task force to fully -- before you get into new programs -- really understand what's already out there and catalog that and make sure that people in -- at p.d.c. And other places know what's available already. We know from the research we've done, for instance, that the small business administration has a pretty aggressive financing program that can help with these kind of acquisitions, and I suspect there are other programs like that. I'd also encourage the development of programs that while they ensure opportunities for ownership do not sacrifice the quality of these projects. It's imperative that, you know, first of all that the owners are going to get something that has lasting value and that the quality of the design is something that's going to add to the city. Finally, the task force should be sure to look at programs that may have been used in other cities for similar kind of objectives. I'm a great believer in not reinventing the wheel. So I would encourage you to do that. So thanks for the opportunity to address that. I think it's a great initiative and be happy to answer questions if you have any.

Potter: Thank you.

Adams: Thanks. And then the last person is rob mossan, president of the apnba.

*******:** Saved the best for last?

Adams: That's right, best for last.

Rob Mawson: Good afternoon. Rob mawson, apnba. I actually come to you as somebody who works for a company that owns its own space. John just bought a live/work unit in bridgeport condominiums about two years ago. We were in the old town neighborhood, and it is a very being dynamic. It is -- it changes the way you look at things. And it is a very important initiative. I'm here to support the initiative, and I think it's a great step forward. It's going to be a tough thing to accomplish. I think there's a lot of -- it's a great idea, but exactly executing it is going to be tough, but I think it's a great thing to explore and see if we can get our arms around this. There's two elements i'd like to point to that make this particularly important. You've heard a lot of reasons why it makes sense for business, and you've heard that it's a good investment idea, and it is. But from a public policy standpoint there are two public areas. One is that there's an important weapon against

May 25, 2005

gentrification. When we have major public investments, such as the interstate light rail, and hopefully the streetcar on the central east side, those types of investments have a tendency to transform neighborhoods. And what that does is drive rents up and drives longstanding businesses out. If there's an opportunity for businesses located in our neighborhoods to get a foothold, that they own, they will welcome that sort of public investment, because they'll be partners in the process. The second element, and very similar to this, is that one of the strengths of Portland is its collection of neighborhood business centers. We're blessed in that sense. If you look around the country, there aren't that many other cities with such strong neighborhood business centers that really emanate out into the neighborhoods themselves. Right now, as renters, they do not -- you know, they are renters, much like people living in neighborhoods who are renters, are what transitory. By investing and getting these people to be owners, you strengthen that triumph rat of neighborhood community, that includes the schools, the neighborhood residents and neighborhood businesses, and builds that stability. Again, it's sort of a rising tide raises all boats. So I think this is a very important initiative, and I can't wait to get our arms around it. Thank you.

Adams: Thanks, rob.

Potter: Could I ask you a question?

Mawson: Yes.

Potter: Does the -- do the business association that belong to the apnba also support this? Are you representing all the businesses in.

Mawson: I'm not. Because of the timing we've not been able to take a -- poll our members, and, you know, the nature of our group is that the business associations have to take a position themselves. So usually there's about a two or three-month lag in being able to take a position. That said, that I was testifying is known, and i've not heard anybody in any conversation that's objected to this exploration.

Potter: Thank you very much.

Adams: Thanks, rob. That's all I had.

Potter: Was there anybody from the city of Portland, small business advisory committee?

Adams: Ethan was out of town today? They've emailed in their support earlier in the week.

Potter: Questions from the council? Karla, take the vote.

Moore: Did we get a second and a roll call?

Potter: Oh, yes.

Adams: I need to make that small amendment, too, if I could.

Potter: Did you get the wording on the amendment?

Moore: We did.

Potter: Ok. Second call the vote for the amendment.

Moore: Sorry, who seconded it?

Leonard: I did, both of them.

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

Potter: Aye. [gavel pounded] call the vote on the resolution, please.

Adams: I just want to thank the council for their consideration, for all of you who had input into this resolution, for taking the time to show up today, and look forward to working with you on the next six months and coming back to council with a report on options and recommendations and a better understanding of the issue. Aye.

Leonard: I believe this is -- today is commissioner adams' 100th day. Is that correct?

Adams: Pretty close.

Leonard: So this is -- this is a good way to mark that. I have appreciated the variety of ideas and initiatives commissioner adams has had. I always like people that don't allow problems to stop them from trying to come up with solutions, and this is really very creative and very revealing of commissioner adams' can-do approach to problems. It's fun working with you.

May 25, 2005

Adams: Thanks.

Leonard: And it's fun having really great ideas like this come forward. So i'm really pleased to be able to do nothing more than support it, but i'm glad in a position to do that. Aye.

Saltzman: Well, i'm pleased to support this resolution. I truly think it is an innovative idea, and innovative ideas are hard to come by these days, so this really strikes a chord I think with me and good work, commissioner adams. We're going to miss you this summer when you're working at burgerville. Aye.

Adams: You heard about that, huh? [laughter]

Sten: Innovative ideas are to come by, and much harder to implement, so i'm looking forward to --

Leonard: The senior member of --

Sten: I've committed to being on the work group with commissioner adams in trying to figure this out. I won't go on and on, but I think it's an idea whose time has already come, and we're just now getting to it thanks to sam's leadership. I think it works on two fronts, if we can make some progress. One is just as a general tool for all businesses, because I think we're more likely to have businesses and stay and prosper if they have that kind of ownership stake, just like homeownership. We've been working for years, beginning to get real progress, because it's already to find ways to help real small businesses make it. It's a tough field to begin with this, and this is a tangible idea that fits very well with some of the things that lynn is doing, and we have expertise in her and her team that can help make this happen. Aye.

Potter: I support commissioner adams' proposal as well. When I first heard about it I had some concerns. I think that the resolution addresses those concerns. And so what I want to see is -- have our -- are our small businesses have the opportunity to own their businesses. I think that's how we help create wealth in a community. I'd like to know more about the financial impact on the city, but I possess that the committee will come back with that information when it's -- when they come back with their six-month review. So I vote aye. And congratulations.

Adams: Thank you. [gavel pounded]

Potter: That's it?

Moore: Yes.

Potter: We're adjourned until tomorrow at 3:30.

At 4:05 p.m., Council recessed.

May 26, 2005
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.

MAY 26, 2005 3:30 PM

[Roll call]

Potter: Karla, let's hear the 3:30 time certain.

Item 537.

Potter: We're going to start with jeff baer and jim van dyke. You'll be discussing the city contracting and protest procedures.

Kathryn Beaumont, Office of the City Attorney: Before we begin the hearing it may be appropriate to ask for ex parte contact disclosures.

Potter: I want to ask the commissioner if they've had any ex parte contact they wish to disclose.

Leonard: I had a meeting yesterday with one of the two parties.

Potter: Ok.

Adams: I had a very brief conversation with lynn bergstein, who represents one of the parties. A number of weeks ago, three weeks ago.

Saltzman: I've had conversations with lynn Bergstein, not meetings, but more or less passing in the hall, or in front of city hall.

Sten: I have not conversed directly with other side, my staff has met with both sides.

Potter: I haven't talked to anybody. Ok, folks. Thank you very much.

Jim Van Dyke: Good afternoon, mayor, members of the council. My name is jim van dyke, from the city attorney's office. I'm here with jeff baer, the acting director of the bureau of purchases. We want to just give you a brief overview and put the current request in a little bit of context for you. I wanted to start out by talking about city contract procedures, just in general. Typically what the city does on a public improvement contract is send things out for low bids. That's the typical process. It's called design, bid, and build. The project gets designed, we submit it, and ask for bids, and then we go build it. This results in a selection of a contractor based mostly on price. Now, Oregon law also allows us the opportunity to avoid that particular contractor method in certain circumstances. And so the city has the opportunity to select a contractor based on factors other than price if the council adopts an ordinance making certain required factual findings. Those findings include that the alternative process will result in substantial cost savings to the city and the taxpayers. That this alternative process will not result in any favoritism to anybody, and that the alternative process will not substantially diminish competition. Several years ago, many years ago now, that is what the council did for the west side c.s.o. project, and that is what the council has done for the east side c.s.o. project. Now, the process adopted for the west side and mirrored on the east side -- mirrored on the east side used what is called a request for proposal process in which a contractor is selected based on various criteria. Now, the interesting part -- part about this particular contract and the west side contract is that the resulting contract was not a construction contract. It would be a preconstruction contract. The idea here was to select a contractor to come in and work with the city's designers that they had hired to help work and finish the design. On projects such as these that are very expensive and complex, the contractors bring in their expertise on constructability issues, value engineering issues, so we get some practical down-to-earth knowledge working with those designers to make sure that we come up with a design and an approach that's the best one possible. That is where we get our substantial cost savings through this process, and that was some of the findings that the council made in order for us to proceed in this

May 26, 2005

manner. So the result of this process, no matter who gets to build the east side process, it was designed as follows. You select that contractor that you think is going to work out for you, you have a certain period of time, say, six to nine months in which -- or nine months in which they work with the designers to finish that design, to have that input. At the end of that process, the contractor comes up with an estimate of what they think the contract will cost. It's difficult to come up with an estimate before that time because you don't know exactly what the project is going to look like. What approach you're going to use. And so that is why the estimate, the contract estimate is determined at the end of the preconstruction process. At the end of the preconstruction process, assuming the city agrees with the cost estimate, and the city uses its own outside consultants, other consultants to verify the contractor's cost estimate, the bureau of environmental services would come back to the council and ask for permission to go forward with that construction contract. If there was disagreement about that cost estimate, the city would be able to jettison the contractor that they had selected and construct the project in any manner that was necessary or appropriate. Now, that was what has been successfully used on the west side process. That is what the same process that was going to be used on the east side process. Now, after the request for proposals went out in this case, and an initial selection was made, there was a protest by impreglio healy, and i'd like jeff to describe the protest procedures, since the first levels goes to the purchasing agent.

Jeff Baer: Good afternoon. My name is jeff baer, the acting director for the bureau of purchases. Part of my role being the acting director is also to be the purchasing agent for the city of Portland. With the r.f.p. That jim described, we had set out a process where if a proposer who submitted a proposal on this particular project felt that they had been aggrieved in some manner or felt this process had been flawed or was unfair, we had built in a process whereby they could submit a protest. And that's what the case is that we have here today, that i.h.o., impregilio-healy-obayashi had submitted a protest where they raised certain issues for us to look at, and as purchasing agent, I then take a look at each of those issues in consultation with the city attorney's office to determine whether or not the process was fair, that we did follow it, that we didn't deviate in some course or manner. And with the extensive conversations and consultation with the city attorney's office, I denied impreglio's protest on all counts, and as such we have an administrative process built in that allows for them to protest my denial and appeal to the purchasing board of appeals. That was done, we also held that hearing, and you'll hear later on from the presiding officer of the board of appeals, the board chair later, and talk -- he'll talk through how the testimony was presented and they also denied i.h.'s appeal as well. So that's -- and the next step in the administrative process is to be before you as city council.

Potter: Thank you. Next we'll have paul gibbon and dave marriott.

Dean Marriott: Good afternoon, mayor Potter, members of the council. Dean marriott, director of environmental services. With me is paul gibbon, our chief engineer for the west side and east side project. I'm just going to give a very brief overview and then paul will talk to you about the actual selection process in this matter. As you know, the city is in the midst of a \$1.4 billion program to control combined sewers. We have so far built one tunnel along the columbia slough, we're in the midst of building a second tunnel on the west side, and the third tunnel on the east side is the subject of this dispute. We signed an agreement with the state of Oregon in 1991 that was amended in 1994 which set some specific time frames by which we must adhere. And those time frames and that agreement was also subject to a federal consent decree, court order, so we have both the federal court order to abide by and the state order. We need to be finished with the east side tunnel by december of 2011, which means we need to start construction by next march. Which means we need to complete our design by this -- the end of this year. We would like very much to have a construction contractor on board prior to complete can the design. As you heard jim van dyke say, there are some significant advantages to having that. For every month we're late in complying with the state order, stipulated penalties of approximately \$1 million a month begin to incur. So none of

May 26, 2005

us want to get into that situation. Time is of importance to us. I just want to reiterate, on the west side big pipe our approach has worked very well so far. The joint venture with impreglio healy has been successful to date. I also want to reiterate it was intentionally set up so no one would have an inside track when we began looking for a contractor for the east side. We were asked and we concurred with setting up a specifically separate process, created a level playing field, and made it fair for all parties. This is not a fixed price or low bid situation, it's a negotiated amount in the estimated reimbursable cost is where the real money is. That's the labor equipment material and subcontracting costs, which our ratepayers will pay. The one thing that is fixed in this is the contractor's fee. That basically does not change. Over the life of the contract. This arrangement is beneficial for our ratepayers. It provides a motivated contractor and one that is motivated to finish on time and on budget. Which is what we want. At this point I want to be clear. There are different joint venture teams that competed for the east side tunnel than competed for the west side tunnel. In were -- there are some similar memberships, but the teams are not identical. Different teams put together different proposals. It has been a fair process. Kiewit won the process and impreglio lost. Some people would have you believe that the bureau is being too casual with looking out for the ratepayers' interest. I just want to assure you that is not the case. We have taken our responsibility seriously, and I think you will see as the facts come out that the truth in fact is quite different from what you've been reading. To tell you how the selection process actually worked in this case, I want to ask paul to pick it up from here. Paul is in a unique position. He participated in the selection process for the west side tunnel, the one that's underway now, and he participated in the process for the east side tunnel too. This means he helped determine the selection criteria, he read all of the materials submitted by all of the prospective contractors, he participated in all of the interviews, including the deliberations of the selection committee, although he did not have a vote on the selection committee, and he has actually been involved in developing the contract language itself. So he is extremely knowledgeable about the history of this matter. Paul?

Paul Gribbon: Thank you, mayor and commissioners, paul gribbon the chief engineer for the willamette river c.s.o. tunnel program. Since the issue here is the process that was held, I don't have much time, but I want to briefly go through the process the way it was held. As everyone has explained, this is a cost reimbursable and fixed fee contract. The process for selection is different. In may of 2004, we came to city council for a request to waive the low bid requirement in the Oregon revised statutes. The authorization can be given, but it's based on two key issues. One is that the contracting approach can potentially save costs, and the second thing is that it cannot in any way limit competition. So knowing that, we knew we had to have a fair and open process for the east side selection, so in coordination with commissioner Saltzman's office, we developed an 11-member selection committee. We had five people from inside the bureau, we had six people from outside the bureau. Including representatives of the Oregon association of minority entrepreneurs, local construction official, a local contracting organization, and a labor representative. In addition, we had a technical review committee, which consisted of b.e.s. and consultant staff who had some knowledge of different aspects of the project that would also review the proposals, but would not be part of the selection team. This is basically identical set-up we had on the west side, the only difference is we had more community involvement on the east side than the west side. After we got that approval we moved forward in july of 2004. We issued a request for qualifications. That was a request for information that would go back in time in each joint venture's history. In other words, what kind -- what experience they had with this type of tunnel boring machine, what type of experience in this type of ground conditions, who their personnel were, what their safety record was, what their financial capability was. To make sure anyone who submitted a proposal was fully qualified to take on the job. We received six statements of qualifications from international joint ventures which suggested to us that there was at least the perception of a level playing field,

May 26, 2005

because we did get more interest than what we had on the west side. We went through those statements of qualifications, we short-listed five of the six and we issued requests for proposals to those five joint ventures that. Was done in august of 2004. Excuse me, september of 2004. Each of those joint ventures was allowed to come in and have what we call an informational meeting where they could ask questions about the proposal, about the project, anything that we got from them that might change the conditions of the r.f.p. We would then issue an addendum, which we did. On november 24 of 2004, all five joint ventures submitted proposals. The selection committee went through all five proposals, we met to deliberate. At this point one b.e.s. Member of the committee had already dropped off due to conflicts. Two of the outside members also dropped off because they weren't prepared at the day of this meeting. So we had to move forward. The proposals were ranked to determine a short list for interview in accordance with the process described in the r.f.p. We elected to go forward with three joint ventures with interviews. Those were impreglio obayashi, kiewit and willamette constructors. Those interviews were held on january 18 -- on january 18, 2005, we asked each of the three short-listed joint ventures to make a presentation to the local contracting community at the Oregon association of entrepreneurs office. We wanted to make sure that the local community knew who it was that we were interviewing and who the players would be. The following two days, 19th and 20th of january, we held three four-hour interviews. Two on wednesday, and one on thursday. They were four-hour interviews apiece. Most of the interview was spent on questions and answers. All three joint ventures were allowed a limited amount of time to make a presentation, the rest of the time was spent on questions and answers, all interviews went the full four hours. As a result of that interview, the selection committee determined k.b.b. had the best overall score and i.h.o. was second, and willamette valley was third. After the last interview that was held on thursday morning, after lunch we debriefed with the members of the backup committee we call the technical review committee. We got their input on the proposals and the interview results. That included all aspects of it. The project approach and fee, the safety, the m.w.s.b. participation, every bit of criteria was discussed at length. It was at this point where the safety memo I think where everybody has heard about entered into the picture. I can go through that now, or I can wait, whatever you'd rather do. I am running out of time. Basically the discussion never stopped, and it continued, and once we got through all the t.r.c. members, they all left. At that point only purchasing personnel and myself, one other person from b.e.s. was there with the selection committee. The selection committee continued deliberation and at the end of the day put their scores together. Denise johnson put the scores on a board, that was the first time I saw them and that was at the point we knew what the selection was. I then asked them to tell me what I was going to say to the second ranked proposer and the third-ranked proposer in a debrief for how -- why this came out the way it did. They -- the selection committee then left. The bureau of purchases took all the numbers from all the selection committee members, the following monday I got all the details from bureau of purchases, I went through all the numbers for a couple of days, adding, readding, making sure everything was correct, and at that person I think on wednesday morning I walked over to their office and informed them they had come in second. Extremely difficult conversation, but that was the way it turned out. That afternoon purchases then issued the decision publicly.

Potter: Thank you. They'll be back and available for questions. Next we'll hear i.h.o., the summary of the protest.

David Bartz: Good afternoon, david bartz, i'm here on behalf of impreglio healy obayashi. On my right is the project director and my far right is jim mcdonald, the project manager. Thank you for your time this afternoon. I'm in an unusual position, because for several years i've been a part of the team doing the west side project. The team that's gotten awards for its diversity and subcontracting, the team that got high praise from the city's independent auditor, who said the way we spent the money was something he wish he had when he did a project. We got high praise for our safety,

May 26, 2005

consistently high marks on safety from the safety agencies, and you folks in your supervisory role of the west side project have heard nothing but good things about us and the project we're doing on time, on budget, no safety issues. We're not talking about the west side project today, but what we are talking about is what happened at the city of Portland cannot have the services right now if this goes unstopped, cannot have the services of such an excellent contractor. What happened? And that's what we want you to look at in a hearing. We're asking for a full and fair hearing about this. Today is not about the merits. I understand that. If I talk about a few of the things to explain why we have this -- the feelings and evidence we have, it will be other people's words. So you can -- it will be fact that's are in dispute. The impact of the facts may be in dispute myself, but those won't be in dispute. The point is, what happened? We think you need to ask some of those questions. We think people sitting in your shoes with the responsibilities you have to the city and the ratepayers have to ask some of the question that's up to now haven't been asked. For instance, mr. Baer, when he made his decision as the purchasing agent, it's not his fault. No depositions have been taken, no investigation has happened. He may have had lots of conversations with the city attorney, but he didn't know hardly anything that we know today. That's the process issue we're concerned about. You're going to hear we have to be worried about time and it's going to take time, it's not going to take that long. We're ready. We could meet in a hearing with you as soon as the council's calendar could do that. We filed this request for appeal on april 27, we're ready to go. And these folks can answer your questions, I believe the people at b.e.s. Would even answer questions from reports i've seen in the media, that there's not an immediate fuse. There is some time, a few months, maybe. But there is some time to get started. But more importantly, carefully for you to look at, what is -- who is the most advantageous contractor, who is the most advantageous proposal. That's what your r.f.p. Said were you looking for. You need to ask yourself why the contractor that got the highest points for project approach, why they didn't get the job. That was i.h. O. The evaluation committee, these eight people you talked about, the extensive process you described, went through all of that, and their final scores gave i.h.o., for 55% of the points, gave them the most amount of points. Most amount of points by 25 points. It wasn't close, we lost this bid by nine points. We got evaluated by the evaluation committee, the independent people, nothing for us, 25 points higher on project approach. Why didn't we get the job? Secondly, by far and away we got the highest points for diversity in subcontracting. Our proven committeement on the west side has gotten us awards, but we also have the best program. All those people who ended up finding us nine points short, they found on diversity on subcontractor can, we had the best score. So why didn't we get the job? Where did the safety memo come from? The testimony and the depositions, the b.e.s. Safety personnel says they created the memo on their own. That's where the memo came from. On their own. There were five criteria. Product approach, key project personnel, project management, risk and safety, diversity and employment. None of those criteria had a memo. None of those criteria got an evaluation separate and apart. But the safety folks did. How was the memo used? It showed up in the evaluation room after all the interviews were over. That's a process problem we think you need to ask about. It's not been a process problem that b.e.s. has looked at, because the purchasing board of appeals admitted he hadn't read the deposition of mr. Cook, one of evaluators. Mr. Cook told us in his deposition how he got his score for i.h.o. was he took the scoring off the safety memo, made some mathematical calculations right here, and that's how he gave us six points. Then he deducted one other point because of comments in the oral interviews that the city staff gave him. So we went from 10 points in the written with mr. Cook, to five points. We lost this bid by nine points. Mr. Cook on his own took away five. He took it away because of the memo. Mr. Nauss is going to tell you what the purchasing board of appeals did, but they found there was no impact. He didn't read mr. Cook's deposition. Also, very importantly for you about the safety memo, did it have an impact? You'll see virtually every category both k.b.b. and i.h.o. lost about 50 points after the interviews. In other words, we did scoring on the written, we had the interviews, then they did

May 26, 2005

final scoring. The final scoring that we lost by nine points. However, both k.b.b. and i.h.o. lost approximately the same points after the interview. We dropped 50 points off, they dropped 49 points off. That's all that happened. That was the interviews. So the point of that is, safety is what mattered. In that safety memo they gave k.b.b. the best points. On the very first page of the safety memo, and we've got copies of that for you and can show you at the time of the hearing, but on the very first page much that memo, the very first line says, "i.h.o. got the worst evaluation by us, these two b.e.s. guys." so the first line. Things were busy, people didn't focus, that's probably true. So they read the first line, did it have an impact? That's a question I think you have to ask. Because again, the city right now if it stays on the track it's on, will award the project to the contractor -- not to the contractor who has the lowest fixed fee by \$3 million, has the only fixed fee that has the potential bonus for additional \$3.5 million. So a total savings of \$6.5 million. That's the contractor I represent, that's the contractor that asked you for a full and fair hearing into what happened. Let's say it's not about the safety memo and it is about the process and strictly speaking, what did your r.f.p., what did the city's r.s.p. say? I'm not making all this up. It says the 60 will award i'm quoting, contractor selection under contractor award. The city will award a contractor, the proposer whose proposal will be most advantageous to the city. And what you're reading at least what we read in the media and conversations we've had with b.e.s., the proposal doesn't matter as much anymore, what matters is the right contractor. And we'll work out the proposal. We'll fix the proposal going forward. That's not what your r.f.p. says. People looking in on this process and seeing how the city spends the money on this contract will be an indication of how the city spends money on other contracts. Hundreds of millions of dollars you supervise. You may be asking, why should I get involved? That's why you should get involved. Your r.f.p. says lots of pages of one thing and your staff is saying, we got best contractor and we'll fix the proposal. That's not what your proposal says. Those aren't the rules for selection that you put forward. Those are not the rules by which you gain an exemption from Oregon law that mr. Van dyke told you about. The rules said pick the most advantageous proposal. And finally, you got a memo in march from mr. Marriott that told you that the evaluation committee was, quote, comfortable, closed quote, with k.b.b. I'll ask you, and this is another question I encourage you to ask, is comfortable what we meant by most advantageous? Is comfortable the best deal for the ratepayers? Is comfortable what you asked for in the documents? We've got evidence again, not our words, in this document. Taken out of the evaluators' memos, their notes they took after those 12 hours of interviews. And they indicated after the four hours of the k.b.b. they had real concerns about k.b.b.'s approach. We'll talk about those at the hearings. The point is, you should ask some of those same questions. You should see some of those evaluators' notes and ask, why they -- were they comfortable? Even if I can satisfy myself comfortable is good enough, were they really comfortable? So the point of it here today is, you've got an excellent contractor that for one reason or another didn't make the cut, and fell short by nine points. This isn't like a bid protest where somebody hasn't proven themselves. In fact, if you don't ask the questions we're asking you to ask, the city will have to accept an untested contractor on this project. This is the first of its kind in the country this, tunnel digs through soil that's soaking wet. If you have ever been to the beach, that's what it's like. This isn't like the tri-met tunnel, you're digging through watery soil. First of its kind in the country, and it's on time and on budget. And that contractor, the city's lost the opportunity to have unless you can help fix this process. Unless you can look at this citizen process that got hijacked by a staff memo that for whatever reason is wrong. On the very first page. It's wrong. And we can show you those details and we welcome the opportunity. We'll take advantage of the time you give us, and i'm not use all my time today, we'll do the same thing with the hearing. We're ready to go. We can go soon. We appreciate very much you taking the time today to listen to us and ask the questions. We're here to answer questions if you've got them, otherwise we'll sit down for now.

Potter: We'll start the questions after we hear all the testimony.

May 26, 2005

*******:** Thank you, mr. Mayor.

Potter: Thank you. Would k.b.b. please come forward?

Bill Mariucci: My name is bill mariucci, we really appreciate the opportunity to speak briefly here today regarding the city's construction of the east side c.s.o. project. I will serve as the onsite project director for our team. With me is kirk samuelson, senior vice-president, and the off-site managing director of the joint venture. Also in attendance is heimer gold, principle in charge, tom corey, k.b.b. project manager, and andre ball, k.b.b. diversity manager. To the council and the city of Portland, we are honored to have been the selected contractor for this important project. I've been personally involved with our efforts on the east side c.s.o. project for a full year now. I really look forward to continuing that partnership with the city on this project in the future. However, over the last several months, there have been a number of issues raised regarding this protest. These issues generally fit into the following three categories. These include first the procurement process, second, project cost and schedule, and third, worker safety. I would like to briefly comment on each of those, and then on a few other issues that we believe are important to the project. As we have heard, the selection process for the east side c.s.o. is a mirror image of the successful approach used on the west side project. We believe that the city has continually done a very good job to support that the process was thorough and fair. As kirk will mention, this was originally a threshold question for us with an incumbent contractor in place, could b.e.s. create a level playing field? We were convinced that they would. And we've recognized since that time they have administered a very fair process. However, there are two points that we'd like to address here today. The first is that in addition to k.b.b.'s receiving the most points for its proposal on the east side c.s.o. project, total six out of eight evaluators ranked our team ahead of i.h.o.'s. Clearly the majority of the evaluators concurred that we deserve the opportunity to construct the east side c.s.o. project. Our second point is that k.b.b. had the most points after both the britain proposal and then again after the interview. Why is this important? The -- beyond the fact k.b.b. remained the highest ranked proposer during the entire process, this shows the safety memo which has received so much attention in this process, did not affect the rankings. The second item i'd like to comment on is cost and schedule. Let me be clear -- we are confident that our team will complete this project at the lowest overall cost while ensuring on-time completion in advance of the december 2011 stipulated final order completion date. We agree wholeheartedly with the city that until the design is complete, the scope of the work is finalized, and the projector sees the benefit of the city-contractor team effort during preconstruction, any estimate of construction cost at this time is premature and unreliable. However, be assured that all of the allegations we've been hearing about in the press and regarding the -- in this protest, maybe we thought we might hear today regarding our cost and our schedule, have absolutely no basis in fact. Our team will not cost the city more money. Nor will we jeopardize the court mandated completion date. We are confident in these assurances due to our team's experience and our expertise on similar underground and tunnelling projects involving preconstruction services and actual construction. The next item we'd like to address is worker safety. Our core belief is that every accident is preventable and that every individual could encraft supervisors and managers will be accountable for safe operations. We are confident that our proven safety programs will result in increased worker productivity, positive public perception, and the potential for significant cost savings for the city under the owner-provided insurance program. My personal commitment, and that of all the k.b.b. managers and supervisors, is that every worker returns home to their family in the same condition that they arrived at work. As this is accomplished, so we have the safety project. As everyone is aware, worker safety has been made an issue in this protest and appeal. While the protest is centered around the safety memo, it is important to take a closer look at the actual safety performance of the proposers. The most accepted measurement of an effective safety program is to review osha recordable incident rates, which measures the number of workers injured on a project. As clearly shown on this chart, kiewit's rate

May 26, 2005

of recordable injuries is six times better than the industry average for construction. In direct contrast, i.h.'s actual performance on the west side c.s.o. is significantly worse than the industry average. We believe that any reading of the safety memo must consider this actual performance in comparison between the two proposers. While cost, schedule, and safety are very important, there are several other fantastic task force that will make this project an overall success. One major issue is mitigating construction impacts to the community. Several work sites along the tunnel alignment pose unique challenges in maintaining the quality of life for those living and working adjacent to our construction operations. We will work directly with the city staff to incorporate community input into our construction work plans, constantly communicate with local business and residents, and maintain public safety and exemplary housekeeping. In summary, our focus will be on a community, city, contractor partnership based on awareness, communication, and an immediate response to public issues. We will also maximize the use of local labor, local subcontractors, and local businesses on the east side c.s.o. project. Regarding craft labor, we will ensure prevailing wage rates are paid so that we maintain the experienced personnel who have successfully built the west side c.s.o. project. Local subcontracting opportunities will be provided at every level possible.

We will establish opportunities and outreach to ensure the maximum amount of work available is provided to local firms. In regard to local suppliers and businesses, we will focus not only on the Portland area, but particularly on those firms who may be affected by our construction operations. Specifically those businesses located in and around the vicinity of the central east side industrial district. A true commitment to the participation of m.w.e.s.b. firms and further development of the local work force will be an important critical factor in measuring the overall success of this project.

The key elements of our mwesb program will include identifying all opportunities and establishing assertive outreach efforts to as many firms as possible, establishing an aggressive aspirational goal, and then implementing a diversity program that ensures that goal is met and exceeded. And increasing the capacity with the end result of the local contract community for future construction operations. I would also like to respond to an allegation in the appeal that we will have a dubious commitment to the use of mwesb firms. I find this interesting, that our team's aspirational goal exceeds that of i.h.o.'s on the east side project by up to 40%. I am confident that we will provide maximum amount of opportunities to sheltered market program and mwesb firms as possible. In summary, we believe our proposal stands on its merit. And the decision of the selection committee was proper. We are confident in our safety programs and that we will achieve outstanding results on the east side c.s.o. project. We are equally confident that k.b.b. will deliver the east side c.s.o. Project on time and at the best value to the city and the ratepayers. It is our hope the presentation we've heard here today will sufficiently address the concerns raised and that council will allow phase one to start. Thank you. Now a few words from kirk.

Kirk Samuelson: Bill mentioned i'm kirk samuelson, senior vice-president were k.b.b. The principle in charge of the first level off site responsibility for the project. I'm here to give you our personal commitment of both kiewit and the billfinger companies that we're going to support bill and his team to give you the best project possible. The kiewit and bilfinger properties have over 100 years of underground construction experience between us. 40 years of experience in the local Portland area. I also want to remind you as part of our fee, which is -- has been referred to earlier, we also support the project with tremendous resources at the corporate level, between us we have well over \$1 billion worth of equipment, we have all the personnel necessary for supporting the safety, the quality, the equipment programs, the risk management programs, and the accounting necessary to make this a truly successful project. I'd like to take a meant minute and give you my opinion of what's going on here today, and has been going on for the last few months. Basically impreglio did not win the job according to the procurement rules, so they want to win it through attorneys and lobbyists. They're happy with the same set of rules three years ago when they were selected to be the contractor on the west side c.s. o. Now that they didn't get this project, they want

May 26, 2005

to change the rules. They want to read the numbers. They want to tell you numbers don't matter. Three years ago Kiewit came in second to Impreglio on the west side c.s.o. Again, the identical procurement process. Like Impreglio, I can tell you I and my team were very upset and very disappointed just like Impreglio. The difference, though, is Kiewit dealt with this disappointment through the procurement process for what it should be. We took this disappointment, we spent a lot of time researching why we were not selected, how we could be better. So we had all this knowledge of how we could be a better contractor for the city of Portland on their next project. But before we could go propose on the next project as Bill mentioned, we first had to make sure this was -- could be a fair process, that it was not set up for the incumbent contractor. And we did our research. B.E.S. did an excellent job of setting this up so you could have a really good procurement process, and as we heard earlier, you ended up with more contractors pursuing the east side than you did the west. After we had this assurance and we really understood that it was going to be a level playing field, we took all that knowledge that we developed after researching why we were not selected on the west side, and we applied it to our plans on the east side. We came up with a better team, we came up with better approaches, a better -- just an overall better project for the city here. This is what public procurement is all about. This is the -- the public procurement process is set up to motivate contractors to spend that time and money we've expended to give you the best possible overall project. So let's stick to that process, and let's get going getting our firm up to the plate. We won the bid, we've had to win it several times, we're ready to prove to you we can be even better contractor than you've seen on the west side c.s.o. with Impreglio. All we need is your approval to get this going. Besides, just take a second and think about what I.H.O. is complaining about. I.H.O. wants you to ignore the procurement process at hand and just hand them the contract based on their west side c.s.o. experience. But they don't want you to pay attention to their safety experience. They only want you to listen then to -- listen to what they tell about their experience. They can't have it both ways. It isn't just a bunch of numbers. We're talking about people. To me, every injury is avoidable and we all have to be accountable for that. Finally, Mr. Mayor, commissioners, I know you'll do the right thing and let us get on with building this project. Thank you.

Potter: Thank you. Next we're going to hear about the board of appeals' decision and the board chair.

Dan Knauss: Thank you, Mr. Mayor, city commissioners. Dan Knauss, here on behalf of the city of Portland's purchasing board of appeals. I acted in the capacity of presiding officer at the most recent appeals in this matter. I'm here to provide information regarding the board of appeals to you and the specific process that the board was involved with with regards to the I.H.O. appeal. I'm going to take an opportunity to give you a little background on what the board is and how the board is made up. In short, the board was established to resolve or here conflicts between the city and the suppliers that serve the city. It provides a step between the decision of the purchasing agent and that of the council, providing an administrative step for suppliers to get an opportunity to be heard before taking it to the council or further judicial. The board's made up of three separate people. One representing public procurement, in this case it's currently represented by somebody from the Washington County, the purchasing director at Washington County. Somebody from the private sector with purchasing experience is myself, and somebody from the city of Portland, one of the bureaus not affected by purchasing, the city of -- the bureau of transportation. Legal assistance is provided by the city's attorney for the board. Regarding this matter, I.H.O. appealed the decision to the purchasing agent to award the east side c.s.o. project to another supplier, K.B.B. The process at the board went through was that the board convened a hearing in this matter, the board then provided the opportunity to both sides to present information to argue their cases. It should be appealed or why it shouldn't be appealed. And whether the appeal was a valid and the grounds for youth the appeal. The board going into the hearing had no preconceptions either way. Our duty

May 26, 2005

and what we wanted to do was make sure the process at the city -- that the city followed was fair and reasonable in that neither the city nor the supplier did get a fair shake. Both parties put on evidence in support of their positions, and the board listened to arguments on both sides. They were very lengthy, and they had some good arguments on both sides. At the end of the day the board concluded the hearing and due to time constraints, reconvened at a later date to deliberate. We did that, we went through the process, we reviewed the documentation, we reviewed the transcripts from the hearings, as well as information that both parties had presented. We determined the process that the city did follow was fair and reasonable in the manner that they followed it. And then we reached a unanimous decision in favor of the city in the matter. At that point the analysis got out to the press before the folks on the parties became aware of it, but very shortly after both parties were made aware of the decision of the board.

Adams: I just want to talk briefly about the council's options in this matter. If the hearing is granted or the hearing is denied. If the hearing is granted, I think the council has a lot of choices on how it wants to proceed. For example, it could consider the previous record that was already developed but for the purchasing board of appeals it wouldn't have to necessarily take any new testimony. There are quite a few materials that have been presented. I brought down about four boxes worth that's sitting over there. There were depositions, there were requests for proposals, there was quite a bit of material. If you look at each of the individual proposals that were submitted, they were submitted in notebooks, lengthy notebooks with charts and engineering diagrams, and schedules and so forth. So the -- the council could look at the record, hear oral argument from both the city attorney's office, and from i.h.o. and make a decision. It could also decide to conduct a new hearing, include new testimony, and exhibits. And I think those are the -- or you could do something in between. If you only wanted to hear one issue and not all the issues, you could decide to have a hearing just on the issues that interested you. And I think any of those options are available for you. If i.h.o. were to prevail at that hearing, the city would withdraw the purchasing agent's notice of intent to award. The preconstruction contract to k.b.b. and then the city's going to have to consider it's a next steps, including the look of any new selection process if i.h.o. does not prevail at the hearing, the city must decide whether to award the preconstruction contract to k.b.b. That's kind of a separate procedural action the city is going to have to take. If the -- if i.h.o.'s request for a hearing today is denied by the council, the council will have to decide whether to award that preconstruction contract to k.b.b., or it could decide not to award it and if no award, the city will still have to consider what next steps to take to acquire a contractor for the east side project.

Potter: Thank you. We'll discuss paul gibbon, we'll discuss the impact of the project based on different options.

Marriott: Mayor, members of the council, dean marriott. I asked paul some time ago to take a look at what some of the options that jim van dyke just outlined for you, what impact those decisions would have on the schedule and the cost of this program, and he is prepared to discuss that summary with you right now.

Gibbon: Paul gibbon, chief engineer with the willamette c.s.o. tunnel program. Originally we looked at a nine-month preconstruction merchandised. Based on the schedule we had at the time, this would have allowed approximately seven months of what we'll call construction scheduled contingency between when we felt the job would be over and when the mandated completion date of december 1, 2011 would come in. The schedule is necessary at this point for an underground contractor this size to mitigate any anticipated problems, delays we might encounter. The more we can have, the better off we are. If -- so far as of today we've lost about three months off the original schedule. If the decision today was to decline to hear the appeal, the assumption is we could move forward with a services agreement by the week after next. That would mean we could probably have a notice to proceed by mid june. This would require some changes to what our

May 26, 2005

assumptions were. One, a nine-month preconstruction phase would probably be shortened to six months. We'd probably lose a month of construction, looking at a start of february of '06. That pushes our schedule a month farther out. Now, keep in mind that the two scenarios that were presented as preferred options by the two top-ranked joint ventures, one used a two-tunnel boring machine approach, the other used a one-tunnel boring machine approach. The one -- the schedule for the one-tunnel approach was longer than the two tunnel-boring machine approach. By waiting too much longer, one option becomes more advantageous than the other. Right now if we were to move forward with the one tunnel boring machine approach, by delaying this so far by three months, we've ended up delaying procurement of the tunnel boring machine itself. This means we would use up about three months of our schedule contingency, or the schedule contingency as it was presented by the selected contractor. If in fact it was agreed to hearing the -- to hear the appeal and i'm assuming that would be three weeks off with a week to make a decision, that's just an assumption on my part, that would basically add another month. Under that assumption, if we at another month, that would leave us with two months of construction schedule contingency. At that point I would severely start to worry, because two months of construction schedule contingency would be very iffy. It would -- could easily be used up. We've had similar situations on the west side with repairing of the machine or repairing other things that are really normal to the process, but things you have to take into account that may occur. So basically it would move us into a probably more us -- move us into a two tunnel boring machine approach. That would result in more equipment costs and the k.b.b. estimated that would be in the range of \$15 million for additional machine, additional plan to support the machine. So that's the options we have today. The other options of what would happen are the -- as the result of an appeal, I won't get into unless in fact there is one.

That concludes that. Would you like us to stay here, or is there another --

Potter: We're going to give i.h.o. the chance to provide a quick summary.

Adams: Could I ask a clarifying -- if your assumptions you were assuming an appeal process of how long?

Gribbon: If it was an appeal, would I assume it would be tres ex-- three weeks off and another week to make a decision.

Adams: If it was --

Gribbon: If the appeal was held. If the appeal hearing was held, i'm assuming it would be three weeks off with a week to make a decision.

Adams: A delay of four weeks.

Gribbon: Yes.

Adams: And I guess i'll ask later, the reaction from the city attorney or purchasing office on the four-week assumption.

Potter: Thank you. Calling back i.h. o. a five-minute summary.

*******:** Thank you, mr. Mayor.

Bartz: I'll try to stay off the merits, though the k.b.b. proposal went deeply into the merits by showing you safety information. So i'm going to talk about safety information. You know that the west side project, i.h.'s performance is not bad. It's very good. You've not been told about safety problems. You've been told about excellent performance. And the exhaustive review of this project that mr. Marriott ran for you in february, there was not a wit of problems about safety. There are no safety problems. This is not about safety. What you got a few moments ago was sales. Maybe appropriate, but not for your decision make ball game who's the most advantageous contractor. What i'm showing you are numbers, these are agreed-to numbers, consistently we get a review from saif. Our numbers have been 98%. Our average over two years, every two weeks getting reviewed, 96% out of 100. That's an a in my book. Mr. Darby of b.e.s. said that's a very good safety record. We're not talking about a safety problem here at all. And what's very important for this memo that

May 26, 2005

we're talking about, they showed you today kiewit's history, maybe six times better than the construction industry, mr. Darby's admitted the safety person who wrote this memo, he's never verified that number. So again, what you got today was sales. You didn't get a verified number. What they did in the safety memo, they said the entire joint venture, k.b.b. Record is six times better than the industry average. So in this first page of this memo, the one I told you the first line says we're terrible, in the first, second line of the paragraph about k.b.b., it says, they're awesome, they're amazing, yet they've never done a project together. If you check with your staff and anyone that's ever done safety, you can't give a safety score to the whole joint venture based on one of the partners. So this is not a safety problem. What you got is sales, not safety. Diversity and subcontractor is not about as inspirational goals, it's about results. I.h.o. has shown you the results. It's worked with the community. It's followed through on its economies and one of their tough customers awarded them top contractor of the year. You I believe mr. Mayor got an unsolicited email from someone that talked about the great relationship she's had with i.h., and on the -- the on the ground effort they make. That's a lot more important than aspirational goals. These folks have outperformed their -- by several millions of dollars. Well over \$7 million excess today. We're over \$20 million through the end of this project. Instead of the \$13 million that was the aspirational goal. So don't talk about goals and don't listen to them when they talk about goals. We've got other people's words from the labor union, the operating engineers telling us how great our safety commitment is. Talking about how it only comes out of an excellent working relationship with a managers all the way down the rhine. Our safety manager, it's his personal responsibility to make sure it stays safe. Going forward on the east side project as well as the west side. My final comment is, concerning what you just heard from mr. Gribbon, time is not a scare tactic that's legitimate and money is not a scare tactic that's legitimate. These are \$400 million project job. I didn't get into the merits about the schedule that k.b.b. has where they assume a machine, a single boring machine can go 30,000 feet essentially without an overhaul. Without a break-down. Ever having a problem. If they have a problem, you've got a year's delay. They have no float in their contract. Some of you know what that means, you've got contingency time. So there's all kinds of issues with the schedule, which I won't go into here, because that's not appropriate. The point is, there have been questions raised about outsiders, not just us, that have said some this is something you need to ask questions b those are the questions we think need to be asked. Don't be scared off by comments about time and money. We're ready to go. We can do it in less than the three weeks if the council needs the three weeks, that's appropriate, because it builds the process. The same kind of process we're trying to have you respect by asking what happened. And this is not sour grapes. Come on. It's a lot more important than that. These folks have done a fabulous job for you, and other people have said that. They didn't get it because of a memo that's lies. It hijacked the process. It happened after all the interviews were over, everybody left the room and the memo shows up. That's what's wrong. And that's what we want you to look into. If you decide after you've asked all the right question that's we're blowing smoke, send us home. But this isn't sour grapes. We've proven with our sweat and our tears and the effort we've put into it that we care about the city, we care about this project. I've been a part of the team, they do all the hard work, but it's more than just lawyers and lobbyists. It's the facts and its informants and they have both of those on their side. Thanks again for your time today.

Potter: Thank you. Council, we can begin the discussions. Any particular way you want to proceed?

Adams: I have questions.

Potter: There are three people signed up to testify. Would you like to hear their testimony now, or shall we wait until after we've had our questions?

Sten: Are we taking public testimony?

May 26, 2005

Potter: There are three people signed up, and I think we should hear them. Do you want to do it now?

Leonard: Whoever you want -- however you want to do it.

Potter: Let's go ahead.

Kent Craford: Good afternoon. My name is kent craford, the -- we're a group of the city's largest industrial and commercial water and sewer customers. We're not here to take sides today. We don't have a dog in this fight. We don't know who the best company for the job is. We further don't know much about the selection process or the appeal process, what happened or whether it was fair.

What we do know is \$400 million is a lot of money. And if you have a contractor working on phase one of a project, any project, and they get -- they do a good job, they keep costs under control, they have stellar reviews from outside auditors, it makes common sense to have them do phase two of your project. If you don't go with that same contractor, you better have a darn good reason. And to date we haven't seen a darn good reason to change horses midstream on the big pipe project. What we have scene is a virtual tie in this point score, and we've seen a whole lot of dispute about the facts and the process that led to this decision. \$400 million is worth a four-week delay. And i'd hope that you'd grant that and grant a full open airing of the facts here and a public hearing. Thank you.

Potter: Thank you.

James Posey: Thank you very much. Mr. Mayor, council, thank you for the opportunity to come and address this particular issue. I was trying to keep my mouth shut regarding this issue, but it got too interesting for me. Really, I was convinced that i.h. was going to get this project because they had done such a good job of going around the community and hyping themselves and so on. But you know, god answers prayers, because I am certainly glad they did not get this project. And if you do grant another hearing and so forth, i'm going to be there to testify, and I was hoping I wouldn't have to come to testify. But you know, the reality is, this whole issue around diversity, when you really -- if you do go back and review their record, I want you to go back and look at the numbers, because when we talk about diversity, there are businesses behind each one of those numbers, so-called numbers that are out there. In are real businesses that have employees and on and on and on. I just want to make this particular point. These guys are touting a \$21 million, you know, number in which they say they're going to contract. But the actual dollar amount that they paid out thus far is only \$8 million. And of that \$8 million that they say they paid out, there's one firm that I think was decertified as an e.s.b. most of us who are real -- have skin color issues and have gender issues, this e.s.b. thing is just another sham for people who have been getting work all along. So that -- even that e.s.b. company that they have in this number is -- has been decertified as an e.s.b., which we didn't think too much to begin with. The gentleman is absolutely correct. This is not about the numbers, this is really about, were businesses really helped or hurt as a result of this particular project? And I know they come in with the numbers and so forth, but I know of businesses who are really out of business as a result of i.h.'s efforts on this project. And the point goes back to the issue that you, commissioner Saltzman and I talked about earlier, when we first started this process -- the -- this project, how in the world do you expect trucks to get paid \$50 an hour and you guys impose a blanket -- a wage of \$25 for the driver? How can any business stay in business at those rates? And -- again and again when you guys talk about the dollar amount that this business -- i.h. saved you all in terms of how efficiently they did and so forth, there are people at the bottom of the stream who are affected, who are out of business as a result of their so-called cost savings. Let me say to you -- this is my final comment -- when you get out on the job and you see people who are working who have dirt under their fingernails, and you get out there on these projects and people talk about chicken bones in your trucks and watermelon, that you guys don't hear about, your staff should bring that to you and tell you the attitude of the people who are performing this work that you guys ought to do something about it right away. Now, let me -- this

May 26, 2005

one little incident here I think is really for for you all to know. After years and years and years of working on these projects, we've seen just about every game played by every contractor. So we know when people are shamming and when they're not. We know when they can come in and throw a few drink it's at an organization, get them to say are are a few nice words, hold a few luncheons and so forth, but the bottom line is, this community has been duped over and over again. Jobs -- when we look at this packet, where are the jobs? Have we --

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

Posey: How many people have gone from apprentices to journey level with these projects? That's the numbers we want to know. And who were those people? Finally, I just want to say to you all, your staff has to do a better job of letting you all know what's behind these numbers so this community can be better off as a result of this \$400 million you spend. Thank you.

Potter: Thank you. Did you say there was a third?

Moore: He left, I guess.

Potter: The council then can -- could we agree one of the key issues is about the memo itself?

Adams: Absolutely.

Potter: And perhaps we can determine and find some more information. Does everybody have a copy of that memo?

Leonard: I do not.

Potter: Do we have copies of this memo available for the other council members?

Leonard: I do have one other question maybe before that. This may just reveal my own naivete. I've never been in one of these appeals before. I guess this is to b.e.s., but this handout that we have, was this produced by b.e.s. that the council has?

*******:** Kiewit.

Mariucci: That was produced by us, k.b.b.

*******:** Ok. I was concerned --

Leonard: It appears to be a city of Portland document, and in reviewing it, it appears very proactive for your side. The city of Portland environmental services and your firm's name on it. So I was concerned that the city produced that. I guess i'm concerned you put the city's name on it as though it says city document.

Mariucci: I apologize for that. It's a common -- [inaudible]

Potter: Could we recall dean marriott and paul gibbon, please? Mr. Marriott, I wanted to ask you a question, what was the toteam number of points for the assignment for either the parties?

100. On the proposal it was 100.

Potter: 100 for what?

Gribbon: For the total number of points.

Saltzman: 800.

Potter: What are the numbers we see on these other scoring sheets, then?

Gribbon: In the proposal criteria, there are basically five criteria listed. Project approach and fee was 55 points, key project personnel was 15, approach to partnership was 10, risk and safety was 10 and diversity and -- was 10 for a total of 100 points. So that's when the final interview was done, that was the basis upon which each firm was rated. Each rating person, there were eight of them, could rate a firm up to 100 points. So if you get eight people at whatever points they had, it's in the 600, 700, wherever.

Potter: Out of those total number of points, what separated i.h.o. from kiewit was nine points?

Gribbon: Total. Correct. There were two ways we approached it. One was a total number of points, the other one was number of first, second, and third place votes. So total number of points, the highest is the best, number of first, second, third place votes, the lowest is the best. We compared the two approaches.

Potter: Who prepared the memo?

May 26, 2005

Gribbon: I believe it was prepared by pat darby and matt reiner of environmental services.

Potter: You believe?

Gribbon: Yes. It wasn't signed, but it was --

Potter: There's no city seal on this. I'm just --

Gribbon: That's correct.

Potter: You don't know who wrote it for sure?

Gribbon: Mike reiner or pat darby.

Potter: You said the best of your knowledge. That is who wrote it?

Gribbon: As I was told, yes.

Potter: Were they directed to write that?

Gribbon: No. What everyone was directed to do -- everyone on the technical review committee was directed to review the proposals, to review the information, and provide to us any questions they wanted to ask during the interviews. And we would put all the questions together, eliminate duplicate ones and put a list of questions together that the selection committee would then use.

Potter: Was this reviewed by anybody other than those two people before it went to the committee?

Gribbon: Only by myself.

Potter: So you approved of that?

Gribbon: I didn't approve of the memo being handed out prior to the interviews, no. That's why it wasn't handed out prior to that. I wanted everyone who reviewed the proposals to review them on their own. I didn't want any discussion among any selection committee members or anyone else on their review of anything prior to deliberations. And that was the way we had stated it in the instructions to everybody, so there was no distribution of the memo.

Potter: Why wasn't this put on b.e.s. stationery or signed by anybody?

Gribbon: I never asked the question.

Marriott: May I interject here? I'm concerned that, for instance, the attorney for i.h. referred to these staff as two guys, these guys. These guys are safety officers. They live, eat, breathe, think about this during their sleep. They are the best qualified people to analyze safety records.

Leonard: Maybe this is revealing my own naiveté, I appreciate the questions, but i'm not -- i'm focused on, why would one introduce a memo into the selection process at all? Is that appropriate?

Marriott: Yes. Absolutely.

Leonard: And why is that appropriate? In other words, my impression is that when you have a selection process in advance, list objective criterion you ask the bidders to respond to, and so if something like this is introduced by us without this being part of what is published to be an objective criteria that will be used, in other words, they don't have an opportunity to react or respond to any of this, how is that --

Marriott: Let me just explain that the criteria as paul mentioned, included safety and risk. The written proposals included a chapter on that, the interviews included the firms discussing that. What this is is a staff input based on our staff's safety research and evaluation. That is -- that is totally appropriate and fitting for the deliberative process. That's why paul pointed out that he wanted it discussed during the deliberations. Nobody was surprised --

Leonard: Why didn't you say that in the criteria? Why didn't you say that the staff will submit their analysis of each bidder's safety record? As opposed to, tell us what your safety record is.

Marriott: Well, commissioner, that's exactly what happens during the deliberative process. The people from the -- our technical review teams, the people on the selection committee deliberating. They talk about not only their reactions to the written material and the interviews, but their experience.

Leonard: But the teams are made up of whom?

Marriott: I'm sorry --

May 26, 2005

Leonard: You just made reference to teams.

Marriott: The technical review.

Leonard: Who are they?

Marriott: The technical review committee was as I explained. Consult apartments and people familiar with different aspects of the project that were also reviewing the proposals and sitting through the interviews, providing input, but were not members of the selection committee.

Leonard: Is it fair to say this memo reflects their actual experience with the contractor on the west side?

Gribbon: No. I would say it is fair to assume this memo was the result of their review of the proposals.

Adams: Can I pick up, if it's all right, commissioner? Due diligence on stated claims of a contractor seems like a responsible thing to do as long as it's done in a responsible, fair, and balanced way. When I look at some of the language on this, I don't know if the authors of the memo are in the room or not, but it says that j.v. -- this j.v. -- this joint venture has the lowest rating for their safety program of the three remaining proposing joint ventures, and then they point out down here that's under i.h. O., and then under k.b.b. They say the j.v. Safety record is among the best in underground construction and six times better than the industry average.

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

Adams: Are those accurate statements and are those apples to apples comparisons?

Gribbon: Those numbers were pulled directly out of the proposals as they were written by each joint venture. The Oregon average I believe was a number that he got from osha as to what the Oregon average was.

Adams: One refers to the lowest rating for their safety program, and one refers to a safety record. What's the difference, is it the lowest rating of the process of this construction award evaluation process under i.h.o.? And you've just explained the six times better than the industry average is from the information that they provided.

Gribbon: Both are based on information that was provided by each joint venture.

Adams: But I doubt that i.h.o. said that they had the lowest rating for their safety program.

Gribbon: No. That's -- the first sentence of that is his summary, or their summary of what they read.

Adams: So --

Marriott: That is specifically our safety team's analysis of the materials that were submitted.

Gribbon: K.b.b. did not say they had the strongest risk and safety program of the three joint ventures.

Adams: Where did they get the six times better than the strive average if not from their proposal?

Gribbon: He took that number from their proposal, compared it with the Oregon average and stated himself it was six times better. It may also have written in k.b.b.'s proposal that way.

*******:** And you feel today --

Adams: You feel today, and the appellant folks appeals board felt those two statements are accurate. You feel those statements are factually accurate?

Gribbon: Yes.

Adams: Ok.

Leonard: Why?

Gribbon: Because they were as they were presented in the proposals. The information --

Leonard: That's not the question. The question was not are they accurate as to what was presented, are they in fact reflective of their true experience? Have you verified that?

Gribbon: The Oregon -- the Oregon average was verified from osha.

Adams: For i.h.o.

Gribbon: There's only one industry average.

May 26, 2005

Adams: I'm sorry.

Gribbon: That was taken from osha. The other information was taken from the proposal as prepared by i.h.o. And the proposal as prepared by k.b.b.

Leonard: How do you know that's accurate? The question that was asked of you, do you know those numbers are accurate, not are they accurate in terms of what bidders proposed, but were they based in fact on actual experience or were they fluff, were they just something they said in their proposals that wasn't substantiated? Did you verify the numbers?

*******:** I think they did.

Gribbon: I believe that they did. I can't -- I can't answer that positively.

Adams: The other question I had, and then i'll let someone else ask some questions, i.h.o.'s is based on the experience of their work on our first project, I assume?

Gribbon: I.h.o.'s is based on the experience as they presented it in their propose yap. As it was presented in the interview. Now, I just want to make one thing clear, this memo was given to me prior to the interviews being held. And as such, it was not distributed to anybody. I kept it to myself. No one saw the memo. The memo did not appear until the deliberations after the interviews were concluded.

Leonard: Why did you do it that way?

Gribbon: I didn't intentionally do it that way. During the course of the interview -- once the interviews were done, during the course of deliberations there were a lot of discussions going on. We covered all the criteria. During the course of the safety discussion this memo was handed out. I found a copy of it in front of my chair. I can't say I remember it being hand out, but it was hand out. During the course of the deliberation, the conversation never stopped. I don't recall anybody referring to the memo, holding the memo, or reviewing the memo. I didn't look at it at all during the course of that conversation. The memo now is beak held up to a level of scrutiny are that it never got during the selection process. I don't have any thing to say about the statistics as they were presented in here, I have no reason to believe that the statistics were wrong. But the -- the opinions --

Adams: How would you know, did you debrief with the people that did the scoring to know how much impact it had on the individual scoring?

Gribbon: I debriefed with the people who did the scoring once the scoring was done. As I said, I had to debrief with willamette valley constructors --

Adams: Individually, and you asked them --

Gribbon: Eight of them were there when I -- I sat there with all eight of them and I asked them to explain to me what I was going to tell each of those contractors as to why they weren't selected.

Gribbon: Because they're going to want to know. And they listed to me what the issues were as they saw them.

Adams: And what did they list in terms of their impressions of the relative safety record of each of the --

Gribbon: That k.b.b. had a much more impressive safety presentation than i.h.o. did. That there was a great -- specifically to safety, that was the comment, specifically to safety. That they were far more impressed with k.b.b.'s which itment -- commitment to safety than they were during i.h.o.'s interview.

Potter: I have a clarifying question. The back of the memo there's some questions. Are those questions provided with this memo to the committee?

Gribbon: No. These were the questions that we asked everybody to provide to us. The questions that you have I don't.

Potter: It's attached to this memo, so i'm wondering if it's part of the memo or was provided to the committee.

Gribbon: No. I don't --

May 26, 2005

Potter: Do you have the two people who actually prepared the memo here?

Gribbon: I don't believe so.

Potter: I would certainly like to hear from them.

Adams: I would too. I want to know if i.h.o.'s six times better than the industry average or four times better, two times better or not times better at all. The writing -- the two write-ups are somewhat analogous, but not completely analogous, and it would be nice to know why that is.

Saltzman: I guess just procedurally, I know we're all on new ground here, but it seems we have a lot of questions about the role of the safety memo in this selection process and perhaps other questions too. Doesn't that tilt us into the realm, isn't that the stuff an appeal hearing should focus on as opposed to delving into those details at this point?

Adams: We kind of got to go into it a little bit. I agree generally, but we've got to go into it a little bit to do the due diligence.

Potter: Can I ask a question? When information is presented like this, is it normal for the companies to be able to respond to something like this?

Gribbon: No. Because the companies have gone through the process, now we're in deliberations. The discussion that is held is not videotaped and then presented to the companies to respond. This is the process that's been setting place -- set in place. The criteria that's listed in the statement of qualifications in the request for proposals is the criteria that we use. The selection committee was instructed to include only that information and deliberations. What happens in the statement of qualifications, the proposal and during interview process. Nothing else. And that's what's included. Once they come to conclusion, there's no opportunity for them to come back.

Potter: There seems to be new information in here. And what you're saying is if there's no new information? Here, in the memo there's -- that was prepared by the two b.e.s. Folks, there's no new information that is different than was presented by either of the companies in the interview or the written part.

Gribbon: New information. I'm not sure what you mean.

Marriott: Mayor, it's our work product. It's not the companies' work product. So you are right --

Potter: There is new information. Basically when you say that the joint venture has the lowest rating safety program, I assume that's new information to the committee.

Marriott: It's our opinion. The opinion of our safety staff that of the three finalists, that their safety program overall, they ranked --

Gribbon: That's not new information, that's exact it will information that people would be given during the deliberations.

Potter: Then what required the writing of a memo? If this is all old information, what's new here that your two folks felt was necessary to convey to the committee? That's what i'm asking.

Marriott: I would think you would want our safety people to evaluate the three finalists' requirements for safety.

Adams: If I could take a stab at the mayor's line of questioning in a different way, when you were on the preliminary scorers, which is -- the preliminary scores were made as a result of reading the material, not interview.

Gribbon: Correct.

Adams: And then you go to the final scores, which is a combination of the original reading and then the interviews.

Gribbon: Correct.

Adams: And you had, you know, as a result of that safety -- risk and safety k.b.b. lost six points, and i.h.o. lost 25 points. And you were in this discussion, you listened -- witnessed the discussion.

Gribbon: Yes.

May 26, 2005

Adams: There is no significant discussion or, what was the kind of discussion that had -- that there was around the scores regarding the risk and safety of i.h.o.?

Gribbon: There was a great deal of discussion about safety. There was quite a bit of discussion about safety. The discussion around safety was oriented around the proposal, and it was oriented around the interview. What I was saying was, no one referred to this memo during any of that discussion, or even so much as held it up. But the discussion was definitely a considerable amount of discussion about the safety. About the safety criteria.

Potter: I have to ask the obvious question. That was going to be an issue at this meeting, why didn't you have the two people come to this meeting, the authors? The authors of this manuscript that you say were prepared by them, why aren't they here for questioning?

*******:** Because you can bring the entire --

Potter: I was asking dean marriott, thank you.

Marriott: I didn't think would you want to interview the safety officers. It never occurred to me.

Potter: Or ask questions of them?

Marriott: I didn't --

Potter: I didn't know who they were. There's no name on here. What would I -- what prior knowledge would I have other than having read this memo that has neither the city's seal on it, nor a name on it? How would I know who to ask?

Adams: And then somewhere between the review of the written documents and the conversation, the scores, the perceptions of the relative safety of each of these joint ventures changed dramatically. And you're saying that the memo was not a point of discussion explicitly, but there was something in the presentation of i.h.o. That caused the scores to reduce their standing on risk and safety by 25 points, but you don't believe the memo had much impact.

Gribbon: The memo was never referred to during the discussion. The only thing that occurred was people discussed what they witnessed during the interviews, and what they read in proposals.

Adams: And you didn't ask -- did you or did you not ask the individual scorers whether they read the memo?

Gribbon: No there was no reason to ask.

Adams: I understand, i'm just asking whether you did.

Gribbon: No.

Leonard: I guess i'm just trying to listen to your answers and look at this object -- as objectively as I can. I suppose I can appreciate that if you were providing a memo that provided a table of comparative statistics based on the experiences of the two companies and injuries I would understand that, but i'm -- in reading the language, for instance, under i.h.o. At the time, it says, information that was provided declared that they intend to meet safety-related obligations, however, no clear goals were provided or cost savings estimated. Their approach lacked details on how they would address aspects of safety program management and lacked information that indicated that safety was a priority for all levels of the organization." then you drop down are terror the k.b.b -- down to the k.b.b. Analysis and it says, "their approach to risk and safety includes all levels of the organization and that their safety is their number one priority. They believe that all accidents can be prevented and acknowledge a direct cost savings." so then I am interested that almost that exact same language is used in the handout provided in that -- by that company and to us here today. It doesn't feel to me like it's an objective analysis. But rather an add vocation of one over the other. I'm trying to here what you're saying, and to the accident that you -- to the extent you get raw data and you say here's the database order our own experience, I understand that. I'm not quite sure I understand the -- what appears to be the -- some of the subjective comments made about i.h.o. And what appears to be just a recitation of some language I found in this document as well by the winning contractor. That seems a little --

Marriott: I don't know what document you're holding up.

May 26, 2005

*****: This --

Leonard: Is the - this one I was asked about earlier today, who produced that. What's the date on that document?

Leonard: Today.

I'm assuming that document parodied the safety memo, which was written well in advance.

Leonard: Or one could conclude vice versa, why i'm asking the question.

Gribbon: No.

*****: This has become a public document since the protest was filed.

Potter: Did you folks see this deposition that was taken on march 18 by the appellant of a roy francis cook?

Gribbon: No. I haven't.

Potter: I'm not sure how I got it, but this is a copy of that deposition, and he states that his final numbers were based on taking the three scores that were provided on on the safety, dot, dot, dot, in the safety write-up. I assume he's referring to the write-up that this is?

Marriott: I don't think that's necessarily a safe assumption there. Was a safety write-up in the written proposals as well.

Potter: We can call mr. Cook in to find that out. I'm disappointed that the two authors of that document, since it's really core to much of what the discussion is by the appellant, that they're not here to be able to respond to questions. I don't feel that I can proceed until I have a discussion with those folks. Can I get --

Leonard: I think commissioner Saltzman's point is really the point. I think what happens here isn't so much that we make conclusions as to fact, but really decide that is there a reasonable basis to have a hearing to have people like that come and fill in the gaps for us. So I think I would agree with commissioner Saltzman, that there are just enough I think appropriate questions to be asked that we should probably set this over for a hearing.

Saltzman: I would be supportive of that. I guess I would be interested in having a hearing on the record and limited really to the two criteria where there's the biggest point spread, project poach and risk and safety.

Leonard: And hopefully focused on the -- not everybody's asked questions, but hopefully focus order specifically the questions that have come up here without going so broad and deep that we spend a lot of time on irrelevant stuff that I think hopefully people may have gotten an impression of what we think are issues that should be pursued.

Potter: Why don't we go ahead and define what those issues are now so we hold the hearing we can have the appropriate people here.

Leonard: For me, I think a threshold issue -- this again could be simply expressing my own naivete -- I am concerned that a document enters into it at some point from the contractee that appears to advocate a particular side. And how -- if that is appropriate, fine, but i'd like to understand that better. And then I think the line of questioning you and commissioner add amounts had -- adams had would be the areas I would be interested in.

Adams: Whether as indicated by commissioner Saltzman, the project approach for k.b.b. Lost 24 points from the preliminary scores of the tot final scores, so I think i'd like to know what's going on there. And then as we've been talking about in terms of our conversation, the loss of 25 points for i.h.o. And risk and safety, I am interested in the accuracy of the memo, i'm interested in the impact of the memo on the individual scorers, and that will help me determine whether or not this was fair and balanced.

Sten: I am going to oppose having a further hearing.

Saltzman: I'm interested in having a hearing. As I said, I think on the record because all these issues were raised in the appeals, so I think it's all in the record. So I would support on the record

May 26, 2005

focused on project approach and risk and safety, and done on the record, expeditiously, in the next two, three weeks.

Potter: To limit the scope of the follow-up to those two areas, and to have further information, I would also request that the two people who wrote this be here for questioning.

Adams: And also if we could see the write-ups for the other categories to get a sense of quality control on these write-ups versus the other write-ups.

Potter: Karla, can you say when the next available time is to hear this?

Moore: You're gone in two weeks, mayor, for the afternoon sessions, so that puts us out to three weeks.

Leonard: How about one week? What's next week?

Moore: Next week commissioner adams is out. How about the 9th? That would be two weeks from today, actually, sorry. June 9, that's two weeks. At 3:00.

Potter: Ok.

Saltzman: That's a thursday?

Moore: That's a thursday.

Potter: Do we have to take a vote on that?

*******:** I think it would be helpful had you had a motion.

Marriott: May I also seek clarification on one thing? Commissioner Saltzman I understand was suggesting that the hearing be held on the record, and then you requested that people be available for questioning. And -- for questions and answers. And I just wanted to be sure that those were consistent requests, because I don't believe those -- I don't think those people's q and a are part of the record, but I may be wrong on that. If you want to question a live person, I think you may have to make sure your request for a hearing includes the ability to call witnesses, I guess.

Saltzman: Is everything we've seen, the safety memo, the depositions, those are all part of the record, aren't they?

*******:** I believe so, yes.

Adams: Questioning of the scorers, is that part of the record? What's the advantage of having it on the record?

Leonard: He wants to limit it to the record, so we don't have this open-ended --

Beaumont: If it's not limited to the record everybody would be presenting their evidence all over again.

Saltzman: So I think time and --

Potter: I think that falls within the scope of the record, to hear the authors of that memo respond to questions.

Adams: As long as we can do that, i'm ok.

Saltzman: Does our attorney agree?

Beaumont: The hearing would be on the record with the exception that you would be hearing new testimony --

Leonard: But I think you're using -- we're using the term different. We just mean we don't want the issues to be beyond what have been originally discussed. We don't mean it in the legal technical sense.

Potter: Tell us the right way to say it, then.

Leonard: We want to be able to have witnesses?

Harry Auerbach, Chief Deputy City Attorney: What precisely do you want to hear? How much --

Leonard: We want to hear -- we don't want to hear new issues. But we do want to hear maybe other witnesses relative to the issues that were on the record. But we don't want to expand this hearing to include issues that have not been brought up in the prior record, but that doesn't mean

May 26, 2005

that we will only review the documents produced at the prior hearing, and limit our scope to the record. We want to be able to include the witnesses that the mayor has asked to have here.

Auerbach: So -- so if I understand correctly, what you want to have is essentially a de novo hearing on two issues only. One is the safety memo and its effect if any on the scoring, and the other is the project approach that commissioner Saltzman --

Leonard: And the appropriateness of the memo in the first place.

Auerbach: Right.

Saltzman: So that puts us in the realm of a de novo hearing.

Auerbach: According to the other commissioners, they want to take live testimony. So if you want to have live testimony, that's a de novo hearing with limited issues.

Potter: Is that within the scope of this council to make that decision?

That is one of the options that you have available.

Potter: Thank you. Ok. Karla, please call the roll.

Sten: Do you have a motion on the table?

Leonard: Move to set this over for a hearing.

Saltzman: A de novo hearing limited to the two criterion of project approach and risk and safety.

Leonard: And the appropriateness of the memo.

Adams: Seconded.

Moore: Adams.

Adams: I want to be clear, I don't feel prejudice one way or another as a result of this discussion or what I read in the paper, or any conversations I've had in terms of my final decision on the paw peel -- appeal, but I do think that we should take what is precious time, given the very large price tag of this project to review -- to hear this appeal and make a decision on it. So I vote aye.

Leonard: Aye.

Saltzman: Aye.

Sten: I certainly will be able to hear this with fresh ears, and intend to, because I'm going to lose on this vote. I do want to very briefly say I come to a different conclusion than the majority of the council on this issue, I think this was going to be a very closely scored process no matter what we did. I believe that it was done fairly, and I believe part of fairness is you have human opinion involved, and I take our safety officers' opinions very strongly, and I just frankly flat-out do not read this memo in the way that's been asked, and I think it will be good to have a hearing and look at it. It says they believe that all accidents can be prevented, which is their line. That's what the company beliefs. There is objective evidence that their numbers are lower. So I just think that the council is in a position now of potentially -- this is not a usual thing, so I don't think we're setting a huge precedent, but I do believe that these processes will go better -- better if we only intercede when there's significant evidence and I also believe when you do empower our employees to state their opinion when they have one. If our safety officer believes one company is more safe than the others, I don't want to send them a message that they better not say that because they may be overturned by the council as being biased. I think it's the wrong approach to take. I do not see evidence the process was done wrong, I think the process was done fairly in the manner that was laid out, and I don't see that the council serves the greater good by getting back into that when I don't see any evidence of clear mistakes in this process. I see a very smart team that did not win coming up with one small piece of the entire decision, and using that to get a hearing in front of the council, and I don't think that's appropriate. No.

Potter: I too want employees to be able to speak their mind, but I always like to know who they are, I like to know what bureau they represent and that document demonstrates neither. So I think it's important to have that information available to this council in order to determine. As was originally stated by our city attorney that this different process is employed in order to save the city

May 26, 2005

money to show no favoritism and to ensure a fair selection process. So I vote aye. [gavel pounded]

Saltzman: Could we ask our attorneys what would be the rules concerning ex parte contacts between here and the ninth?

Potter: Don't have -- don't have them.

Leonard: Don't have ex parte contacts.

Potter: Council is adjourned.

Adams: So don't call us.

At 5:19 p.m., Council adjourned.